



Cheshire West  
and Chester

# Council Constitution

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**For further information, please contact:**

[Democraticservices@cheshirewestandchester.gov.uk](mailto:Democraticservices@cheshirewestandchester.gov.uk)



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# PART 1

## INTRODUCTION

### 1. The Constitution

1.1. The Constitution is divided into the following sections:

#### **Part 1 – Introduction**

Sets out general information about what is included, the decision-making processes, how key parts of the Council operate, councillors' key duties and the rights of the public to become involved.

#### **Part 2 – Responsibility for Functions**

Sets out how decisions are made, including the responsibilities and terms of reference of the Council's committees and boards, the Cabinet and other Executive functions.

#### **Part 3 – Rules Governing How the Council Operates**

Sets out detailed procedure rules (standing orders), covering how meetings operate, including Full Council, Cabinet, Scrutiny and other committees.

#### **Part 4 – Codes and Protocols**

Explains how members and officers of the Council must conduct themselves according to the various codes of conduct and protocols, such as the Access to Information Rules, Member/Officer Relations and the members Allowances Scheme.

### **Purpose**

1.2. The Council exercises its powers and duties in accordance with the law and this Constitution. The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that they are efficient, transparent and accountable to local people.

1.3. The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of the public in the process of local authority decision-making;
- (c) help councillors to represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;

- (e) create a powerful and effective means of holding decision-makers to public account;
  - (f) ensure that decision-makers are clearly identifiable and that they explain the reasons for decisions;
  - (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
  - (h) provide a means of improving the delivery of services to the community;
  - (i) set out the respective responsibilities of members and officers of the Council and how they inter-relate.
- 1.4. Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that is closest to the purposes stated above.

### **Review, Publication and Amendment**

- 1.5. The Director of Governance (as Monitoring Officer) monitors the operation of the Constitution to ensure that its aims and principles are given full effect, and to make recommendations for it to be amended in order better to achieve the purposes set out above.
- 1.6. The Director of Governance will maintain an up-to-date version of the Constitution and will ensure that a copy of the Constitution is:
- (a) available to each member of the Council either via the Council's website, or in hard copy if requested, upon receipt of that member's declaration of acceptance of office on first being elected to the Council;
  - (b) accessible for public inspection at council offices, libraries and other appropriate locations. Access by electronic means shall be sufficient for these purposes.
- 1.7. Changes to the Constitution will only be approved by Full Council after consideration by the Director of Governance or a body established for that purpose.
- 1.8. However, the Director of Governance is authorised to make minor and/or consequential amendments to the Constitution for the purpose of keeping it up to date, clarifying its content or interpretation, correcting any errors or omissions, complying with the law or otherwise giving effect to the intentions or decisions of the Council, the Cabinet or a committee. Councillors will be notified of any such amendments.

### **Finance, Contracts and Legal Matters**

- 1.9. The Finance and Contract Procedure Rules (see Part 3 Section 6) govern the management of the Council's financial affairs and every contract made by the Council.
- 1.10. All matters in respect of the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Director of Governance (and their duly authorised officers) who is authorised to institute, defend, settle, discontinue or otherwise participate in any such proceedings, or take any other action considered necessary to give effect to decisions, or protect the interests

of the Council.

- 1.11. The common seal of the Council is kept in a safe place in the custody of the Director of Governance. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the Director of Governance should be sealed. The affixing of the common seal will be attested by the Director of Governance or some other person authorised by them.

## 2. Councillors

- 2.1. Cheshire West & Chester Council is composed of 70 elected councillors (or members) representing 45 wards.<sup>1</sup> Each ward elects between one and three councillors (depending on the size of the ward) to represent them.
- 2.2. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community of Cheshire West and Chester, but they have a specific duty to their constituents, including those who did not vote for them.
- 2.3. Councillors must agree to follow a code of conduct to ensure high standards in the way they undertake their duties.
- 2.4. The phrase 'the Council' is generally used to refer to Cheshire West & Chester Borough Council as a whole. The term "the Council" is used to mean all 70 members acting collectively to make the policies and take decisions that shape the future of the Borough and determine its priorities. Councillors are also referred to as "elected members", or simply "members".

### Eligibility

- 2.5. Only registered voters living or working in the Borough during the 12 months prior to an election are eligible to stand as a councillor. They must be a citizen of the United Kingdom, the Republic of Ireland or the Commonwealth, or a relevant citizen of the European Union and be at least 18 years old.

### Election and Terms of Office

- 2.6. The ordinary election of all councillors is held on the first Thursday in May in every four years. The terms of office of councillors is for four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### Transitional Arrangements

- 2.7. Unless they resign or become disqualified, the Chair of the Council and the Executive Leader remain in those posts (but without voting rights) until their successors are appointed at the Annual Meeting of the Council even if, in an election year, they are not re-elected at that election.
- 2.8. Where a member holds another post described in this Constitution and they are re-elected at an election, they continue in that post until the Annual Meeting of the Council immediately following that election. If they are not re-elected then the post is vacant until a replacement is appointed.

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<sup>1</sup> The Cheshire West & Chester (Electoral Changes) Order 2018

### **Roles and Responsibilities**

- 2.9. It is the role of all members to:
- (a) provide community leadership and promote active citizenship by promoting equality, tolerance and democracy and helping their communities understand and participate in the Council's decision making processes;
  - (b) be a visible, recognisable and accessible presence in the community by taking measures such as holding ward surgeries and supporting local partnership organisations;
  - (c) recognise and balance different interests within their wards and represent the ward as a whole, fairly and constructively, whilst providing a voice for all sectors of their communities;
  - (d) represent the views of their communities wherever possible in the Council's decision-making processes by liaising with other members, officers, and partner organisations to ensure that the needs of the local communities are identified, understood and supported;
  - (e) represent individual constituents and local organisations, undertaking casework on their behalf as necessary and serving all fairly and equally.

### **Chair and Deputy Chair of the Council**

- 2.10. The Chair of the Council is the Council's ceremonial figurehead and acts as an ambassador for the Council and for the area of Cheshire West & Chester.
- 2.11. The Chair's position is laid down by the Local Government Act 1972. This requires them to be elected annually by the Council from among its elected members.
- 2.12. The Chair and Deputy Chair cannot preside at their own election and must not be members of the Cabinet.
- 2.13. The Council may pay to the Chair a reasonable allowance to enable them to meet the expenses of office.
- 2.14. The Deputy Chair of the Council is responsible for assisting and supporting the Chair and discharging the duties of the Chair in their absence.
- 2.15. In the absence of both the Chair and the Deputy Chair, members will elect a Chair for the meeting concerned by a simple majority vote. The person presiding at the meeting may exercise any power or duty of the Chair for that meeting.

### **Substitute Members**

- 2.16. Political groups may nominate some or all their councillors to be substitutes for appointed members of committees, joint committees, sub-committees, working groups and panels (and the Director of Governance shall have authority to give effect to those nominations in accordance with this procedure rule), provided that in the case of the:
- (a) Regulatory committees and sub-committees, substitutes must have received suitable training



- (b) Scrutiny committees and Audit and Governance Committee, all councillors except Cabinet members are permitted to be substitutes
- 2.17. Each political group shall keep a list ('Substitute Members List') containing the name of each substitute member and, in respect of each substitute member, which committees, joint committees, sub-committees, working groups and panels they may serve on.
- 2.18. A substitute member may only be drawn from the most recent Substitute Members List notified to the Director of Governance no fewer than five days before the date of the meeting in question.
- 2.19. Notice of substitution stating the name of the substitute must be given to Democratic Services before the commencement of the meeting concerned.
- 2.20. Cancellation of the intention to substitute will not be effective unless Democratic Services is notified before the commencement of the meeting.
- 2.21. If, after notice of substitution has been given, the original appointed member is present when the meeting begins, the substitution will not have effect for that meeting.
- 2.22. If the original appointed member arrives when the meeting is in progress, the substitution will remain effective and the original appointed member will not be allowed to participate in the decision making. It is not possible to substitute for part of a meeting only.
- 2.23. The chair shall inform the meeting of any substitutions before the commencement of the meeting.
- 2.24. The substitute member will take the place of the original appointed member only for the duration of the meeting in question, or any adjournment of it, following which the original appointed member will resume their position on the committee.
- 2.25. Substitute members have all the powers and duties (including compliance with any mandatory training requirements) of any appointed member but are not able to exercise any role or duties exercisable by the appointed member, such as Chair, etc.

### **Executive Leader**

- 2.26. The Leader is elected to that office by all of the other members of Council. The Leader appoints the Deputy Leader and other Cabinet Members and is Chair of the Cabinet and the political figurehead for the Council.
- 2.27. The Leader is responsible for providing strong, clear leadership in the co-ordination of policies, strategies and service delivery and acts as the principal political spokesperson for the Council.
- 2.28. The Deputy Leader is responsible for assisting and supporting the Leader and discharging the duties of the Leader in their absence.

### **Opposition Political Group Leaders and Shadow Cabinet Members**

- 2.29. Two or more members may form a political group under the Local Government (Committees and Political Groups) Regulations 1990 and appoint a leader of that group. The wishes of the group are taken to be those expressed by its leader.

- 2.30. Opposition Political Groups ('Groups') are those political groups that do not form the administration. Each Group will elect a leader.
- 2.31. The role of a Group Leader is to provide a political figurehead, point of contact and spokesperson for their Group. Group Leaders do not exercise any executive powers and do not operate as spokespersons on behalf of the Council.
- 2.32. Opposition Groups may, if they wish, appoint shadow Cabinet Members, usually aligned to the portfolio appointments made by the Leader.

### 3. Citizens

#### Citizens' Rights

- 3.1. The Council welcomes participation by members of the public in its work. Members of the public who grow up, study, work, live and visit the Borough have a number of rights in their dealings with the Council, including:
- (a) vote at local elections if they are registered as an elector in the Borough
  - (b) contact their local councillor about any matters of concern
  - (c) obtain a copy of the Constitution
  - (d) be notified of and attend meetings that are being held in public and speak or ask questions at those meetings
  - (e) find out from the Key Decisions Plan what Key Decisions are going to be made and how to engage in the process
  - (f) inspect agendas, reports, background papers and minutes relating to meetings that are being held in public
  - (g) present petitions to require an issue to be debated at the Council:
    - (i) requesting the establishment of a parish council or similar Community Governance Review
    - (ii) for a referendum to be held on whether the Borough should have an elected mayor
    - (iii) on any matter within the Council's purview
  - (h) inspect the following documents:
    - (i) the Constitution
    - (ii) the Register of Members' Interests
    - (iii) the Council's accounts as part of the annual audit and make their views known to the External Auditor
    - (iv) pay and remuneration policies for chief and senior officers
  - (i) access other information as set out in the Access to Information Rules (see Part 4 Section 1)

- (j) make complaints about services to:
  - (i) the Council, under its customer complaints scheme
  - (ii) the Ombudsman, after using the Council's complaints scheme
  - (iii) the Director of Governance (as Monitoring Officer), about alleged breaches of the member Code of Conduct
- (k) ask questions at most meetings
- (l) contribute to the discussions of Scrutiny committees at the discretion of the Chair of the meeting
- (m) take part in the Council's consultation activities
- (n) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011

### **Petitions**

- 3.2. The Council welcomes petitions and recognises that petitions are one way that people express their concerns about issues affecting communities within the Borough.
- 3.3. Details of the Council's Petition Scheme can be found on the website here or can be requested by post from the Director of Governance, Cheshire West & Chester Council, The Portal, Wellington Road, Ellesmere Port, CH65 0BA

### **Community Rights**

- 3.4. The Localism Act 2011 introduced rights and powers for individuals and communities to take over public services, community assets and influence planning and development.
- 3.5. Details of the Community Rights can be found on the website here or can be requested by post from the Director of Governance, Cheshire West & Chester Council, The Portal, Wellington Road, Ellesmere Port, CH65 0BA

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## **PART 2 – RESPONSIBILITY FOR FUNCTIONS**

### **1. Executive and Non-Executive Functions**

- 1.1. Decisions taken by the Council are divided into two types: Executive and Non-Executive.
- 1.2. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive; which may (but need not) be the responsibility of the Executive (Local Choice functions); and which are to some extent the responsibility of the Executive. All other functions not so specified are the responsibility of the Executive.
- 1.3. Executive decisions relate to all of the Council's functions that are not Full Council (or Non-Executive) functions. They include those Local Choice functions (identified below) that the Council has decided should be the responsibility of the Executive. Executive decisions are taken by the Leader, Cabinet, Cabinet committees, Cabinet Members or officers under delegated authority in accordance with, and in order to implement, the Budget and Policy Framework.
- 1.4. Non-Executive functions are powers and duties that under statute are not the responsibility of the Executive Leader, Cabinet or Cabinet Members. The power to exercise Non-Executive functions is either reserved to the Council or delegated by the Council to committees or officers, as set out below.

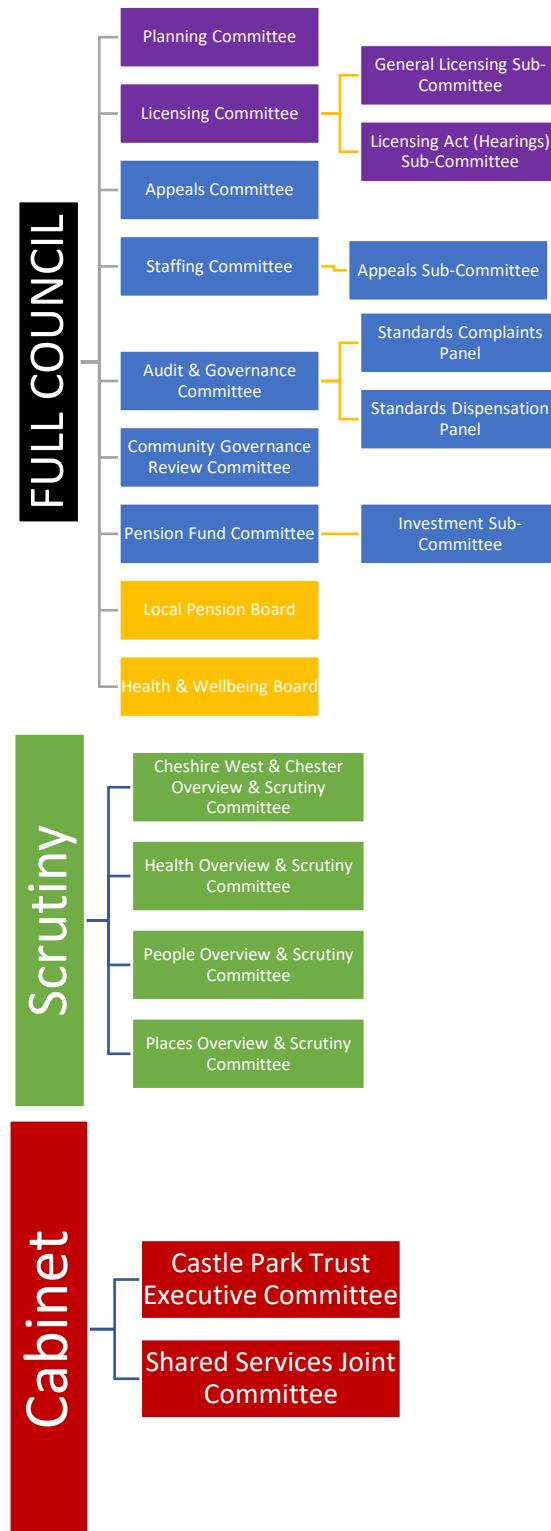
### **2. Principles of Decision Making**

- 2.1. All council decisions will be made in the best interests of the communities of Cheshire West & Chester and in accordance with the following principles:
  - (a) take into account all relevant considerations and ignore those which are irrelevant;
  - (b) compliance with finance, contract and all other procedure rules, statutory requirements, guidance and codes of practice;
  - (c) compliance with the Budget and Policy Framework, including directorate and service budgets, business plans and any other policies, arrangements, procedures, rules, practices or protocols in force from time to time;
  - (d) due consultation and proper advice is taken and consideration of alternative options before decisions are reached;
  - (e) impartiality and an absence of bias, pre-determination or conflicts of interest;
  - (f) any interests are properly declared;
  - (g) reasons are given for decisions;
  - (h) decisions are properly recorded and published;
  - (i) decisions are proportionate to the desired outcome;

- (j) assessing the impact on human rights, equality, diversity and sustainability;
  - (k) a presumption in favour of transparency and openness;
  - (l) clarity of aims and desired outcomes;
  - (m) records are kept of decisions taken and reasons are given for them;
  - (n) following best practice, securing best value and making the most efficient and effective use of resources.
- 2.2. The core objective is to ensure that decisions are made at the most appropriate level closest to the local or immediate point of service delivery, or at the level that is closest to those who will be affected by the decision in question.
- 2.3. The Council has set out to achieve this by putting in place a system of delegation known as a 'cascade of powers'. Under this system its operational powers have been delegated to the fullest extent and range possible through the hierarchy of the Cabinet, individual Cabinet Members, committees and the officer structure. Under this system, power follows responsibility so powers ultimately rest where they need to be so that the decisions that need to be taken to deliver the authority's objectives can be taken at the most appropriate level.
- 2.4. Because the authority's officers usually operate at the point closest to service delivery, they tend to take the majority of operational day-to-day decisions. For this reason, the Council has decided that unless a power or function is specifically reserved by law or in this Constitution to the Council, the Cabinet or a committee (see Part 2 Section 12), it stands delegated to officers to the fullest extent necessary to enable them to do everything that their role requires of them from time to time.
- 2.5. Any ambiguity that may arise as to whether a decision-maker is authorised to take any particular decision is to be resolved by reference back up through the hierarchy of the 'chain of cascade', and legal advice should be sought if necessary. There should, however, be a presumption against referring (or calling) decisions back up the chain unless it is absolutely necessary to do so.
- 2.6. Individual decision-makers may nevertheless consider it would be prudent for a decision that would otherwise fall to be taken by them to instead be taken (or ratified) by:
- (a) in the case of a Cabinet Member, by the Cabinet collectively;
  - (b) in the case of an officer, by their manager or another officer with equivalent authority;
  - (c) in the case of a decision-maker under a bespoke delegation, by the person or body who made that delegation.
- 2.7. Individual decision-makers should also have particular regard as to whether a decision should be made in conjunction with any officer or member and the need to consult and take advice as appropriate.

### **3. Committee Structure**

3.1. This diagram shows the overall committee structure of the Council:



**4. Full Council**

4.1. All councillors meet together approximately six times each year as Full Council. There are five types of Council meeting:

- (a) Annual meeting - in a year where there is an ordinary election of members to the Council, the Annual Council meeting takes place within 21 days of the retirement of the existing members. In any other year, Annual Council will take place in March, April or May;
  - (b) Budget meeting – occurs before 11 March each year to determine the Council's financial commitments and set the Council Tax.
  - (c) Ordinary meetings – usually occur in May, July, October and December each year to receive reports on key priorities, debate issues and take decisions that can only be made by Full Council.
  - (d) Extraordinary meetings - called when urgent business arises that must be dealt with by Council before the next scheduled Ordinary meeting.
  - (e) Special purpose meetings - e.g. for the appointment of honorary aldermen and alderwomen.
- 4.2. Council proceedings take place in accordance with the Procedure Rules set out in Part 3.
- 4.3. Full Council exercises the following Non-Executive functions:
- (a) elects the Chair and Deputy Chair of the Council, and appoints Chairs of other committees;
  - (b) appoints and removes the Executive Leader;
  - (c) agrees and/or amends the composition, terms of reference and political balance of committees, other than those established by the Cabinet;
  - (d) approves a programme of Ordinary Council meetings and committee meetings for the year;
  - (e) appoints or nominates representatives to joint authorities, joint committees and other outside bodies, unless the appointment or nomination is an Executive function or has been delegated by the Council;
  - (f) adopts a members Allowances Scheme (see Part 4 Section 7);
  - (g) adopts and approves changes to the Constitution other than minor amendments;
  - (h) adopts or amends the Budget and Policy Framework following recommendation from the Cabinet, other than minor amendments to policies;
  - (i) sets the Council Tax;
  - (j) approves the Council's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be);
  - (k) subject to the urgency procedure below, makes decisions about any Cabinet proposal that is contrary to the Policy Framework or not wholly in accordance with the Budget;



- (l) determines whether Local Choice functions should be reserved to the Council or exercised by the Cabinet or officers acting under delegated powers;
- (m) takes decisions in respect of Non-Executive functions that have not been delegated to committees, sub-committees or officers;
- (n) determines the terms and conditions on which staff hold office (including procedures for their dismissal), unless otherwise delegated to a committee or officer;
- (o) appoints/dismisses/designates the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, the Returning Officer and Electoral Registration Officer;
- (p) adopts the Member Code of Conduct and the Officer/Member Relations Protocol (see Part 4);
- (q) determines appeals against any decision made by or on behalf of the Council, unless otherwise delegated to a committee or officer;
- (r) agrees any payments or provides other benefits following findings of maladministration by the Local Government and Social Care Ombudsman, etc;
- (s) appoints review boards under regulations under section 34(4) (determination of claims and reviews) of the Social Security Act 1998;
- (t) any function under a local Act other than a function specified in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, unless otherwise delegated to a committee or officer;
- (u) approves the Council's response to any issues or proposals in relation to local government boundaries, including electoral divisions and the conduct of elections;
- (v) takes decisions relating to the name of the area;
- (w) confers the title of Honorary Alderman/Alderwoman or Freedom of the Borough;
- (x) approves Housing Land Transfers, i.e. authorises applications to the Secretary of State for land transfers of housing stock under sections 32, 43 and 106A and Schedule 3A Housing Act 1985, and the Leasehold Reform, Housing and Urban Development Act 1993;
- (y) makes, amends, revokes, re-enacts or adopts bylaws;
- (z) promotes or opposes the making of local legislation or personal bills through Parliament;
- (aa) considers and debates relevant public petitions submitted under the Petition Scheme (see Part 1 Section 3);
- (bb) In respect of electoral functions:
  - (i) assigns officers in relation to requisitions of the Registration Officer;

- (ii) divides constituencies and wards into polling districts;
- (iii) holds elections;
- (iv) fills vacancies in the event of insufficient nominations;
- (v) declares vacancies in office in certain cases;
- (vi) gives notice of a casual vacancy;
- (vii) determines fees and conditions for supply of copies of, or extracts from, elections documents;
- (viii) submits proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000

(cc) Takes decisions in relation to the following payments:

- (i) Special Severance Payments<sup>1</sup> of £100,000 or over to all employees;
- (ii) severance payments (which are not classed as Special Severance Payments) to Chief Officers and Deputy Chief Officers.

(dd) Takes decisions in relation to the appointment to posts which have a salary package or range of £100,000 or over.

4.4. The Council discharges these functions either itself or through committees and officers.

## **5. Budget and Policy Framework**

5.1. Full Council is responsible for considering proposals put to it by Cabinet on the policies and budgets that capture the authority's priorities and how it allocates its resources. Once a Budget or Policy Framework is adopted by the Council, it is the responsibility of the Cabinet to implement it.

### **Budget**

5.2. The Budget is the identification and allocation of financial resources by the Council, including:

- (a) revenue expenditure;
- (b) contingency and reserve funds;
- (c) Council Tax;
- (d) borrowing requirements and limits;
- (e) capital expenditure;

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<sup>1</sup> When determining what constitutes a Special Severance Payment the Council will have regard to the relevant statutory guidance

- (f) Medium Term Financial Plan;
- (g) any limitations to, conditions on or rules governing the management of budgets, virement between budgets, treatment of underspends, windfall income or reserves contained within the Finance and Contract Procedure Rules.

### **Policy Framework**

5.3. The Council's Policy Framework comprises the following list of plans and strategies relevant to its functions, some of which are required by law to be decided by the Council, usually on the recommendation of Cabinet:

- (a) Children and Young People's Plan;
- (b) Crime and Disorder Reduction Strategy;
- (c) Plans and alterations that together comprise the Local Plan;
- (d) Licensing Authority Policy Statement;
- (e) Local Transport Plan;
- (f) Youth Justice Plan;
- (g) Health and Wellbeing Plan;
- (h) Council Plan;
- (i) Any other plan or strategy required by law or which the Council determines should be designated as a Policy Framework document and adopted or approved by Full Council.

5.4. Any proposal to amend these plans or adopt policies or take decisions that are not in accordance with them can only be decided by the Council.

5.5. There will, however, be a number of supplementary policies, plans, strategies, operating procedures or protocols that sit under these plans, which do not need to be approved by the Council. Those supplementary documents can be approved by the relevant committee, Cabinet, Cabinet Member or officer with responsibility for the area of operations concerned.

5.6. There will also be occasions where a decision on granting planning permission may need to be made on proposals that are not in accordance with the Local Plan. In those instances, the Planning Committee is delegated with authority to take such decisions.

### **Process for developing the Policy Framework**

5.7. The Cabinet will publish a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework. The timetable will include a period of no fewer than six weeks during which consultation on its proposals will take place. The Cabinet will notify the Chairs of the Scrutiny committees of any timetable published so that they may respond to the consultation if they wish. At the end of the consultation period the Cabinet will draw up and report firm proposals to Council which shall have due regard to any consultation responses received. The Council may then resolve:

- (a) to refer, with direction and timescales, the matter back to the Cabinet for further consideration;
  - (b) adopt the plan, strategy or budget in the form proposed by the Cabinet;
  - (c) that it is minded to adopt the plan, strategy or budget in a different form from that proposed by the Cabinet
- 5.8. If the Council is minded to adopt a resolution under paragraph (c) above, it shall set out its different proposals and the reasons for them. The Leader will then have a period of five days to consider whether to give notice to the Director of Governance stating either:
- (a) that they do not object to the minded to adopt resolution; or
  - (b) with reasons, that they object to minded to adopt resolution.
- 5.9. If the Leader gives notice under paragraph (a) above, then the minded to adopt resolution will crystallise as a decision of the Council.
- 5.10. If the Leader does not give a notice under paragraph (b) above, then upon expiry of the five day period the minded to adopt resolution will crystallise as a decision of the Council.
- 5.11. If the Cabinet gives (and does not withdraw) a notice under paragraph (b) above, then a meeting of the Council shall be convened within 10 days at which the Council will hear or receive written representations from the Leader before deciding whether to:
- (a) approve the Cabinet recommendation; or
  - (b) approve a different decision that does not accord with the recommendations of the Cabinet.
- 5.12. The decision shall then be made public and implemented immediately.
- 5.13. In approving the Budget and Policy Framework, the Council will also set out the extent to which any virement or in-year policy changes may be undertaken by the Cabinet. Any other changes to the Budget and Policy Framework are reserved to the Council.

#### **Decisions outside the Budget or Policy Framework**

- 5.14. Subject to the virement provisions in the Finance and Contract Procedure Rules (see Part 3 Section 6) and the urgency provisions below, the Leader, Cabinet or those acting under delegated arrangements may only take decisions that are in line with the Budget and Policy Framework.
- 5.15. If the Leader, Cabinet or those acting under delegated arrangements wish to make a decision that is contrary to the Budget or Policy Framework, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer. If the advice of either of those officers is that the decision would not be in line with the Budget and/or Policy Framework, then the decision must be referred to the Council, unless it is a matter of urgency, in which case the urgency provisions below shall apply.

#### **Urgent decisions outside the Budget or Policy Framework**

- 5.16. Where the Leader, Cabinet or those acting under delegated arrangements wish to take an urgent decision that is contrary to the Budget or Policy Framework before a quorate Council meeting can be convened, the Chief Executive may take the decision provided:
- (a) advice is first taken from the relevant Chief Officers and the Director of Governance; and
  - (b) any of the following (to be sought in the following order) have agreed with the need for urgency:
    - (i) the Chair of the Cheshire West & Chester Overview and Scrutiny Committee;
    - (ii) the Chair of the Council; or if absent;
    - (iii) the Deputy Chair of the Council.
- 5.17. The reasons why it is not practical to convene a quorate meeting of Full Council and the agreement of the relevant person listed in (i)-(iii) above to the decision being taken as a matter of urgency must be noted on the record of the decision, which will then be given to every council member.
- 5.18. The decision cannot otherwise be implemented, and delay will result until the Council makes the determination.
- 5.19. Following the taking of an urgent decision, the decision-maker will provide a report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- 5.20. If any member is concerned that an officer has taken, or proposes to take, a decision or action contrary to the Budget or Policy Framework, the matter must be referred in the first instance to the Chief Executive to deal with as a matter of management and discipline. If the member's concern persists, the matter should be referred to the Chair of the Cheshire West & Chester Overview & Scrutiny Committee to discuss with the Chief Executive and, if necessary, the Director of Governance.

### **In-year changes to the Policy Framework**

- 5.21. No changes to any policy or strategy that make up the Policy Framework may be made by the Leader, Cabinet or officers acting under delegated authority except those changes:
- (a) that will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint, or
  - (b) necessary to ensure compliance with the law, ministerial direction or government guidance, or
  - (c) in respect of a policy that would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- 5.22. A plan or strategy within the Policy Framework may be amended by the relevant Director where it is considered, in the opinion of the Director of Governance and the

Chief Executive (after consultation with the Leader and relevant Cabinet Member), not to be contrary to the principles of the plan or strategy and can be contained within the approved budget. Such an amendment does not require the approval of the Council.

## 6. Local Choice Functions

- 6.1. By law some local authority functions cannot be the responsibility of the Council's Cabinet and these are called the "Non-Executive" functions. Other functions, particularly the preparation and approval of certain plans and strategies, are partly "Executive" and partly "Non-Executive". Those functions not otherwise specified fall within the responsibility of the Cabinet.
- 6.2. In addition, there are a few "Local Choice" functions (set out in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000) where the Council is free to choose whether the function is "Executive" or "Non-Executive". The Cabinet may delegate or allocate any of its functions to an individual Cabinet Member, a committee of the Cabinet or an officer, and the Council may delegate any of the "Non-Executive" functions to a committee, sub-committee or an officer.
- 6.3. The list below shows where these "Local Choice" functions are allocated in this Constitution and the body or person expected to exercise the delegated decision-making powers. Those delegations to officers can be further delegated under the cascade of powers and do not include Key Decisions:

Local Choice Function	Status of Function	Delegation to officers	Delegation to Non-Executive Committees
1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1	Executive	Delegated to Chief Officers within their areas of responsibility	-
2. Other than those reserved to a non-executive committee, the determination of appeals against any decision made by or on behalf of the authority	Non-Executive	Delegated to Chief Officers within their areas of responsibility, other than those within terms of reference of committees	Appeals Committee Staffing Committee Schools Admission Appeals Panel
3. The appointment of review boards under regulations under subsection (4) of section 34 (determination of	Non-Executive	Chief Operating Officer	-

claims and reviews) of the Social Security Act 1998			
4. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (reviews of exclusion of pupils). This is now s.51A of the Education Act 2002	Non-Executive	Director of Education & Inclusion	-
5. The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals)	Non-Executive	Director of Education & Inclusion	School Admission Appeals Panel
6. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies; appeals by governing bodies)	Non-Executive	Director of Education & Inclusion	-
7. Any function relating to contaminated land	Executive	Director of Environment & Communities	-
8. The discharge of any function relating to the control of pollution or the management of air quality	Executive	Director of Environment & Communities	-
9. The service of an abatement notice in respect	Executive	Director of Environment & Communities	-

of a statutory nuisance			
10. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Non-Executive	Director of Environment & Communities	-
11. The inspection of the authority's area to detect any statutory nuisance	Executive	Director of Environment & Communities	-
12. The investigation of any complaint as to the existence of a statutory nuisance	Executive	Director of Environment & Communities	-
13. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Non-Executive	Delegated to Chief Officers within their areas of responsibility	-
14. The making of arrangements for the execution of highways works	Executive	Delegated to Director of Highways & Transport	-
15. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Non-Executive	Delegated to Chief Officers within their areas of responsibility	-
16. The appointment of any individual- (a) to any office other than an office in which they are employed by the authority (b) to	Executive and Non-Executive	Delegated to Chief Officers within their areas of responsibility	Cabinet (for Executive appointments) Audit and Governance Committee (for Non-Executive appointments)



any body other than (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body			
17. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Executive	Delegated to Chief Officers within their areas of responsibility	-
18. Functions under sections 106, 110, 111 and 113 of the Local Government and Public Health Act 2007 relating to local area agreements	Executive	Delegated to Chief Officers within their areas of responsibility	-

## **7. Regulatory Committees**

- 7.1. Full Council appoints the following Regulatory committees and advisory boards to undertake a range of Non-Executive functions:
  - (a) Appeals Committee;
  - (b) Audit and Governance Committee
  - (c) Community Governance Review Committee
  - (d) Licensing Committee
  - (e) Planning Committee
  - (f) Staffing Committee
- 7.2. The Council determines the number and terms of reference and allocates the number of places on each committee to each political group. The political groups nominate the members to serve on committees or sub-committees.
- 7.3. Members, once confirmed as members of a committee or sub-committee, continue to hold office until they:
  - (a) resign;
  - (b) cease to be members of the Council (unless re-elected for a further term);
  - (c) are removed from membership by the Council
- 7.4. Once appointed, committees continue in office until the Council appoints a successor committee or resolves the committee ceases.
- 7.5. Regulatory committee proceedings take place in accordance with the Procedure Rules set out in Part 3 Section 3.
- 7.6. The committees have delegated authority from the Council to undertake the responsibilities and actions falling within their terms of reference below.

### **Appeals Committee**

1. Responsible for hearing and determining appeals made against decisions taken in respect of various statutory functions.
2. The committee comprises 13 members constituted on a politically proportionate basis in line with the political composition of the Council.

#### **Terms of reference**

3. Sitting as panel comprising three members (drawn from the committee on a broadly politically proportionate basis) to hear and determine any appeals lodged:
  - (a) in respect of the provision of school transport;
  - (b) by transport contractors in accordance with the contract procedures;
  - (c) under the Marriage Acts
  - (d) under all education legislation (with the exception of school admissions and exclusions appeals)
  - (e) under social services legislation
  - (f) in respect of Discretionary Rate Relief

### **Audit and Governance Committee**

- 1.1. Responsible for overseeing the Council's audit and assurance arrangements, considering audit, financial, and governance reports and making appropriate recommendations to the Council.
- 1.2. The purpose of the committee is to provide independent review and assurance on the adequacy of the Council's governance, risk management and internal control frameworks, and to oversee financial reporting and annual governance processes.
- 1.3. It also has other corporate governance responsibilities, including making appointments to certain outside bodies and organisations and for considering member standards.
- 1.4. The committee comprises 11 elected members (who should not be Cabinet Members) appointed on a politically proportionate basis in line with the political composition of the Council. The committee may also appoint up to two independent non-voting co-opted members on the basis of their skill, knowledge, qualification and experience relevant to the role of the committee.

#### **Governance Risk and Control Functions:**

- (a) Review the Council's corporate governance arrangements, including its ethical framework, against recognised best practice and consider annual governance reports and assurances.
- (b) Review any issue referred to it by the Chief Executive, an Executive Director, Chief Operating Officer or any council body
- (c) Review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the Head of Internal Audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance risk management and control
- (d) Consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (e) Consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- (f) Monitor the effective development and operation of risk management in the Council
- (g) Monitor progress in addressing risk-related issues reported to the committee, to consider reports on the effectiveness of internal controls, and monitor the implementation of agreed actions
- (h) To consider reports on the effectiveness of financial management arrangements including compliance with CIPFA's Financial Management Code
- (i) To review the governance and assurance arrangements for significant partnerships or collaborations

- (j) Review the assessment of risks and potential harm to the Council from fraud and corruption.
- (k) Monitor the counter-fraud strategy, actions and resources
- (l) Report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of the Council's governance, risk management and internal control frameworks; and internal and External Audit functions.
- (m) Report to the Council on an annual basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purposes
- (n) Oversee the application of the governance arrangements for the Cheshire Pension Fund

### **Internal Audit Functions**

- (a) Consider the Head of Internal Audit's annual report and opinion, together with reports from the Head of Internal Audit on internal audit's performance during the year, including:
  - (i) summaries of internal audit activity (actual and proposed);
  - (ii) key findings, issues of concern and action in hand as a result of internal audit work
  - (iii) the results of the Quality Assurance Improvement Programme (QAIP)
  - (iv) the statement on the level of conformance with Public Sector Internal Audit Standards and Local Government Application Note and the results of the QAIP that support the statement
  - (v) reports on instances where the internal audit function does not conform to Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement
  - (vi) the opinion on the overall adequacy and effectiveness of the 17 Council's framework of governance, risk management and control together with the summary work supporting the opinion.
- (b) Consider summaries of specific Internal Audit reports, as requested
- (c) Consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- (d) Receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.

- (e) Approve the Internal Audit charter
- (f) Approve the risk-based Internal Audit plan, including Internal Audit's resource requirement, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- (g) Approve significant interim changes to the risk-based Internal Audit plan and resource requirements
- (h) Contribute to the Internal Audit Quality Assurance and Improvement Programme and, in particular, to the external quality assessment of Internal Audit that takes place at least once every five years
- (i) Review proposals made in relation to the appointment of external providers of Internal Audit services and make recommendations
- (j) Make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations
- (k) Support the development of effective communication with the Head of Internal Audit, including providing free and unfettered access to the Audit and Governance Committee chair and the opportunity for a private meeting with the committee members
- (l) Consider any impairments to the independence or objectivity of the Head of Internal Audit arising from additional roles or responsibilities outside Internal Auditing, and to approve and periodically review safeguards to such impairments.

**External Audit Functions:**

- (a) Recommend to Full Council the appointment of the Council's External Auditors under the Local Audit and Accountability Act 2014 and provide assurance that the External Audit team's independence is safeguarded.
- (b) Consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance.
- (c) Consider specific reports as agreed with the External Auditor
- (d) Comment on the scope and depth of External Audit work and to ensure that it represents value for money
- (e) Consider additional commissions of work from internal and External Auditors
- (f) Consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.
- (g) Advise and recommend on the effectiveness of relationships between External and Internal Audit and other inspection agencies or relevant bodies
- (h) Support the independence of External Audit through consideration of the External Auditor's annual assessment of its independence and review any issues raised by Public Sector Audit Appointments or the Council's auditor panel, as appropriate

- (i) To provide free and unfettered access to the Audit and Governance Committee chair for the auditors, including the opportunity for a private meeting with the committee.

**Accountancy/Financial Reporting Functions:**

- (a) To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met
- (b) Review and approve the Annual Statement of Accounts and specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or audit process that need to be brought to the attention of the Council.
- (c) Review and approve the Treasury Management Strategy report, treasury management annual report and treasury management mid-year review reports
- (d) Review and approve the treasury management quarterly monitoring reports

**Other Governance Functions:**

- (a) Consider and make recommendations to the Council regarding changes to the Constitution.
- (b) Nominate local authority school governors.
- (c) Remove local authority school governors.
- (d) Appoint lay members and education members to serve on independent school admissions and exclusion appeals panels
- (e) Make appointments to those external organisations that are not the responsibility of the Cabinet
- (f) Receive recommendations in relation to the appointment of Honorary Aldermen and Alderwomen, and Freeman and Freewomen, in accordance with procedures adopted by the Council
- (g) Review electoral arrangements and make recommendations to the Returning Officer.
- (h) Review the governance and assurance arrangements for the Council's partnerships, companies or other collaborations, to ensure they are operating effectively.

**Standards Functions:**

- (a) Promote and maintain high ethical standards of conduct by members and co-opted members of the Council.
- (b) Assist members and co-opted members to observe the Council's code of conduct.
- (c) Advise the Council on the adoption or revision of the code of conduct for members.

- (d) Monitor the operation of the code of conduct
- (e) Ensure members receive appropriate ethical advice and training on registration of interests, the code of conduct and standards of behaviour generally.
- (f) Make arrangements under which allegations about member conduct can be investigated and decisions on allegations can be made and to appoint parish representatives.
- (g) Oversee arrangements for recommending appointment of Independent Persons to the Council under the Localism Act 2011.
- (h) Oversee the production of the Standards Annual Report and recommend it to Council.
- (i) Support town and parish councils in their duty to promote and maintain high standards of conduct and to assist their members to follow codes of conduct and to work closely with the Cheshire Association of Local Councils on standards and code of conduct issues and on the selection of parish representatives
- (j) Ensure advice and training on standards is available to town and parish council clerks and members
- (k) Support the Council's statutory officers in the performance of their duties
- (l) Decide on applications for dispensations in respect of members' interests.

1.5. In respect of Standards, Audit and Governance Committee has established the following two sub-committees under section 54(a) Local Government Act 2000:

### **Standards Complaints Panel**

- 1.1. The Standards Complaints Panel will be convened by the Director of Governance when required to:
  - (a) conduct hearings and make decisions on allegations following investigation;
  - (b) make decisions on allegations where the Director of Governance considers that it is not appropriate for the decision to be made under delegated powers and refers the complaint to the Panel.
- 1.2. The Panel will be comprised of three members of Audit and Governance Committee.
- 1.3. The Panel will seek and take into account the views of an Independent Person and, where a complaint concerns a parish or town council member, a Parish Representative (acting as a consultee not a co-opted member), before making a decision on any allegation which has been investigated.

### **Standards Dispensation Panel**



- 1.1. The Standards Dispensations Panel will be convened by the Director of Governance when required to determine requests for dispensations in respect of members' interests.
- 1.2. The Panel will be comprised of three members of Audit and Governance Committee.

## Community Governance Review Committee

- 1.1. Established in accordance with the recommendation of the former Overview & Scrutiny Committee following a review of the Council's relationship with the Borough's local (i.e. town and parish) councils in 2010. Endorsed by the Executive on 8 June 2011 and agreed by the Council (minute 29, 28 July 2011) to make recommendations to the Council on the outcomes of each Community Governance Review. The Council is required to approve the final recommendations before a Community Governance Order is made.

### **Terms of Reference**

- (a) Agree the terms of reference for each Community Governance Review.
  - (b) To determine a detailed timetable and consultation programme for each Community Governance Review
  - (c) Progress each review in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007 and the Guidance on Community Governance Reviews issued by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010.
  - (d) Consider all options for future community governance of the area under review, taking into account current community representation and community engagement arrangements and electorate and demographic forecasts.
  - (e) Determine appropriate electoral arrangements for the area under review, where necessary.
  - (f) Consider any consequential matters arising from the review that are required to give effect to any subsequent Community Governance Order, e.g. the transfer and management or custody of property, the setting of precepts for new parishes, provision for the transfer of any functions, rights, liabilities, staff, etc.
- 1.2. The committee comprises seven councillors appointed in accordance with political proportionality. In addition, the committee may appoint non-voting co-opted members relevant to the role of the committee, e.g. representatives from the Cheshire Association of Local Councils.
- 1.3. The Chair and Deputy-Chair are appointed each year by the Council.
- 1.4. The committee shall meet as and when necessary. All meetings will be held in public. External organisations may be invited to attend for the purposes of factfinding and consultation.

## Licensing Committee

- 1.1. Responsible for determining licensing policy and applications across a wide range of local authority licensing functions in accordance with the following terms of reference.
- 1.2. The committee comprises 15 members and is constituted on a politically proportionate basis in line with the political composition of the Council.
- 1.3. Members of the committee sit as a statutory Licensing Committee as defined by the Licensing Act 2003 and the Gambling Act 2005 when carrying out functions of and ancillary to those Acts. Members of the committee sit as a General Licensing Committee when dealing with any other licensing functions of the Council.

### **Sitting as the full Committee:**

- (a) Approve licensing policy (with the exception of matters specifically reserved by statute to the Council or the Cabinet).
  - (b) Determine all applications for the grant and variation of sex establishment licences.
  - (c) Determine all applications for the renewal or transfer of sex establishment licences where objections have been received
- 1.4. For the avoidance of doubt, Licensing Committee shall exercise an advisory role in relation to Cabinet functions, such as the fixing of fares for hackney carriages.

### **Sitting as the Licensing Act (Hearings) Sub-Committee** (comprising three members drawn from the full committee on an ad-hoc basis):

- (a) Hold hearings to determine licensing matters where such hearings are required by the Licensing Act 2003 and associated regulations
- (b) Determine applications for a provisional statement or the grant, variation, or transfer of a premises licence under the Gambling Act 2005 where a representation has been received, or where the Head of Service proposes that the power under section 169(1)(b) be exercised to exclude certain licence conditions.
- (c) Determine all matters in relating to the review of a premise licence under the 2005 Act
- (d) Determine applications for club gaming and club machine permits under the 2005 Act where objections have been received.
- (e) Determine matters relating to the cancellation of club gaming and club machine permits or licensed premises gaming machine permits under the 2005 Act
- (f) Determine all matters relating to temporary or occasional use notices under the 2005 Act where objections have been received.

### **Sitting as the General Licensing Sub-Committee** (comprising three members drawn from the full committee on a broadly politically proportionate basis):

- (a) Determine all matters relating to the grant, renewal or review of taxi licences (which, for the avoidance of doubt, include hackney carriage and private hire vehicle driver and operator licences) where evidence exists as to whether the applicant is a fit and proper person and to suspend or revoke taxi licences in accordance with legislation;
- (b) In cases where the Director has revoked with immediate effect a taxi licence on public safety grounds, determine an application for the grant of a new licence submitted by the driver/operator whose earlier licence was revoked.
- (c) Determine matters relating to street trading consents where representation or objections have been received
- (d) Determine appeals against officer decisions to reject applications for licences.

## **Planning Committee**

- 1.1. Responsible for determining applications for planning permission that are not determined by the Head of Planning (or such other title that may be given to the officer with the same or similar powers) and for determining applications in relation to public rights of way and Commons or Town and Village Greens that are not determined by Director of Highways & Transport (or such other title that may be given to the officer with the same or similar powers).
- 1.2. Planning Committee comprises 11 members constituted on a politically proportionate basis in line with the political composition of the Council.

### **Terms of Reference**

- (a) To determine applications for planning permission in connection with large scale major development, i.e:
  - (i) residential developments of 200 dwellings or more or where the built site area is four hectares or more
  - (ii) non-residential developments where the floor space to be built is 10,000 square metres or more or where the built site area is two hectares or more
- (b) To determine all applications for planning permission in connection with small scale major developments, i.e.:
  - (i) residential developments of between 10-199 dwellings inclusive or where the built site area is between 0.5 and four hectares
  - (ii) non-residential developments where the floor space to be built is between 1,000 and 9,999 square metres or where the built site area is between one and two hectares

where there is a recommendation for approval which would, in the opinion of the Head of Planning, constitute a significant departure from planning policy.
- (c) To determine all applications for planning permission in connection with onshore oil and gas exploration
- (d) To determine applications for planning permission:
  - (i) called-in for determination in accordance with the Planning Committee Members' Call-in Procedure (see Part 3 Section 3)
  - (ii) where the applicant is an elected member or a member of their immediate family, or the application is in respect of land within their ownership or control
  - (iii) where the applicant is an officer holding a post at or equivalent to Chief Executive, Executive Director, Chief Operating Officer or Director, or a member of their immediate family<sup>2</sup>, or the application is in respect of land within their ownership or control

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<sup>2</sup> Immediate family refers to siblings, parents, children and partners or spouses only

- (iv) where the applicant is an officer in the Development Management Team or a member of their immediate family, or the application is in respect of land within their ownership or control
  - (v) made by or on behalf of the Council (except those matters which the Head of Planning considers to be of a minor or routine nature)
  - (vi) that the Head of Planning, in consultation with the Chair of the Planning Committee, considers should be determined by the committee
- (e) In each case described in (d)(i) to (vi) above, the committee's remit shall not extend to the determination of:
- (i) applications for permissions in principle
  - (ii) technical details consent applications to vary or amend existing permissions or obligations
  - (iii) applications to determine reserved matters applications
  - (iv) applications for prior approval

Decisions in such cases stand delegated to officers

- (f) To determine applications made in relation to the public rights of way network and the registers of Commons and Town and Village Greens that are called-in for determination in accordance with the Planning Committee Members' Call-in Procedure (see Part 3 Section 3).

## Staffing Committee

- 1.1. Deals with human resources strategies and policies that apply to all the Council's employees. It is also responsible for employment matters relating to the Council's most senior officers and for appointing sub-committees to hear employment appeals in accordance with the Council's policies
- 1.2. The committee comprises nine members and is constituted on a politically proportionate basis in line with the political composition of the Council.

### **Terms of Reference**

- (a) Develop and approve the Council's human resources strategies, policies and officer terms and conditions of employment, subject to the approval of any budget implications by the Cabinet and/or the Council as appropriate.
- (b) Approve programmes of voluntary or compulsory redundancies.
- (c) Approve any severance payments (other than Special Severance Payments) to employees up to (but not including) Deputy Chief Officers where the costs (including pension costs) are £100,00 or over.
- (d) Appoint an Appeals Sub-Committee (comprising 3 trained members of the Staffing Committee) to hear and determine appeals in accordance with the Council's human resources policies and Officer Employment Procedure Rules
- (e) In respect of the posts of Chief Executive and Executive Directors, and in accordance with the Officer Employment Procedure Rules (see Part 4 Section 2), to:
  - (i) Undertake the appointment selection process (and in the case of the Chief Executive to make a recommendation to appoint to Full Council)
  - (ii) settle levels of remuneration
  - (iii) authorise changes to the terms and conditions of employment
  - (iv) hear and determine employment appeals
  - (v) authorise dismissal (and in the case of the Chief Executive to make a recommendation of dismissal to Full Council)

## **8. Joint Arrangements and Area Working**

- 8.1. The Council has several methods of establishing bodies for decision-making, collaboration or consultation with other local authorities, partners, officer representatives and members of the public. These bodies may be set up for a specific purpose or to more generally promote the economic, social, or environmental well-being of the Borough.
- 8.2. Joint arrangements with other local authorities may be established to exercise Executive and/or Non-Executive functions. The establishment of joint committees that exercise Executive powers requires the agreement of the Leader. The establishment of joint committees that exercise Non-Executive powers requires the approval of the Council. The Leader must obtain Council approval before agreeing to exercise functions on behalf of another local authority.
- 8.3. Political balance rules do not apply to joint arrangements that only exercise Executive powers. Only Cabinet Members may be appointed to these joint committees.
- 8.4. Current joint arrangements include:
  - (a) Shared Services Joint Committee (Executive)
  - (b) Health & Wellbeing Board (Executive and Non-Executive)
- 8.5. Details of joint arrangements and area working are set out below.

### **Shared Services Joint Committee**

- 1.1. When the six former district councils and the former Cheshire County Council were reorganised into Cheshire West & Chester Borough Council and Cheshire East Council on 1 April 2009, a number of services were identified as being best delivered jointly by both councils.
- 1.2. A joint committee comprising members of the Cabinets of both councils was established for the purposes of strategic decision making and to facilitate shared service provision between the two councils.
- 1.3. As agreed by the Council on 18 October 2018, the joint committee's role was revised to oversee the management of those services that are provided on a Cheshire-wide basis on behalf of the two councils, to ensure effective delivery and provide strategic direction.
- 1.4. The joint committee is responsible for:
  - (a) Ensuring that service strategies, and the resources and budgets required to deliver the service strategies, are in place and overseeing the implementation of the service strategies
  - (b) Ensuring that adequate risk management and audit processes are in place for each shared service
  - (c) Overseeing changes and projects and changes to shared services;



- (d) Reporting on the performance of the five service areas (Civil Contingencies and Emergency Planning, Farms Estate, Archaeology Planning Advisory and Cheshire Rural Touring Arts Network) plus the Libraries Shared Services
- (e) Overseeing and developing Information Communications Technology, Transactional Services Centre and Archives
- (f) Agreeing the basis for apportioning cost between the two councils and the amount to be apportioned
- (g) Resolving issues that have been referred to the joint committee;
- (h) Reviewing the Shared Services Outturn and Performance Report, which will take a backwards look and a forward look, on an annual basis and by exception as appropriate, and initiating additional or remedial action as appropriate;
- (i) Agreeing business cases for proposed changes and overseeing the progress of the subsequent work;
- (j) Ensuring that there are robust plans for any disaggregation of services and that there is a smooth transition into the separate arrangements

1.5. The following matters are reserved to each of the two councils:

- (a) Approving the budget for the specified functions;
- (b) The delivery of service business plans via client and service manager.

1.6. Composition, membership and more information about the committee and shared services arrangements can be found on the Council's website.

## **Cheshire West and Chester Health and Well-Being Board**

### **1. Introduction and composition**

1.1 The Health and Wellbeing Board is a statutory committee of the Council established under the provisions of the Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. The Health and Care Act 2022 introduced changes to the structure of the NHS which affected membership.

1.2 The Board presently comprises the following full Members who have committed to support the Board in carrying out its statutory duties.

	<b>Representative / Role:</b>	<b>Organisation:</b>
<b>1.</b>	Leader of the Council	Cheshire West and Chester Borough Council
<b>2.</b>	Chief Executive Officer	Healthwatch Cheshire West
<b>3.</b>	Deputy Chief Executive – Environment, Communities and Economy	Cheshire West and Chester Borough Council
<b>4.</b>	Director of Childrens Services	Cheshire West and Chester Borough Council
<b>5.</b>	Director of Public Health	Cheshire West and Chester Borough Council

6.	Director of Adult Social Care	Cheshire West and Chester Borough Council
7.	Cabinet Member Adult Social Care	Cheshire West and Chester Borough Council
8.	Cabinet Member Children and Young People	Cheshire West and Chester Borough Council
9.	Opposition Member	Cheshire West and Chester Borough Council
10.	Director of Cheshire West Place (ICB)	ICB - Cheshire West Place
11.	Clinical Lead Cheshire West Place (ICB)	ICB - Cheshire West Place
12.	Chief Executive (or nominee)	Mid-Cheshire Hospitals NHS Foundation Trust
13.	Chief Executive (or nominee)	Cheshire and Wirral Partnership NHS Foundation Trust
14.	Chief Executive (or nominee)	Countess of Chester Hospital NHS Foundation Trust
15.	Senior Police Officer	Cheshire Police
16.	Senior Officer, Cheshire Fire and Rescue Service	Cheshire Fire and Rescue Service

1.3 The Board may appoint such additional persons for membership of the Board as it considers appropriate. The length of the appointment will be determined by the Board. Members so appointed will assist the Board in developing and achieving the priorities agreed by the Board and in the Joint Local Health and Wellbeing Strategy. As at 2023/24, the Board has the following co-opted members:

- Representative of social housing providers
- Representative of the voluntary, community and faith sector
- Representative of the physical activity sector
- Representative of the University
- Representative of the business sector
- Representative of the Department for Work and Pensions

All members of the Board will be voting members.

1.4 Each member has the power to nominate an appropriate substitute who will have the same powers and responsibilities as all members.

1.5 The Board shall make appropriate arrangements for the appointment of a Deputy Chair.

## 2. **ACCOUNTABILITY:**

2.1 The Health and Wellbeing Board shall be accountable to the Council for the delivery of the Joint Local Health and Wellbeing Strategy. This Strategy has been approved by all members of the Board and contains the overarching vision for health and wellbeing in the Borough. It is included in the Cheshire West Place Plan. The Health and Wellbeing Board carries no formal delegated authority from any of the individual statutory bodies.

## 3. **PURPOSE OF THE BOARD:**

3.1 To be responsible for the health and wellbeing of the people of Cheshire West and Chester by leading the development of improved and integrated health and social care

services and using collective resources to reduce health inequalities and address variances in the quality of health and social care.

- 3.2 The primary focus of the Health and Wellbeing Board will be to work in partnership for the improvement and co-ordination of services related to NHS, social care and related children's and public health. This will be within the context that the Board is a lever to improve the health and wellbeing of the citizens of Cheshire West and Chester and reduce inequalities across all the wider determinants of physical and mental health and wellbeing, including housing, employment, environment, amongst other factors.

#### **4. FUNCTIONS OF THE BOARD:**

- 4.1 To lead integrated working between health and social care commissioners and providers, including providing advice, assistance or other support to encourage arrangements under Section 75 of the National Health Service Act 2006, (i.e lead commissioning, pooled budgets and/or integrated provision).
- 4.2 To bring together key NHS, public health and social care leaders across the Cheshire West and Chester area to continuously improve the health, wellbeing and care of the Borough's population. This includes representatives as both commissioners of services and providers of services as reflected in the Board's Membership.
- 4.3 To bring together as appropriate, other organisations (such as housing and other Local Authority services) and representatives which can contribute towards improving the wider determinants of health and wellbeing in the Borough.
- 4.4 To provide oversight of the development of the Joint Strategic Needs Assessment process for Cheshire West and, alongside other accredited evidence, such as the Marmot Review ("Health Equity in England") ensure that this information is applied in a meaningful manner to form priorities and shape strategic decisions to improve health and wellbeing.
- 4.5 To design, deliver and review a Joint Local Health and Wellbeing Strategy and Plan that identifies key priorities for commissioning services and to enable the delivery of the Joint Local Health and Wellbeing Strategy in a co-ordinated and realistic way.
- 4.6 To secure the engagement of other partners in addressing the key challenges identified by the Board and the Council, currently being climate change, tackling poverty and ensuring good mental health for the population.
- 4.7 To discharge all functions relating to the Better Care Fund (BCF) that are required or permitted by law to be exercised by the Board, including agreeing, and overseeing the delivery of, the BCF.
- 4.8 To publish and maintain a statement of needs for pharmaceutical services across the Cheshire West and Chester area.
- 4.9 To promote an ethos of integration and partnership in the planning, commissioning and delivery of services to improve the health and wellbeing of the whole population of Cheshire West and Chester.
- 4.10 To have the flexibility to go beyond its minimum statutory duties to promote joining-up of a much broader range of local services (i.e. further integration of health with more services around the wider determinants of health and wellbeing).

- 4.11 To listen, involve and engage service users, patients and the wider public in order to influence and inform the broader work of the Board.
- 4.12 To maintain an overview of the delivery of outcomes within the NHS, Public Health and Adult Social Care outcomes frameworks.
- 4.13 To be a forum that enables member organisations to hold each other to account for their responsibilities for improving the health and wellbeing of the local population.

## **5. RESPONSIBILITIES OF MEMBERS**

- 5.1 To attend and contribute to meetings and, if unable to do so, to send an appropriate deputy able to act on their behalf.
- 5.2 To keep their organisation informed of the work of the Health and Wellbeing Board.
- 5.3 To feed back to, and consult with, their organisation on issues being discussed by the Health and Wellbeing Board.
- 5.4 To commit resources to work which will assist with the development and delivery of agreed priorities.
- 5.5 To participate in Health and Wellbeing Board discussions to reflect the views of their organisations, being sufficiently briefed to be able to contribute to recommendations concerning policy developments, strategy and service delivery.
- 5.6 To share any changes in strategy, policy and service delivery within their organisations which have an impact on the health and wellbeing of the population.

## **6. MEETING FREQUENCY**

- 6.1 The Board shall meet a minimum of six times within a municipal year. Additional meetings may be held with the agreement of the Chair.

## **7. CONDUCT OF MEETINGS**

- 7.1 Board meetings will ordinarily be held in public unless the information to be discussed:
  - (a) cannot be discussed in public without risk of breaching a duty of confidence that the Authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or,
  - (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information. If all (or by decision, part) of any Board meeting is held with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference to any, or all, of the relevant circumstances set out in paragraph 8.28 (a) and/or (b) above.

## **8. QUORUM**

- 8.1 Any full meeting of the Board shall be quorate if there is representation of any of the following members:
  - Cheshire West and Chester Council Councillor and Senior Officer
  - Cheshire West Healthwatch;

- NHS Cheshire and Merseyside Integrated Care Board

8.2 The Board will also require at least 25% of Board members to be present for the meeting to be quorate.

8.3 Should the quorum not be reached, the meeting will proceed on an informal basis with any decisions requiring ratification at the following meeting.

## **9. VOTING**

9.1 All matters will be decided by a simple majority of those Members present and voting in the room at the time the question is put.

9.2 Members must be in their designated seats for their vote to be counted.

9.3 Voting will be by a show of hands, or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

## **10. PUBLIC QUESTION TIME**

10.1 Members of the public may speak or ask a question at Board meetings on any subject within the terms of reference of the Board.

10.2 Persons wishing to speak or ask a question are requested to give notice to the Council's Democracy and Elections Team at least three days before the meeting in question. This is to ensure that:

- the topic is appropriate for the meeting in question;
- the time allotted for public speaking and questions can be properly managed; and
- any information needed to answer a question can be provided to the meeting.

10.3 The Chair will retain sole discretion as to the management of public speaking and questions; normally a total period of 15 minutes will be permitted with speakers being allowed to speak for up to 5 minutes each.

10.4 Questions will be asked and answered without debate.

10.5 In responding to questions Members, may decline to answer; agree to answer at, or by, a later (specified) date (whether or not in writing); refer the question to a more appropriate forum, Member or Officer.

## **11. MINUTES OF MEETINGS**

11.1 Minutes of meetings will be available on the website of the Council.

11.2 At each ordinary meeting the Chair will move that the Minutes of the previous meeting be confirmed as an accurate record.

11.3 Agendas and supporting papers will be available on the website of the Council one week before the meeting.

## Cheshire and Merseyside Health and Care Partnership

### Terms of Reference

#### Background

Integrated care systems (ICSs) are statutory partnerships that bring together NHS organisations, local authorities and others to take collective responsibility for planning services, improving health and reducing inequalities across geographical areas.

ICSs comprise two key components:

- **integrated care boards (ICBs):** statutory bodies that are responsible for planning and funding most NHS services in the area
- **integrated care partnerships (ICPs):** statutory committees that bring together a broad set of system partners (including local government, the voluntary, community, faith and social enterprise sector (VCFSE), NHS organisations and others) to develop a health and care strategy for the area.

This dual structure was designed to support ICSs to act both as bodies responsible for NHS money and performance at the same time as acting as a wider system partnership.

ICPs are established in legislation by the insertion of a new Section 116ZA to the Local Government and Public Involvement in Health Act 2007. Section 116ZA of the 2007 Act imposes an express obligation on an ICB and all relevant local authorities whose area coincides with or falls wholly or partly within the ICBs area to establish an ICP as a joint committee.

In the Cheshire and Merseyside Integrated Care System, the ICP is named as the Cheshire and Merseyside Health and Care Partnership (HCP).

These Terms of Reference set out the membership, remit, responsibilities, and reporting arrangements of the joint committee.

#### Role and Purpose

The Cheshire and Merseyside HCP is a broad alliance of organisations and representatives concerned with improving the care, health and wellbeing of the population, jointly convened by local authorities and the NHS as equal partners in order to facilitate joint action to improve health and care outcomes and experiences, influence the wider determinants of health, and plan and deliver improved integrated health and care.

Its primary purpose will be to act in the best interests of residents across Cheshire & Merseyside, rather than representing the interests of any individual organisation.

The role and purpose of the HCP does not duplicate that of the nine Cheshire and Merseyside Health and Wellbeing Boards. The HCP will work in conjunction where appropriate to help achieve common objectives and aims to benefit local populations.

The HCP provides the opportunity for a Cheshire & Merseyside forum to support and enhance work programmes to improve population health outcomes and reduce health inequalities by addressing complex, long term issues which need an integrated approach across Cheshire & Merseyside.

The HCP, as an Integrated Care Partnership, has a statutory responsibility to prepare, approve and publish an Integrated Care Strategy for the Cheshire and Merseyside ICS, setting out how the assessed needs in relation to Cheshire & Merseyside are to be met by the exercise of functions of:

- the Integrated Care Board
- NHS England
- the nine local authorities whose areas coincide with the ICB area

In preparing this strategy the HCP must involve:

- the Local Healthwatch organisations whose areas coincide with or fall wholly or partly within its area
- the people who live and work in Cheshire & Merseyside

The strategy will have due regard to and respond to the Health and Wellbeing Strategies and Joint Strategic Needs Assessments of each of the nine local authority areas.

## **Membership and Attendees**

### **Members**

Membership of the HCP (as an Integrated Care Partnership) is set out in legislation and must have as a minimum:

- one member appointed by the ICB
- one member appointed by each of the nine local authorities.

Legislation also allows for members to be appointed by the HCP itself.

In all cases, HCP membership will be renewable on an annual basis. Each participant organisation or body will be expected to have formally nominated or confirmed their nominated member by 1st August of each year. Changes in membership during the year are allowed and must be notified to the HCP promptly and before attendance at the next meeting.

Where members are not available to attend meetings, a substitute nominated by organisation may attend on their behalf.

The Chair of the HCP will discuss attendance with any member who fails to attend three consecutive HCP Meetings. The Chair of the HCP will refer any ongoing concerns regarding

non-attendance of a member to their organisation with a recommendation that consideration be given to whether it is appropriate for the individual to continue as a member of the HCP.

The full membership of the Cheshire and Merseyside HCP is:

<b>Organisation / Area</b>	<b>Position</b>
<b>NHS Cheshire and Merseyside ICB</b>	ICB Chair
	Chief Executive
	Assistant Chief Executive
	Executive Director of Finance
	Executive Medical Director
<b>Cheshire East Council</b>	x1 Councillor
<b>Cheshire West and Chester Council</b>	x1 Councillor
<b>Halton Council</b>	x1 Councillor
<b>Knowsley Council</b>	x1 Councillor
<b>Liverpool City Council</b>	x1 Councillor
<b>Sefton Council</b>	x1 Councillor
<b>St Helens Borough Council</b>	x1 Councillor
<b>Warrington Borough Council</b>	x1 Councillor
<b>Wirral Council</b>	x1 Councillor
<b>Other Local Authority Representatives</b>	x2 Directors of Adult Social Care? – drawn from across the 9 responsible Local Authorities.
	x2 Directors of Public Health - drawn from across the 9 responsible Local Authorities
<b>North West Ambulance Service</b>	x1 Representative
<b>Cheshire Police</b>	x1 Representative
<b>Merseyside Police</b>	x1 Representative
<b>Cheshire Fire and Rescue</b>	x1 Representative
<b>Merseyside Fire and Rescue</b>	x1 Representative
<b>Voluntary, Community, Faith and Social Enterprise Sector</b>	x2 Representatives
<b>Liverpool City Region Local Enterprise Partnership</b>	x1 Representative
<b>Cheshire and Warrington Local Enterprise Partnership</b>	x1 Representative
<b>Primary Care</b>	x2 Representatives
<b>CMAST Provider Collaborative</b>	x1 Representative
<b>MHLD Provider Collaborative</b>	x1 Representative
<b>Carer</b>	x1 Representative
<b>Housing</b>	x1 Representative
<b>Healthwatch</b>	x2 Representatives
<b>Higher Education / University</b>	x2 Representatives

The Other Local Authority Representatives will be notified to the HCP by the nine local authorities.

Members are expected to adopt a partnership approach to working together, as well as listening to the voices of citizens, patients and the public of Cheshire and Merseyside.



Members will commit to working collaboratively, openly and supporting the development and role of the HCP.

### **Attendees**

Only members of the HCP, or their nominated substitute, can participate in HCP meetings, but the Chair may invite relevant organisations to send a representative to an HCP meeting as necessary in accordance with the business of the HCP.

### **Chair Arrangements**

The Chair of the HCP will be drawn from one of the nominated HCP members from the nine local authorities.

The Chair will be appointed on an annual basis at the first meeting of the year (in September) by the local authority members of the HCP present at the meeting. Individuals wanting to be considered for the Chair role will need to be nominated and seconded by one other local authority member of the Board and agreed by way of a majority vote.

The HCP will also have two Joint Vice Chairs – one being the Cheshire and Merseyside ICB Chair and the other being an appointed representative of the VCFSE sector. In the absence of the Chair at a meeting of the HCP, it will be agreed in advance which of the two Vice Chairs will Chair the meeting on that occasion.

### **Quoracy**

The meeting will be quorate if at least 50% of the members are present. If the quorum has not been reached, then the meeting may proceed if those attending agree, but no decisions requiring agreement by the ICB or local authorities may be taken unless at least 50% of the Committee members drawn from these two bodies are present.

If any member of the HCP has been disqualified from participating in the discussion and/or decision-making for an item on the agenda, by reason of a declaration of a conflict of interest, then that member shall no longer count towards the quorum.

### **Decision making and authority**

As far as is possible the HCP will make its decisions by consensus of the members present at the meetings of the HCP.

The HCP has been established as a Joint Committee under S116ZA Health & Social Care Act 2022.

It has not been established under S65Z6 or S75 arrangements between the NHS and Local Authority member organisations of the HCP, and as such does not have the authority as a committee to exercise joint functions or hold or make decisions on a pooled budget arrangements.

The HCP is authorised to create any relevant sub-groups in order to take forward specific programmes of work considered necessary by the membership.

## **Meeting arrangements**

The HCP will meet up to six times each year. Additional meetings may take place as required.

The HCP Chair, in consultation with and with the agreement of both Vice Chairs, may convene further meetings to discuss particular issues of relevance to the HCP and which cannot wait until the next meeting.

The HCP may meet virtually or in hybrid format when necessary and members attending using electronic means will be counted towards the quorum.

Meetings of the HCP will be held in public. Where meetings are held virtually, arrangements will be made to ensure members of the public can attend and be able to observe the meeting.

The HCP may convene development sessions, which will be held in private and which will not be formal meetings of the HCP.

A copy of the agenda and related reports for each HCP meeting will be sent to each HCP Member at least five clear days before the date of that meeting. Agendas and papers for meetings held in public will be published on the website of NHS Cheshire and Merseyside Integrated Care Board

The HCP shall be supported with a secretariat function. In addition to publication of agendas and supporting papers the secretariat will prepare and circulate minutes of meetings within 10 working days and maintain an action and decision log, as well as a register of interests of HCP members.

As a Joint Committee of the ICB and Councils, local authority members will be bound by their Council's Code of Conduct for the meeting and should declare any interests under that Code.

The Agenda for meetings of the HCP will be agreed by the Chair and Vice Chairs. Members of the Committee can request items to be considered at meetings of the HCP by contacting the Chair two weeks prior to the publication date of papers for the relevant meeting.

## **Reporting and Accountability**

The HCP will receive reports from the Cheshire and Merseyside Health and Wellbeing Boards, which will inform its own priorities and strategy. and the HCP will also provide reports to the Health and Wellbeing Boards on matters concerning delivery of the Integrated Care System priorities and outcomes framework.

The HCP will also provide reports to the ICB, providing a summary of any specific programmes of work undertaken, including the issues considered and recommended actions, and any key outputs (in particular the Integrated Care Partnership Strategy) from its meetings.

## **Behaviours and Conduct**

The HCP shall conduct its business in accordance with any national guidance. The seven Nolan Principles of Public Life shall underpin the committee and its members.

HCP members should:

- Inform the Chair of any interests they hold which relate to the business of the HCP.
- Inform the Chair of any previously agreed treatment of the potential conflict / conflict of interest.
- Abide by the Chair's ruling on the treatment of conflicts / potential conflicts of interest in relation to ongoing involvement in the work of the HCP.
- Inform the Chair of any conflicts / potential conflicts of interest in any item of business to be discussed at a meeting. This should be done in advance of the meeting wherever possible.
- Declare conflicts / potential conflicts of interest in any item of business to be discussed at a meeting under the standing "declaration of interest" item.
- Abide by the Chair's decision on appropriate treatment of a conflicts / potential conflict of interest in any business to be discussed at a meeting.
- Abide by their own respective organisation's Code of Conduct

As well as complying with requirements around declaring and managing potential conflicts of interest, HCP members should:

- Attend meetings, having read all papers beforehand
- Arrange for their substitute to attend on their behalf, if necessary
- Act as 'champions', disseminating information and good practice as appropriate
- Comply with the HCP administrative arrangements including identifying agenda items for discussion, the submission of reports etc.
- Consider the equality, diversity and inclusion implications of the discussions they undertake at HCP meetings

## **Review**

The HCP will review its effectiveness, including these terms of reference, on an annual basis and earlier if required.

## **Safeguarding Children Partnership**

1. The Cheshire West and Chester Safeguarding Children Partnership (SCP) is established in accordance with the Children and Social Work Act 2017 and Working Together to Safeguard Children statutory guidance. It provides arrangements under which the safeguarding partners and relevant agencies work together to coordinate their services, identify and respond to the needs of children, commission and publish local safeguarding practice reviews and provide scrutiny to ensure the effectiveness of the arrangements.
2. The three safeguarding partners in relation to the local authority's area are defined under the Children Act 2004 (as amended by the Children and Social Work Act 2017) as:

- (a) the Local Authority (represented by the Chief Executive of Cheshire West and Chester Council);
  - (b) a Clinical Commissioning Group for an area any part of which falls within the local authority area (represented by the Accountable Officer of NHS Vale Royal and West Cheshire Clinical Commissioning Groups);
  - (c) the Chief Officer of Police for an area any part of which falls within the local authority area (represented by the Chief Constable of Cheshire Police).
3. The SCP vision is to ensure that every child and young person in Cheshire West and Chester grows up in a safe environment that enables them to achieve their full potential. To achieve this vision, the three safeguarding partners will work collaboratively with relevant agencies to ensure that:
- (a) The rights and interests of children are at the heart of their arrangements and kept in focus as they go about their work.
  - (b) The Partnership holds each other to account for their safeguarding work, which includes their responsibility for effective multiagency working
  - (c) Children are safeguarded by having in place policies, procedures, safe working practices and suitable, trained staff and volunteers.
4. Full details of the SCPB can be found on its website: [Cheshire West Safeguarding Children Partnership \(cheshirewestscp.co.uk\)](http://Cheshire West Safeguarding Children Partnership (cheshirewestscp.co.uk))

### **Local Safeguarding Adults Board**

- 1.1. The Cheshire West and Chester Local Safeguarding Adults Board (LSAB) is a multi-agency partnership, co-ordinated by Cheshire West and Chester Council, which provides strategic leadership for adult safeguarding across the borough. It has an independent Chair and its remit is to agree objectives, set priorities and co-ordinate the strategic development of adult safeguarding.
- 1.2. The LSAB is governed by a Memorandum of Agreement which all agencies sign up to. Its overarching purpose is to help and safeguard adults with care and support needs by assuring itself that local safeguarding arrangements are in place as defined by the Care Act 2014 and statutory guidance.
- 1.3. The LSAB has three core duties:
- (a) To develop and publish a strategic plan setting out how it will meet its objectives, what each member will do to implement the strategy and, in developing the plan, consult the local Healthwatch organisation and the community;
  - (b) To commission safeguarding adults reviews (SARs) for any cases that meet the criteria for these and implement the findings.
  - (c) To publish an annual report detailing how effective its work has been, as well as report the findings of any SARs and reference any ongoing reviews.
- 1.4. The LSAB's focus is to work with partners on the following three strategic priorities:

- (a) People and outcomes: Safeguarding services are delivered effectively and professionally, with making safeguarding personal at the heart of how those services are delivered;
  - (b) Systems, processes and performance: Ensuring that there are effective governance, scrutiny and business processes in place to ensure that the safety and well-being of adults who are subject to, or at risk of, abuse and neglect. This includes ensuring that the findings from safeguarding adult reviews and other key areas of practice improvement are implemented;
  - (c) Partnerships and communities with care and support needs: Promote safeguarding adults in the community by listening to their concerns and raising awareness and well-being to prevent neglect and abuse before it happens, with a particular focus on diverse, isolated and under-represented communities.
- 1.5. Membership includes core members, as identified through legislation and NHS guidance, and associate members who are invited onto the Board in order to enhance multi-agency working:
- (a) Independent Chair;
  - (b) Core members:
    - (i) Cheshire West and Chester Council, including senior representation from: Adult Social Care, Safeguarding, Prevention and Wellbeing, Public Health, Children's Services, Children's Safeguarding, Housing.
    - (ii) West Cheshire Clinical Commissioning Group
    - (iii) Vale Royal Clinical Commissioning Group
    - (iv) Cheshire Police
  - (c) Associate members
    - (i) Age UK
    - (ii) Cheshire and Wirral Partnership
    - (iii) Cheshire Fire
    - (iv) National Probation Service Cheshire
    - (v) Countess of Chester Hospital
    - (vi) North West Ambulance Service
    - (vii) East Cheshire NHS Trust
    - (viii) Mid Cheshire Hospital Trust
    - (ix) Healthwatch

**Channel Panel**

- 1.1. The Channel Panel is a sub-group of the LSAB established under section 36 of the Counter-Terrorism and Security Act 2015, which sets out the duty on local authorities and partners of local panels to provide support for people vulnerable to being drawn into terrorism.
- 1.2. The Channel Panel brings together a range of multi-agency partners to collectively assess the risk in individual cases and decide whether a support package is needed. The group may include statutory and non-statutory partners, as well as lead safeguarding professionals who have signed up to an information sharing protocol and attend monthly panel meetings.
- 1.3. The Channel Panel is chaired by a Council senior manager in Adult Safeguarding. Other Panel Members include representatives from Adults and Children's Social Care, Education, Probation, Youth Justice Service, Colleges and University, Health and Police.
- 1.4. Full details of the LSAB can be found on its website: [Local Safeguarding Adults Board \(LSAB\) | Cheshire West and Chester Council](#)

### **Other Area Working Arrangements**

The four place-based Community Teams work with a wide range of locally based area arrangements to support member and local community engagement. The teams empower and promote active involvement in addressing locally identified needs and priorities. These arrangements could include (but are not limited to) town and parish councils, tenant and resident panels, neighbourhood forums, community action groups the Community Champion network, Anti-Social Behaviour Board and Care Community Steering Group Meetings.

### **Cheshire Pension Fund**

- 1.1. The Local Government Pension Scheme (LGPS) is a defined benefit public sector pension scheme governed by the Public Services Pensions Act 2013 and the Local Government Pension Scheme Regulations 2013 (as updated and amended from time to time).
- 1.2. The Council is the statutory Administering Authority for the Cheshire Pension Fund (the name of the Local Government Pension Scheme in Cheshire under the Regulations and ss.7, 12 and 24 of Superannuation Act 1972). In its capacity as Administering Authority the Council fulfils the role of Scheme Manager for the Cheshire Pension Fund.
- 1.3. The Council publishes a Governance Compliance Statement setting out the governance arrangements it has set in place for the Fund, including terms of reference and composition of meetings. The Governance Compliance Statement is available on the Cheshire Pension Fund website: <http://www.cheshirepensionfund.org>
- 1.4. The key elements of the Council's governance arrangements for the Fund are summarised below.

### **Delegation to Chief Operating Officer**

- 1.5. The Council has delegated responsibility for the management and administration of the Cheshire Pension Fund to the Chief Operating Officer who is also the Council's s.151 Officer.
- 1.6. The Chief Operating Officer has established an advisory panel known as the Pension Fund Committee. The committee is convened as necessary by and to advise the Chief Operating Officer on matters relating to the administration of the Fund.

### **Pension Fund Committee**

- 1.7. The Pension Fund Committee's key responsibilities are to advise the Chief Operating Officer on the management of the Cheshire Pension Fund, including the management of the administration of the benefits and strategic management of Fund assets, taking advice from an actuarial and strategic investment advisor.
- 1.8. The Committee comprises 11 members: Cheshire West & Chester Council (4), Cheshire East Council (4), Halton Council (1), Warrington Council (1), plus one non-voting Scheme Member.

### **Investment Sub-Committee**

- 1.9. The Pension Fund Committee has established an Investment Sub-Committee. Attendance at the sub-committee is open to all members of the Pension Fund Committee and ensures that the Pension Fund Committee's time is utilised in the most efficient manner, with the sub-committee focusing on more complex investment issues.
- 1.10. Further details including composition and membership of the Pension Fund Committee and Investment Sub-Committee are available at: <http://www.cheshirepensionfund.org/>

### **Investment Pooling – LGPS Central**

- 1.11. As Administering Authority, the Council is required to commit to an investment pool regarding the management of the Fund's investment assets.
- 1.12. The Council is partner and co-founder of the LGPS Central Pool, made up of eight council administering authorities (Cheshire, Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, West Midlands Pension Fund and Worcestershire), collectively known as the Partner Funds.
- 1.13. The Partner Funds have established LGPS Central Limited as their pooling delivery provider. LGPS Central Limited is regulated by the Financial Conduct Authority and is a controlled entity within the meaning of the Public Contract Regulations 2015
- 1.14. The Partner Funds are both clients and shareholders of LGPS Central Limited and have set up separate governance arrangements for their roles:
- 1.15. In relation to the Partner Funds' Client role they have established **LGPS Central Joint Committee**, which is a public forum to provide oversight of the delivery of the objectives of the Pool, the delivery of client service, the delivery against the LGPS Central business case and to deal with common investor issues. The Joint Committee does not have delegated authority to make binding decisions on behalf of the participating Partner Funds. The Council's representative on the Joint Committee is the Chair of the Pension Fund Committee.

- 1.16. In relation to the Partner Funds' Shareholder Role, they have established a **Shareholder Forum**, to oversee the operation and performance of LGPS Central Ltd (the Company) and to represent the ownership rights and interests of the Partner Funds within the LGPS Central Pool (the Pool). The Council's representative on the Shareholder Forum is the Cabinet Member for Finance and Legal.

### **Local Pension Board**

- 1.17. In accordance with the Regulation 106 and s.5 Public Service Pensions Act 2013, the Council has established Local Pension Board.
- 1.18. The Board comprises 5 members: an independent non-voting chair, two Scheme Employer representatives and two Scheme Member representatives.
- 1.19. The Board is not a committee constituted under s.101 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the Constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly provided. The Board is accountable to the Scheme Manager and the Pensions Regulator.
- 1.20. The Board is responsible for assisting the Council as Administering Authority and operates independently of the Pension Fund Committee:
- (a) to secure compliance with:
    - (i) the Regulations
    - (ii) any other legislation relating to the governance and administration of the Scheme and any connected scheme
    - (iii) any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme.
  - (b) to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.
- 1.21. Further details are available at <http://www.cheshirepensionfund.org/>



## **9. Cabinet**

- 9.1. The Council operates an Executive form of governance. This means that following elections to the Council, the Council chooses one member to be the Executive Leader. The Leader then appoints between two and nine other councillors who, together with the Leader, form the Cabinet. The Cabinet is the part of the Council that is responsible for most day-to-day decisions and carries out all of the Council's functions that are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **Functions**

- 9.2. All functions of the Council that are not reserved by law or by Local Choice as Non-Executive (see Part 2 Section 6), are Executive functions. Except where the law otherwise provides, it is at the Leader's discretion to determine how decision-making in relation to Executive functions will be exercised.
- 9.3. Unless a power or function is specifically reserved to members under this constitution or by operation of law, it stands delegated to officers in accordance with the Executive Scheme of Officer Delegation (see Part 2 Section 12).
- 9.4. The Cabinet undertakes all Executive functions (except those delegated to officers), including:
- (a) Proposing plans and strategies, including the overall Budget and Policy Framework, changes to the Constitution and arrangements for the good governance of the authority, to Full Council to approve and adopt;
  - (b) Publishing in the Key Decisions Plan all decisions by Cabinet, individual Cabinet Members and Key Decisions made by officers;
  - (c) Establishing committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues;
  - (d) Representing the Council locally, nationally and internationally;
  - (e) Attending meetings of the Scrutiny committees and any Task and Finish Groups as required and when required to do so;
  - (f) Agreeing the acquisition and disposal of property and the management of the Council's land holdings (other than Housing Land Transfers).;
  - (g) Exercising the powers and duties of the Council in respect of leisure, libraries, museums, consumer protection and environmental health.;
  - (h) Exercising the powers of and duties of the Council as the local education authority;
  - (i) Exercising the powers and duties of the Council's role as social services authority;
  - (j) Acting as the highways, transportation and waste collection and waste disposal authority;
  - (k) Agreeing protocols for consultation and relations with outside bodies;

- (l) Performing specific statutory duties, such as those of the Lead Member for children's services, who has the duty to safeguard and promote the well-being of children in the Borough;
  - (m) Entering into, and making appointments to, joint arrangements and external organisations that are the responsibility of the Executive.
- 9.5. Cabinet proceedings take place in accordance with the Procedure Rules set out in Part 3 Section 2.

### **Executive Leader**

- 9.6. The Executive Leader is a councillor elected at the first annual meeting of the Full Council after an ordinary election and holds office for four years unless, at an earlier date:
- (a) they resign from office;
  - (b) they are disqualified from office;
  - (c) the expiry of their fixed term, i.e. the date of the post-election annual meeting that follows their election as Leader;
  - (d) they are removed from office by Full Council resolution, submitted by way of Motion on Notice in accordance with Procedure Rules (see Part 3 Section 1) by no fewer than seven members and nominating an alternative candidate for the vacated position.
- 9.7. If the Council passes a resolution to remove the Leader, a new Leader is elected either at the meeting at which the Leader is removed from office or at a subsequent meeting.
- 9.8. If a vacancy in the office of Leader arises for the reasons set out at (a) or (b) above, a new Leader is elected at the next Ordinary meeting of the Council or at an Extraordinary Meeting.
- 9.9. The Leader determines which individual Cabinet Members, Cabinet committees, officers or joint or other bodies are responsible for the exercise of particular Executive functions. In particular, the Leader may:
- (a) allocate areas of responsibility to those members or bodies;
  - (b) arrange for the discharge of Executive functions by themselves, the Cabinet collectively, Cabinet committees, individual Cabinet Members or senior managers;
  - (c) determine the membership of Cabinet committees;
  - (d) appoint Members to other advisory, assistant or champion roles as appropriate, without decision-making responsibilities.
- 9.10. All the Leader's decisions under (a)-(d) take effect only when they have been notified to all members through the Director of Governance (for publication on the Council's website). Any subsequent changes must similarly be notified to all members before

any decision under those changed arrangements can be made. Cabinet Members can be removed from office by the Leader by written notice to the member concerned and the Director of Governance.

### **Deputy Leader**

- 9.11. The Leader must appoint at least one of the Cabinet Members as Deputy Leader, who holds office until the end of the Leader's term of office, unless they:
- (a) resign as Deputy Leader;
  - (b) cease to be a councillor;
  - (c) are removed from office by the Leader
- 9.12. Where a vacancy occurs, the Leader must appoint another Deputy Leader.
- 9.13. In the absence of the Leader, the Deputy Leader exercises the Leader's powers in respect of portfolio responsibilities, but not the functions conferred by statute solely on the Leader, such as appointing or removing Cabinet Members or objecting to senior officer appointments and dismissals.
- 9.14. If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Cabinet will act in the Leader's place or arrange for another Cabinet Member to act in their place until the Chair of the Council can call a meeting of Full Council to elect a new Leader.

### **Cabinet Members**

- 9.15. Other Cabinet Members hold office until:
- (a) they resign from office;
  - (b) they are no longer a councillor;
  - (c) the expiry date of their term of office;
  - (d) they are removed from office by the Leader.
- 9.16. No substitution arrangements will apply to the Cabinet, and neither the Chair nor Deputy Chair of the Council may be appointed to the Cabinet.

### **Portfolios of Responsibility**

- 9.17. Cabinet Members have personal responsibility for decisions taken in relation to and discharging those Executive functions within their remit (portfolio of responsibility) as determined by the Leader. All Cabinet decisions that are not delegated to officers or Cabinet members will be determined by the Cabinet collectively.
- 9.18. Each Cabinet Member is responsible for all of those types of decisions that sit within their portfolio, unless the decision:
- (a) relates to a proposal to alter the Budget or Policy Framework;
  - (b) is to authorise expenditure in excess of £1million;

- (c) is likely to have a significant impact on how the authority operates;
- (d) is likely to have a significant impact on the responsibilities of another Cabinet member. If the impact is not considered to be significant, then the lead Cabinet member may make the decision after consulting with the other relevant Cabinet members.

9.19. Cabinet Members must consult Chief Officers and the Director of Governance before taking any decisions. Where a Chief Officer or the Director of Governance, prior to the implementation of a decision, provides written advice to the effect that one of the exceptions in paragraphs (a) to (d) above applies, then the decision will stand deferred to the next meeting of the Cabinet.

9.20. A description of the Cabinet functions that are exercisable by individual Cabinet Members is contained in Appendix 1, stating the name of the member by whom each is exercisable.

### **Assistant Cabinet Members**

9.21. The Leader may appoint Members to the office of Assistant Cabinet Member. Assistant Cabinet Members cannot exercise any Cabinet (Executive) powers or substitute for a Cabinet Member.

### **Castle Park Trust Executive Committee**

The Cabinet agreed to establish the Castle Park Trust Executive Committee on 18 January 2017 as an area committee under section 9E of the Local Government Act 2000, with responsibility for the day-to-day management of Castle Park under the Scheme of Delegation governing the Trust. As charity trustee, Cabinet maintains the overview and there is no delegation to a single member.

### **Terms of Reference**

- To administer the Castle Park Trust with respect to the wards of Frodsham, Kingsley and Helsby in accordance with any powers delegated to it under the Trust Scheme of Delegation.

### **Membership**

- Ward members for Frodsham, Kingsley and Helsby.
- The members of the Executive Committee may also invite other organisations which use the Park, or are closely associated with the Park, to send representatives to the Executive Committee meetings in a non-voting capacity.
- At its first meeting in each municipal year the committee shall elect a chair from amongst its number who shall be one of the ward members.
- The Executive Committee may seek two community representatives (non-voting) with appropriate skills and experience to contribute to the management of the Trust.
- Substitutes to the committee will be drawn from wards of Elton, Gowy and Weaver, and Cuddington.

**Quorum 50%**

### **Advisory Bodies and Joint Arrangements**

- 9.22. The Cabinet may appoint advisory bodies (often called Task Groups or Policy Development Boards) without any limitation on who may be a member of the advisory body. Advisory bodies cannot exercise Cabinet (Executive) powers.
- 9.23. The Cabinet may arrange for any of the decisions that it is collectively responsible for to be taken by a committee of the Cabinet or jointly with another authority or NHS body.
- 9.24. As soon as is reasonable practicable, the Leader shall inform the Monitoring Officer (for publication on the Council's website) and Council of (or changes to) any advisory bodies or joint arrangements, and in particular:
- (a) the name of the body in question;
  - (b) if a body, its membership (including any chair and deputy);
  - (c) terms of reference;
  - (d) any limitations on the exercise of powers, including any onward delegation
  - (e) reporting and governance arrangements (if these procedure rules are expressly disapplied to the body in question)

### **Appointments to Outside Organisations**

- 9.25. Council has decided that the Cabinet (collectively) will appoint to the following outside organisations:
- (a) Avenue Services (NW) Ltd;
  - (b) Cheshire Fire Authority;
  - (c) Cheshire Police and Crime Panel;
  - (d) Cheshire and Warrington Joint Committee (including Enterprise Zone Board and Scrutiny Committee);
  - (e) Cheshire and Warrington Local Transport Board (CWLTB);
  - (f) Cheshire & Wirral Partnership NHS Foundation Trust;
  - (g) Cheshire Rural Strategy Group
  - (h) Chester Growth Partnership Board;
  - (i) Constellation Partnership;
  - (j) Corporate Disability Access Forum;
  - (k) Countess of Chester NHS Foundation Trust;

- (l) Ellesmere Port Development Board;
- (m) Learning Disabilities Partnership Board;
- (n) Local Government Association (General Assembly);
- (o) Manchester Port Health Authority;
- (p) Mersey Dee Alliance;
- (q) Mid-Cheshire Development Board;
- (r) Mid-Mersey Strategic Group for Flood Risk;
- (s) North West Local Employers' Organisation;
- (t) North West Housing Executive;
- (u) Plastics Free Chester Group;
- (v) PSP LLP;
- (w) Sanctuary North West Board;
- (x) Together for Adoption Panel;
- (y) Together for Adoption Partnership Board;
- (z) Transport for the North Board (including Rail Committee and Scrutiny Committee).

### **Key Decisions**

9.26. A Key Decision is an Executive decision that is likely to:

- (a) result in expenditure (except internal operational expenditure on things like advertising, locum staff, office cleaning services, library books, vehicles, consumables, utilities, etc) or savings of £1million or more; or
- (b) have a significant effect on communities living or working in an area comprising two or more wards.

9.27. In considering whether the effect of a decision is likely to be 'significant', the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the Council to a significant number of people living or working in the locality affected. The following should be considered:

- (a) the effect on businesses and communities;
- (b) the expectation of the public and councillors as to whether the decision should be taken by the Cabinet;
- (c) the anticipated interest of the public and of councillors;

(d) the effect on other council services and functions.

9.28. It is for the relevant Director to decide which decisions within their responsibility are Key, subject to guidance from the Director of Governance who may require that a decision be treated as a Key Decision.

9.29. Key Decisions can be made by the Cabinet collectively, by individual Cabinet Members or by officers acting under delegated authority.

9.30. A decision-maker may only take a Key Decision in accordance with the requirements of the procedure rules (see Part 3) and the Access to Information Rules (see Part 4 Section 1).

9.31. Where an Executive decision has been made and:

(a) was not treated as a Key Decision; and

(b) a Scrutiny committee is of the opinion that the decision should have been treated as a Key Decision

the Scrutiny Committee may require Cabinet to report to the Council within such reasonable period as the committee may specify, including details of the:

(a) decisions and the reasons for the decision;

(b) reasons Cabinet is of the opinion that the decision was not a Key Decision.

### **Key Decisions Plan**

9.32. There is a statutory requirement to publish the intention to take any Key Decision at least 28 clear days in advance of it being taken. There is also a requirement to publish at least 28 clear days in advance if any meeting, or part thereof, is likely to consider in private a Key Decision or any other Executive decision even if not a Key Decision. Both these requirements are achieved through the Key Decisions Plan.

9.33. The Key Decisions Plan enables elected members, members of the public and the Overview & Scrutiny committees to consider which items they wish to examine and consider in good time before they are determined.

9.34. The Key Decisions Plan is updated and published as a minimum monthly and covers all Key and other Executive decisions proposed to be made by the Cabinet, individual Cabinet Members and officers acting under delegated authority. Not all decisions will be known in advance and so notice of decisions will be included in the Key Decisions Plan as soon as they become known.

9.35. Each publication of the Key Decisions Plan shall contain, as far as can be reasonably ascertained at the time of publication, the following information:

(a) every matter likely to be the subject of a Key Decision;

(b) the identity and office of the decision taker(s);

(c) the date on, or period during, which the decision is to be taken;

- (d) how and when representations can be made to the decision taker;
- (e) a list of documents to be submitted to the decision taker.

### **Short Notice Decisions**

- 9.36. Sometimes it is impracticable to include the intention to make a Key Decision in the Key Decisions Plan 28 clear days in advance of it being taken, but there is still time to give shorter advance public notice. Such decisions may still be made in accordance with this short notice procedure if three conditions are fulfilled:
- (a) The Director of Governance must inform (by written notice) the Chair of the Cheshire West & Chester Overview & Scrutiny Committee or, if there is no such person, each member of that committee, of the matter about which the decision is to be made;
  - (b) A copy of such notice must be placed on the website and made available for public inspection at the Council's offices;
  - (c) Five clear days must have elapsed, not counting the day upon which the notice was given.
- 9.37. As soon as practicable, the Director of Governance will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear on the Key Decisions Plan and publish that notice on the Council's website.

### **Urgent Decisions**

- 9.38. Sometimes even reduced public notice cannot be given and decisions need to be made urgently outside the usual process, e.g. by reducing the pre-decision notification time. Urgency in these cases is defined as cases where the Council or the public will be significantly disadvantaged by a delay. Where these provisions are used, clear explanations must be made in the written reports.
- 9.39. In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if fewer than five clear days' notice of a Key Decision has to be given, or if an item has not appeared on the Key Decisions Plan and a decision needs to be taken before the next edition of the Key Decisions Plan is published, then the agreement of the Chair of the Cheshire West & Chester Overview & Scrutiny Committee (or, in their absence, the Chair of the Council or, in their absence, the Deputy-Chair of the Council) that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Key Decisions Plan and why it missed the last edition of the Key Decisions Plan.
- 9.40. Subject to the above, if a decision that falls to be taken by the Collective Cabinet needs to be taken before a quorate meeting can be convened, the Chief Executive may take the decision provided that they have first consulted the Leader (or if unavailable the Deputy Leader) and where practical the relevant Cabinet members.
- 9.41. If a decision that falls to be taken by a Cabinet member needs to be taken whilst the Cabinet member is unavailable, then the Leader may take the decision in consultation with the Chief Executive.



- 9.42. The Chair of the Cheshire West & Chester Overview & Scrutiny Committee will report on any such consultations/agreements at the next meeting of their committee. In addition, the Leader will report to the next Ordinary Council meeting, explaining such decisions, who took them, the reasons for them and why they were treated as urgent.
- 9.43. For urgent decisions outside the Budget or Policy Framework, please see the procedure contained in Part 2 Section 5).

#### **Non-Key Decisions**

- 9.44. Individual Cabinet Members taking non-Key Decisions will normally give no fewer than five days' notice (sent electronically and published on the website together with any report) to all members of the Council. If five days' notice cannot be given, as much notice as possible will be given with an explanation for the reduced notice period.

## **10. Overview & Scrutiny**

- 10.1. Effective scrutiny arrangements are an essential part of good governance in any local authority. They are necessary to achieve value for money, best practice and to ensure that there are appropriate checks and balances on the exercise of powers.
- 10.2. Scrutiny is a key democratic mechanism for holding public-service decisionmakers and providers to account and facilitating the improvement of public services in the Borough. Effective scrutiny enhances accountability, ensures transparency of decision-making and contributes to service improvement.
- 10.3. The Council's scrutiny arrangements aim to reflect the following core values:
  - (a) Holding the Cabinet and our partners to account;
  - (b) Working to make a difference to outcomes for the public of Cheshire West & Chester; and
  - (c) Ensuring the greatest possible public engagement in scrutiny.
- 10.4. The Council has established the four Scrutiny committees below to review and scrutinise all of the Council's work (including other organisations who the Council works in partnership with):
  - (a) Cheshire West & Chester Overview & Scrutiny Committee;
  - (b) Health Overview & Scrutiny Committee;
  - (c) People Overview & Scrutiny Committee;
  - (d) Places Overview & Scrutiny Committee.
- 10.5. These committees undertake reviews and scrutinise action (or inaction) in relation to general subject areas or in respect of particular matters before, during or after a decision is made. In particular, they are responsible for ensuring the effectiveness of the Cabinet. They assist the Council and Cabinet to develop the Budget and Policy Framework and monitor the performance of the Council, its committees, members and officers. They can make recommendations for change and have powers to intervene in the decisionmaking process in certain circumstances.
- 10.6. Any non-Cabinet Member may be a member of a Scrutiny committee or Task Group. Committee members may not take part in scrutinising a decision in which they have been involved.
- 10.7. Scrutiny committees may establish sub-committees to undertake their statutory scrutiny responsibilities.

### **General Functions**

- 10.8. General functions of the Scrutiny committees include:
  - (a) To review and scrutinise the performance of the Council, its partners and any appropriate external organisations against any relevant plan or target;

- (b) To review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (c) To review and scrutinise the provision and performance of services;
- (d) Pre-decision and post-decision scrutiny that relates to the portfolios within the remit of the committee;
- (e) To make reports and/or recommendations to Council, Cabinet, individual Cabinet members or an external organisation in connection with the discharge of any functions;
- (f) To consider any matter affecting the Council, its area or the citizens of the Borough;
- (g) To exercise the right to Call-in for reconsideration decisions made but not yet implemented by the Cabinet or individual Cabinet members;
- (h) To respond to requests from the Council or the Cabinet or a councillor, when appropriate;
- (i) To develop, co-ordinate and implement an annual work programme;
- (j) To establish, prioritise and allocate time-limited Task & Finish Groups to undertake individual scrutiny reviews, appoint members to lead the reviews and to report back to the committee their findings and recommendations;
- (k) To receive and scrutinise items that have been referred from Cabinet or Council;
- (l) To produce an Annual Scrutiny Report summarising the work of the committee;
- (m) To consider Call-ins that fall within the remit of the committee.

### **Enquiries Development and Research**

- 10.9. Scrutiny committees may hold scrutiny enquiries, carry out development work and appoint advisers and assessors to assist in this process.
- 10.10. Scrutiny members may also undertake site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- 10.11. Any budgetary provision is for the use of the Scrutiny committees. The Director of Governance will be responsible for expenditure of the budget in respect of proposals from the Scrutiny committees and/or their chairs.

### **Requesting and Requiring Attendance by Others**

- 10.12. Scrutiny committees may invite individuals who are not members or officers to discuss issues of local concern and/or answer questions on any matter under consideration.
- 10.13. Scrutiny committees may require any member, the Chief Executive and/or any other Senior Officer to attend meetings to answer questions and be held to account in relation to:

- (a) any particular decision or series of decisions;
  - (b) the extent to which any actions taken implement council policy;
  - (c) their performance.
- 10.14. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the Chair will arrange an alternative date.
- 10.15. Cabinet Members will not be expected to attend meetings of Scrutiny committees or Task Groups unless invited.
- 10.16. Members attending Scrutiny meetings must have regard to the member Code of Conduct in relation to deemed personal and prejudicial interests that arise in scrutinising any decision that they have been involved in, and in relation to the circumstances in which they may nevertheless be able to address a Scrutiny committee.

### **Party Whip**

- 10.17. A Party Whip is any instruction given by or on behalf of a political group to any member of that group as to how that member will speak or vote on any matter before the Council or any committee, or the application or threat to apply any sanction by the group in respect of that member should they speak or vote in any particular manner.
- 10.18. It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. In addition, when considering any matter in respect of which a Scrutiny committee member is subject to a formal party whip, the member must declare the existence of the whip and the nature of it before the commencement of the deliberations on the matter. Declarations will be recorded in the minutes of the meeting.

### **Placing Items on the Agenda**

- 10.19. Any member of the Council (having due regard to any relevant guidance) may have a maximum of one matter relevant to the remit of a Scrutiny committee placed on its next available meeting agenda by serving not less than 14 days' notice on the Director of Governance, stating clearly the nature of the business in question.
- 10.20. Council or Cabinet may require a Scrutiny committee to consider a matter and report.
- 10.21. If a matter referred to it cannot be dealt with at the meeting in question, the Scrutiny committee will schedule the matter into its work programme as soon as reasonably practicable.

### **Reports from Scrutiny Committees**

- 10.22. Once it has formed recommendations as a result of a scrutiny review, a Scrutiny committee may prepare a formal report and submit it for consideration by:
- (a) the Cabinet or individual Cabinet member (if the proposals are consistent with the existing Budget or Policy Framework);
  - (b) the Council (or Cabinet and Council, as appropriate), e.g. if the recommendation would require a departure from, or a change to, the agreed Budget or Policy Framework;

(c) relevant partner organisations.

- 10.23. If a Scrutiny committee cannot agree on a single final report, then one minority report may be prepared and submitted for consideration with the majority report.
- 10.24. Scrutiny reports will be considered by the receiving body within two months of being submitted. Where a report relates to, and makes recommendations about or to an external organisation, the report will be sent to that organisation asking for comments on the recommendations.
- 10.25. Responses from receiving bodies will be given to the Scrutiny committee. The committee will arrange for any follow up work required as necessary.
- 10.26. The Scrutiny committees will produce annual reports, which together will form the overall Overview & Scrutiny annual report presented to the final Council meeting of each municipal year.
- 10.27. Full details of the Scrutiny committees' terms of reference are set out below.
- 10.28. The following documents have been agreed to assist Members and Officers in relation to the scrutiny function:

[Protocol in relation to Audit and Governance and the Council's Scrutiny Function](#)

[Protocol in relation to Cabinet and the Council's Scrutiny Function](#)

[Councillors Engagement with Scrutiny - Procedure Note](#)

### **Cheshire West & Chester Overview & Scrutiny Committee**

#### **Terms of reference:**

- a) To undertake scrutiny exercises which make recommendations to help to improve the quality of life for all communities in Cheshire West and Chester, by making recommendations about the services which they receive or any matters that impact on a borough wide basis, including:
- Effectiveness and delivery of borough wide services and strategies
  - Corporate support services and customer service information
  - Community Engagement
  - Council Companies
  - Overall Council's Performance
  - Budget development and consultation
  - Pre-decision scrutiny relating to cross cutting and corporate issues
  - Flood Management
- b) Scrutinise the Council's Annual Budget.

- c) Receive and scrutinise reports on the Performance Management Framework on a quarterly basis.
- d) Receive and scrutinise items which have been referred to it from Cabinet and Council.
- e) Produce an Annual Scrutiny Report summarising the work of the Committee.
- f) Consider Call-ins that fall within the remit of the Committee
- g) To refer specific matters for further scrutiny to the People or Places Overview and Scrutiny Committee as defined by their Terms of Reference.

### **Health Overview & Scrutiny Committee**

Terms of reference:

- a) To review and make recommendations for improvement in relation to any matter that has an impact on Statutory Scrutiny Responsibilities relating to Health Services
- b) Where a Joint Health Scrutiny Committee is required to be convened, to agree the terms of reference and appoint members to such a committee
- c) Proactively and constructively scrutinise the quality, performance and outcomes of the local health services which serve the residents of Cheshire West and Chester including Acute Trusts.
- d) As necessary, to scrutinise the work of the Cheshire and Merseyside Integrated Care Partnership and Integrated Care Board in relation to services they plan, commission and deliver for the residents of Cheshire West and Chester.
- e) To constructively scrutinise any matters brought to the attention of the Committee arising from local concerns about NHS services.
- f) To engage with and respond to formal and informal consultations from national and local health service commissioners and providers regarding any variations to services which affect the Borough's residents.
- g) To seek and use evidence provided by Healthwatch and other sources which can inform the Committee's work in improving health care.
- h) To identify areas of good practice and work towards their application in Cheshire West and Chester.
- i) Produce an Annual Scrutiny Report summarising the work of the Committee.

### **People Overview & Scrutiny Committee**

Terms of reference:

- a) To scrutinise and make recommendations for improvement in relation to any matter that has an impact on the educational needs, safety or health and wellbeing of people in Cheshire West and Chester, including:
  - Scrutinise education services, attainment, and services to young people,

- Adults and Children social care and safeguarding services, including Children in Care,
  - Healthy Life and Lifestyle Choices for children and adults
  - Public Health and Health Inequalities,
  - Commissioning and delivery of services to Children and adults.
  - Pre-decision scrutiny that relates to the portfolios within the remit of the Committee.
- b) To take responsibility for reviewing performance relating to services for Adults and Children for example: OFSTED reports.
  - c) Undertake, receive and monitor completed Recommendation 41 Inspection reports and monitor the outcomes from the Independent Officer Regulations Regulation 33 Inspection Reports.
  - d) Receive and scrutinise items which have been referred to it from Cabinet and Council or Cheshire West and Chester Scrutiny Committee.
  - e) Produce an Annual Scrutiny Report summarising the work of the Committee.
  - f) Consider Call-ins that fall within the remit of the Committee.

### **Places Overview & Scrutiny Committee**

Terms of reference:

- a) To review and make recommendations for improvement in relation to any matter that has an impact on the physical, geographical and economic needs of Cheshire West and Chester, including:
  - Crime and Disorder Partnership
  - Highways including: transport, infrastructure and parking
  - Streetscene
  - The local environment including rivers
  - Communities and community working
  - Business economy, regeneration, Growth and Skills
  - Housing
  - Climate Change
  - Poverty
  - Waste and recycling
  - Strategic planning and regeneration
  - Trading standards and licensing strategies
  - Parks, gardens and public open spaces
  - Pre-decision scrutiny that relates to the portfolios within the remit of the Committee
- b) To take responsibility for reviewing performance relating to place based services
- c) Receive and scrutinise items which have been referred to it from Cabinet and Council or Cheshire West and Chester Scrutiny Committee.
- d) Produce an Annual Scrutiny Report summarising the work of the Committee.

Consider Call-ins that fall within the remit of the Committee.

### **Task Groups**

- 10.29. Scrutiny committees may constitute such Task Groups as they consider necessary to undertake development and scrutiny functions, including undertaking investigations and making recommendations.
- 10.30. Scrutiny committees will publish on the Council's website details of the membership and terms of reference of each Task Group and will require periodical progress reports from Task Groups.
- 10.31. Task Groups will be entitled to exercise all of the powers exercisable by their parent committee.

### **Scrutiny Management Group**

- 10.32. The chairs of the Scrutiny committees will form a Scrutiny Management Group to manage and direct the Scrutiny process. The Group will meet four times a year. The lead Directors for each committee will be invited to the meetings.
- 10.33. The Scrutiny Management Group shall provide operational and strategic management of the scrutiny function's working practices and as such it is not required to meet in public. Its purpose is to:
  - (a) oversee and co-ordinate the work of the scrutiny committees
  - (b) ensure effective liaison across the work of the committees
  - (c) be the strategic leader of the scrutiny function with a focus on developing the function and identifying best practice
  - (d) develop the Scrutiny member role and identify training needs
  - (e) encourage appropriate community involvement in the scrutiny function

### **Work Programmes**

- 10.34. Each Scrutiny committee is responsible for setting its own annual work programme, in consultation with the Scrutiny Management Group and appropriate Directors and with regard to any relevant consultation work that has been undertaken.
- 10.35. Each Scrutiny committee is responsible for responding to any consultation notified to it by the Cabinet under the Budget and Policy Framework setting process within the timescales set by the Cabinet.
- 10.36. Each Scrutiny committee will meet a minimum of six times each year. The meetings will be programmed into the Council's meeting calendar. Additional meetings may be called by the Chair or by any five members of the committee serving not less than six days' notice on the Director of Governance. The Director of Governance may also call a special meeting if they consider it necessary to do so.

### **Call-in Procedure**

- 10.37. Any decision of the Cabinet or Cabinet Member can be the subject of a Call-in, except:



- (a) a recommendation to Full Council for adoption or approval;
- (b) in exceptional cases of urgency (see below)
- (c) the appointment of Cabinet Members and the allocation of their portfolios

### **Urgent decisions**

10.38. Cabinet or Cabinet Member decisions may be implemented immediately where any of the following (to be sought in the following order) agree that the delay inherent in the Call-in procedure would be likely to seriously prejudice the interests of the Council or the public:

- (a) The Chair of the Cheshire West & Chester Overview & Scrutiny Committee
- (b) The Chair or (if absent) the Deputy-Chair of the Council
- (c) The Chief Executive

10.39. Subject to the above, Cabinet or Cabinet Member decisions may only be implemented if:

- (a) Notice of Call-in is not validly given (as set out below); or
- (b) Where Notice of Call-In is validly given, if the Call-In procedure (see below) has been completed without unreasonable delay and either:
  - (i) A Scrutiny committee is not offering any advice or any advice that needs to be considered before the decision is implemented; or
  - (ii) The decision-taker has considered any advice offered by a Scrutiny committee

### **Calling in Decisions Contrary to the Budget and Policy Framework**

10.40. If at least five members of a Scrutiny committee consider that a decision contrary to the Budget or Policy Framework has been or will be taken, they may give notice (with reasons) to the Director of Governance requiring advice on the matter to be given to the decision taker (copied to every member of the Council) advising whether the decision is in accordance with the Budget and Policy Framework. If it is, then no further action is required. If it is not, then:

- (a) If the decision has already been implemented, the decision-taker must decide what action to take in respect of the Director of Governance's report and prepare a report to Council.
- (b) If the decision is yet to be made or implemented, then the decision-taker must give notice to the Director of Governance stating that they either:
  - (i) are not minded to proceed with the decision (in which case no further action is required); or
  - (ii) are minded to proceed with the decision notwithstanding the advice contained in the report

- 10.41. In the event of paragraph (b)(ii) above, and subject to the urgency procedures above, no further action will be taken in respect of the decision or its implementation until Council has met and considered the matter.
- 10.42. Council will meet to consider the matter as soon as is reasonably practicable and may:
- (a) endorse the decision or proposal as falling within the Budget or Policy Framework;
  - (b) endorse the decision or proposal (either with or without amendment) notwithstanding it is considered to be contrary to the Budget or Policy Framework (and make any amendments to the Budget or Policy Framework considered appropriate);
  - (c) veto the decision (with or without recommending or deciding on an alternative course of action).
- 10.43. In the case of paragraph (a) or (b) above the decision may then be implemented (with any amendments proposed).

### **Notices of Call-in**

- 10.44. Any Cabinet or a Cabinet Member decision may be Called-in by no fewer than seven non-Cabinet Members serving notice on the Director of Governance within three days of the date on which the decision was published.
- 10.45. Where a notice of Call-in has been validly given, the Director of Governance will refer the matter to the relevant Scrutiny committee for the Call-in to be heard.

### **Timing of Call-in Hearings**

- 10.46. The relevant Scrutiny committee will endeavour to hold hearings as soon as reasonably practicable and, in the case of Cabinet decisions, in good time to report to the next scheduled meeting of the Cabinet. A special meeting of the committee may be convened for these purposes, if required.

### **Pre-Hearing Meeting**

- 10.47. The Scrutiny committee may invite those exercising the right of Call-in (the 'Call-in members') and any or all of the decision taker, Leader, Cabinet members and any advising officers (the 'Respondent') to attend an initial informal meeting to consider matters relating to the conduct of the Call-in hearing, including:
- (a) the scope of the Call-in
  - (b) the number and identity of any witnesses required
  - (c) the scope or nature of documents to be considered
  - (d) the likely number and duration of any meetings required to properly consider the matter

## **General Principles Call-in Hearings**

10.48. The Chair will retain full discretion to conduct a Call-in as they see fit, however the following procedure will ordinarily apply (and shall be published in the meeting agenda):

- (a) Call-in members should nominate a single spokesperson to outline the reasons for the Call-in and the desired outcome. Any other Call-in member may also address the meeting to add additional information. However, Call-in members should make every effort to avoid repetition. A maximum of five Call-in members will be permitted to speak.
- (b) The timings set out in the Hearings Procedure below are for guidance only and the Chair may change the timings, depending on the subject matter of the Call-in and the level of public interest.
- (c) Where questions are permitted within the procedure, they will be asked and answered succinctly and will not be used as an opportunity to deliver speeches. Officers may be invited to attend with the Respondent, who will usually be the Cabinet Member, and may also address the meeting on technical issues (if requested to do so by the Cabinet Member).
- (d) Visiting members:
  - (i) may not vote on committee business;
  - (ii) must notify the Chair before the start of the meeting if they wish to speak on a particular item;
  - (iii) may be invited to speak at the beginning of the Call-in and may be invited to sum up at the end of a debate, at the Chair's discretion;
  - (iv) will not, other than as provided for in paragraph (c) above or by the Chair, be permitted to participate in any debate at the meeting.
- (e) The Call-in members or the Respondent will confirm their attendance at the Call-in hearing and must notify the Chair at least three working days prior to the date scheduled for the Call-in hearing if they propose to call witnesses or introduce documentary or other evidence in support of their case, including details of the proposed format of the evidence.
- (f) The Chair will, in consultation with the Director of Governance and the Governance Manager, consider the appropriateness of the proposals to the subject matter of the Call-in and the impact on arrangements for the hearing itself, including the indicative timescales set out in the procedure

## **Hearings Procedure**

10.49. Subject to the Chair's discretion, the procedure for Call-in hearings will be as follows

### **Opening Statements**

- (a) The Lead Call-in member will address the meeting outlining:
  - (i) the reasons for the Call-in and
  - (ii) the desired outcome from the Call-in

The reasons given will be consistent with those set out in the notice Call-in (or any changes agreed at the pre-hearing meeting).

- (b) The Call-in members as a group to be allocated a maximum of 30 minutes speaking time in total.
- (c) Visiting members (who have provided notice) may address the committee for up to 15 minutes in total (up to five minutes per member).
- (d) The Cabinet Member will respond to the Call-in and may call witnesses, who together may address the committee for a maximum of 30 minutes in total.
- (e) The Call-in members may ask questions of the Cabinet Member for a maximum 15 minutes in total.

#### **Questions and Debate**

- (a) The committee may ask questions of the Cabinet Member and Call-in members and debate what it has heard for a maximum 30 minutes in total.
- (b) Concluding remarks may be made by the Lead Call-in member for a maximum 15 minutes in total.
- (c) Concluding remarks may be made by the Cabinet Member for a maximum 15 minutes in total.
- (d) The committee may discuss what it has heard and make any recommendations to the Cabinet Member or Cabinet for a maximum 15 minutes in total.

#### **Options Available to the committee**

- (a) To decide that the original Cabinet/Cabinet Member decision stands.
- (b) To make recommendations that change the substantive decision, which will be referred back to Cabinet or the Cabinet Member for consideration.
- (c) To offer advice or make recommendations that do not change the substantive decision, e.g. establish a cross-party working group; how the decision making process could be improved in the future; suggestion relating to consultation and engagement improvements, etc.

#### **Action Following a Hearing**

10.50. As soon as is reasonably practicable following the hearing of a Call-in, the Chair will give notice to the Director of Governance that either the committee:

- (a) is not offering any advice, or any advice that needs to be considered before a relevant decision can be implemented; or

- (b) is offering advice in a report accompanying the notice that it requires the decision-maker to consider before any further action is taken.
- 10.51. In the event of a notice under paragraph (a) above, any decision awaiting implementation may be implemented immediately, and any advice offered is to be noted.
- 10.52. In the event of a notice under paragraph (b) above, the report will be submitted to the decision-maker who will decide what action to take in respect of any decision awaiting implementation or to be taken, and whether to adopt any or all of the advice contained in the report.
- 10.53. Any further Call-in notices given in respect of a decision that has been considered under this process will not operate to defer the implementation of the decision in question.

### **Councillor Call for Action**

- 10.54. The Councillor Call for Action (CCfA) was introduced under:
- s.119 of the Local Government and Public Involvement in Health Act 2007, which inserts a new s.21A into the Local Government Act 2000 (as amended). This section relates to a Call for Action in respect of local government matters in general.
  - S.19 of the Police and Justice Act 2006 as amended by s.126 of the Local Government and Public Involvement in Health Act 2007. This section introduces a Call for Action in respect of crime and disorder matters.
- 10.55. CCfA enables any member of the Council to bring matters of community concern (including crime and disorder issues) within their Ward to the attention of the Council via the scrutiny process. It is intended to enhance the Council's scrutiny arrangements and provide a formal mechanism to enable elected members to seek positive outcomes for the citizens they represent, provided all other means of resolution have been exhausted.
- 10.56. A CCfA will be included on a relevant Scrutiny Committee agenda if the Chair, in consultation with the Director of Governance, is satisfied that:
- (a) The member has made all reasonable efforts to resolve the matter via liaison with council officers and/or relevant partner agencies; and
  - (b) The issue of concern relates to the discharge of a council function (including where this is undertaken with partners and other service providers); and
  - (c) The issue of concern has a demonstrable impact on all or part of the member's ward; and
  - (d) The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes a number of matters from referral as a CCfA, including:
    - (i) any matter relating to a planning decision;
    - (ii) any matter relating to a licensing decision;

- (iii) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment; and
- (iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.

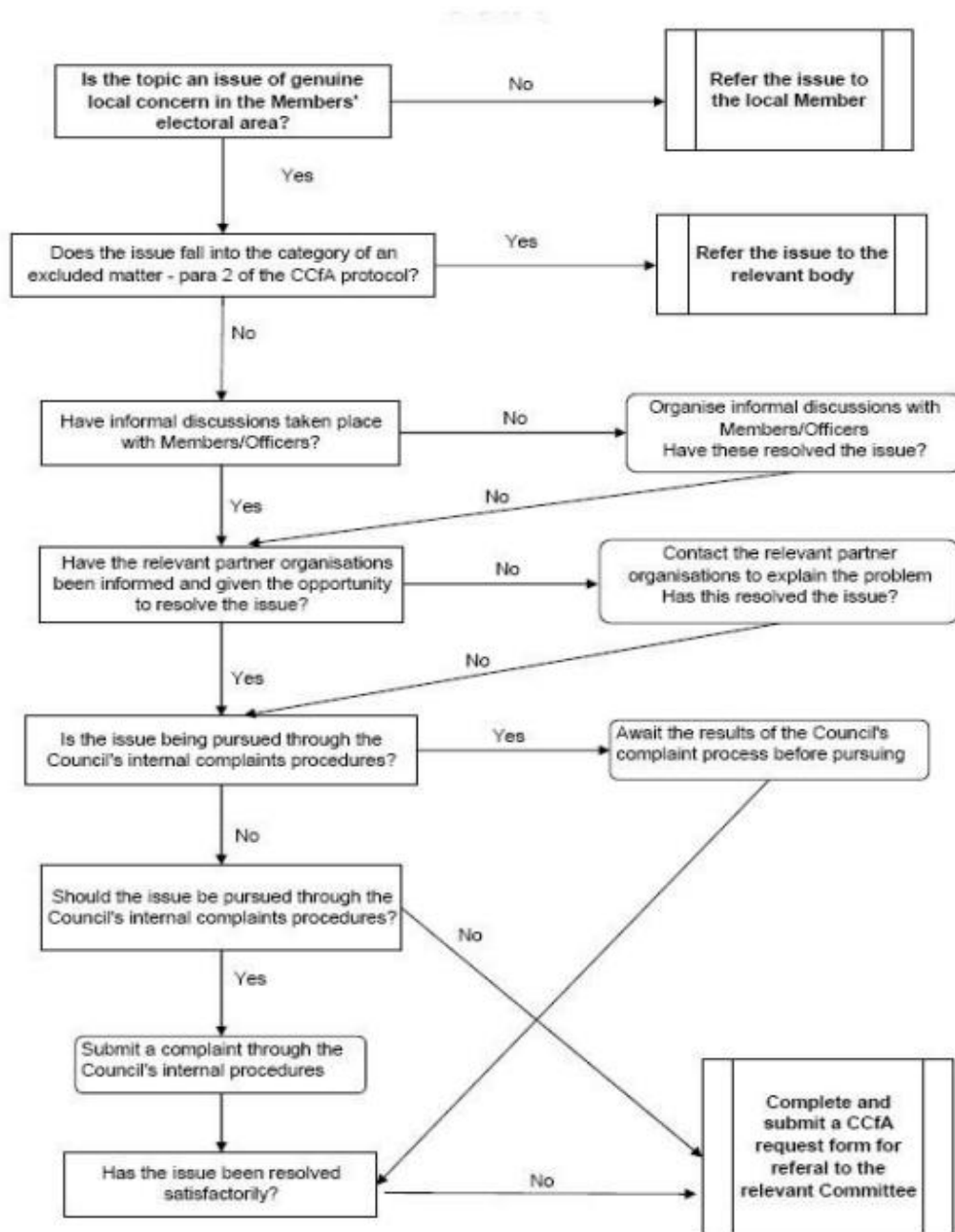
10.57. Having considered a CCfA, a Scrutiny committee may take one or more of the following actions:

- (a) ask for further information to be brought to a future meeting
- (b) require the attendance of Cabinet Members or senior officers to attend a future meeting to answer questions
- (c) set up a Task and Finish Group to undertake an in-depth review
- (d) make a report or recommendations to Full Council, Cabinet or partner agency and:
  - (i) publish that report
  - (ii) request Full Council or Cabinet to consider and respond to the report, setting out what action it proposes to take and to publish its response
  - (iii) request a partner agency to have regard to the report when exercising its functions

10.58. If a Scrutiny committee decides to take any action then it will inform the member who raised the CCfA and provide them with a copy of any report or recommendations made in relation to the CCfA, together with any response received from the Council, Cabinet or a partner agency.

10.59. If a Scrutiny committee decides not to consider a CCfA or on consideration decides no further action is necessary, it will inform the member who raised the CCfA and explain the reasons why.

10.60. The flowchart below will assist in deciding whether an issue is ready for referral to a Scrutiny committee as a CCfA. scrutiny



## **11. Officers**

- 11.1. The term 'officers' is used to describe all the people who work for or with the Council to deliver services and can include employees, contractors, consultants, agency staff and volunteers. Officers advise and support members, implement their decisions and manage the day-to-day delivery of services. The majority of decisions and actions taken by the Council will be taken by officers under arrangements that the Council has put in place for the delegation of powers.
- 11.2. The Council operates a 'Cascade of Powers' system of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected by the decision in question. Under this system of delegation the vast majority of the authority's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 11.3. In order to ensure the smooth functioning of the authority and the efficient delivery of services, Council and the Cabinet have delegated to officers all of the powers that they need to do what their role requires of them from time to time. The functions and responsibilities which the Council has given to the senior officers are listed in the Officer Schemes of Delegation (see Part 2 Section 12).
- 11.4. Some officers have specific legal duties to ensure that the Council acts within the law and uses its resources wisely. These officers are known as "Statutory Officers" or "Proper Officers" and have specific legal titles in addition to their job titles (see Part 2 Section 12).
- 11.5. The relationship between officers and members is governed by the Officer/Member Relations Protocol (see Part 4 Section 4).
- 11.6. Officers comply with the Officer Code of Conduct (see Part 4 Section 3).
- 11.7. The recruitment, selection, discipline and dismissal of officers is done in accordance with the Officer Employment Procedure Rules (see Part 4 Section 2).

### **Senior Management Structure**

- 11.8. The Chief Executive (as Head of Paid Service) is responsible for determining and publishing a description of the overall organisation of the Council, showing the senior management structure and key responsibilities of officers, including those fulfilling statutory roles, or specific functions set out in this Constitution.
- 11.9. The Council's Chief Officers are the Chief Executive, the Chief Operating Officer (Section 151 officer) and Executive Directors. Chief Officers are responsible for the appointment of Directors and Heads of Service, to lead the delivery of the Council's key functions and responsibilities, as required. Responsibilities of officers of the council change from time to time to reflect changes in service delivery and best practice. The current structure can be found in Appendix 2.

### **Statutory and Proper Officers**

- 11.10. The Council has appointed Proper Officers for the purposes of the statutory provisions set out below. Power to appoint Proper Officers is delegated to the Chief Executive, following consultation with the Director of Governance, unless legislation requires the appointment to be made by Full Council.



- 11.11. The Chief Executive and each Director shall be authorised to act as the Proper Officer for the statutory responsibilities which fall within their areas of responsibility set out in the table below.
- 11.12. In the event of the Chief Executive being unavailable to deal with matters for which they have been designated the Proper Officer, then an Executive Director Chief Operating Officer or Director may be authorised by them to act as Proper Officer in their absence.
- 11.13. In the event of any other designated officer being unable to fulfil their duties as Proper Officer, their deputy shall be authorised to undertake such duties instead.
- 11.14. Notwithstanding the above, a Proper Officer may at any time delegate or authorise other officers to perform the designated duties on their behalf.

PURPOSE OF APPOINTMENT	PROPER OFFICER
Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the Council	Chief Executive
Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the Council	Director of Finance

PUBLIC HEALTH ACT 1936		
Section	Purpose	Proper Officer
85(2)	Serving a notice requiring action to deal with verminous people and things	Director of Environment & Communities
REGISTRATION SERVICE ACT 1953		
9(1) and (2)	Appointment of interim superintendent registrars and registrars	Director of Environment & Communities
13(2)(h) and 3(b)	Powers under the local scheme of organisation	Director of Environment & Communities
20	Proper officer to be subject to regulations made by the Registrar General	Director of Environment & Communities
LOCAL AUTHORITY SOCIAL SERVICES ACT 1970		
60(A1)	Appointment as Director of Adult Social Services	Director of Adult Social Care
AGRICULTURE ACT 1970		
67(3)	Appointment as Agricultural Analyst	Executive Director of Place & Growth
TOWN AND COUNTRY PLANNING ACT 1971		
54(4)	Appointment as clerk of the local planning authority	Director of Economy & Housing
LOCAL GOVERNMENT ACT 1972		
13(3)	Formation of "the Parish Trustees" with the chairman	Chief Executive

	of the parish meeting when no separate parish council	
83	Witness and receive declarations of member's acceptance of office	Chief Executive
84	Receive written notice of members' resignation from office	Chief Executive
88(2)	Convene Council meeting for election to vacant office of Chair	Director of Governance
89(1)(b)	Receive notice of casual vacancy from two local government electors	Chief Executive
96(1)-(2)	Receipt of notice of interests in contracts	Director of Governance
100B(2)	Decide on the exclusion of reports and agendas from public inspection	Director of Governance
100B(7)(c)	Decide whether copy documents supplied to members should also be supplied to the press	Director of Governance
100C(2)	Produce a written summary of proceedings taken by a committee in private	Director of Governance
100D(1)(a)	Compile a list of background papers to a committee report.	Chief Executive and Director(s) in whose name report is written
100D(5)(a)	Identify background papers that disclose facts or matters on which a report is based	Directors in whose name the report is written
100F(2)	Identify which documents contain exempt information not open to inspection by members	Director of Governance
115(2)	Receive from officers any money and property committed to their charge in connection with their office	Chief Operating Officer
146(1)	Sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the Council	Chief Operating Officer
151	Responsibility for the administration of the Council's financial affairs.	Chief Operating Officer
191(2)	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries	Executive Director for Place & Growth
204(3)	Receipt notice of application justices' licence under	Executive Director for Place & Growth

	Schedule 2 Licensing Act 1964	
210(6)-(7)	Exercise residual functions relating to charities	Director of Governance
223(1)	Appearance of Council in legal proceedings	Director of Governance
225(1)	Receive and retain documents deposited with the Council	Director of Governance
228(3)	Accounts to be open to inspection	Chief Operating Officer
229(5)	Certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original	Director of Governance
234	Sign public notices, orders and other documents on behalf of the Council	Chief Executive, Executive Directors and Director of Governance
236(9) and (10)	To send copies of bylaws to parish councils	Director of Governance
238	Certification of copy bylaws	Director of Governance
248(2)	Maintaining the roll of persons admitted to the freedom of the borough	Chief Executive
Sch.12 Pt1 Para.4(2)( b)	Sign and send to all members of the Council the summons to attend meetings of the Council	Chief Executive
Sch.12 Pt1 Para 4(3)	Receive written notice from a member of the address to which a summons to the meeting is to be sent	Director of Governance
Sch.14, Para 25	Certifying copy resolutions of the Council passed before 1975 disapplying public health statutes	Director of Governance
Schedule 29, Para.4	Undertake duties at council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer	Director of Governance
Sch.29 Pt.I Para.4(1)( b)	Adaptation, modification and amendment of enactments	Director of Governance
Sch. 29 Pt.II Para. 41(3)-(5)	Appoint interim superintendent registrars or interim registrars of births and deaths under the Registration Service Act 1953  Exercise powers provided by the local scheme of	Director Environment & Communities

	<p>organisation of the Registration Service under the 1953 Act</p> <p>Prescription by the Registrar General of duties of Proper Officers under the Registration and Marriage Acts</p> <p>Exercise functions under the Marriage Act 1949 in relation to the registration of births, deaths and marriages.</p> <p>Approve premises for the solemnisation of marriages under Section 26(1)(bb) and Section 46A of the Marriage Act 1949 (as amended by the Marriage Act 1994) and the Marriages and Civil Partnerships Act (Approved Premises) Regulations 2005</p>	
<b>LOCAL GOVERNMENT ACT 1974</b>		
30(5)	Give public notice of receipt of Local Government Ombudsman's Report	Director of Governance
<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>		
41	Certifying copy resolutions and minutes of proceedings	Director of Governance
<b>RENT ACT 1977</b>		
63	Appointment of rent officers under a scheme	Executive Director for Place & Growth
Schedule 15, Part IV, para 7	Certification of provision of suitable alternative accommodation	Executive Director for Place & Growth
<b>HIGHWAYS ACT 1980</b>		
37(5)	Receipt of certificates approving dedication of highways to be maintainable at public expense and making certificates available for inspection	Director Highways & Transport
59(1)	Certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight or extraordinary damage	Director Highways & Transport
193(3)	Certify that additional expenses have been	Director Highways & Transport

	incurred in the execution of wider than normal street works	
205(3)-(5)	Undertake duties in relation to private street works	Director Highways & Transport
210(2)	Certify amendments to estimated costs and provisional apportionment of costs of street works under the private street works code	Director Highways & Transport
211(1), 212(4), 216 (2)-(3)	Make a final apportionment of expenses of street works executed under the private street works code	Director Highways & Transport
295(1)	Issue a notice requiring owners to remove materials from non-maintainable streets in which works are due to take place	Director Highways & Transport
321	Authenticate notices, consents, approvals, orders and demands	Director Highways & Transport
Sch 9, Para, 4	Sign plans showing proposed prescribed improvement or building lines	Director Highways & Transport
<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>		
8(1) and (2)(a)	Appointment as Electoral Registration Officer	Chief Executive
35(1)	Appointment as Returning Officer	Chief Executive
67(7)(b)	Receive declarations and give public notice of election agents' appointments	Chief Executive
81 and 89	Appropriate officer for the election of councillors	Chief Executive
82(4) and 89	Receive declarations and give public notice of election agents' or candidates' election expenses	Chief Executive
131	Providing accommodation for holding election count	Chief Executive
<b>BUILDING ACT 1984</b>		
61	Receive notification of and having free access to repairs of drains	Executive Director for Place & Growth
93	Authentication of documents issued under this Act	Executive Director for Place & Growth
<b>PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984 (as amended by the Health and Social Care Act 2008)</b>		
48	Preparation of certificate to Justice of Peace for removal of body to mortuary and for	Director of Public Health

	burial within a prescribed time or immediately	
59	Authentication of documents	Director of Public Health
61	Power to enter premises	Director of Public Health
62	Supplementary provisions in relation to entry of premises	Director of Public Health
<b>WEIGHTS AND MEASURES ACT 1985</b>		
72(1)	Appointment as Chief Inspector of Weights and Measures	Director Environment & Communities
<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>		
114, 114A, 115 and 115B	Responsibility for Chief Financial Officer reports	Director of Finance
116(1)	Notify the external auditor of a meeting (and decisions made at such a meeting) to consider a report from the Chief Financial Officer (under section 114 and 115 above)	Chief Operating Officer
<b>PUBLIC HEALTH (INFECTIOUS DISEASES) REGULATIONS 1988</b>		
6	Reporting of infectious diseases to the Chief Medical Officer	Director of Public Health
8	Submission of weekly or quarterly returns to the Registrar General	Director of Public Health
10	Arrangements for immunisation and vaccination	Director of Public Health
Sch. 3 and 4	Reporting and issuing notices to prevent the spread of infection	Director of Public Health
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>		
2(4)	Hold the Council's list of politically restricted posts	Director of Governance
3A	In consultation with the Monitoring Officer, determine applications for exemption from political restriction or for designation of posts as politically restricted	Chief Operating Officer
4	Designation as Head of Paid Service	Chief Executive
5(1)	Designation as Monitoring Officer	Director of Governance
15-17	Undertake all matters relating to the formal establishment of political groups within the membership of the Council, and give effect to the wishes of political groups in making	Director of Governance

	appointments of members to committees	
18	Receipt of notice in writing that a councillor wishes to forego any part of entitlement to an allowance	Director of Governance
19(1) and (4)	Receipt of notice of direct and indirect pecuniary interests	Director of Governance
<b>ENVIRONMENTAL PROTECTION ACT 1990</b>		
149	Discharging the functions in this section for dealing with stray dogs	Director Environment & Communities
<b>FOOD SAFETY ACT 1990</b>		
5	Authorised officer to act in matters arising under the Act	Director Environment & Communities
27(1)	Appointment of Public Analyst	Director Environment & Communities
49(3)	Sign any document authorised or required to be given, made or issued by the Food Authority	Director Environment & Communities
<b>THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990</b>		
8(1), 8(5), 9(b), 10, 13(1), 14, 15 and 17	Notifications to and by the Proper Officer Give effect to the wishes of political groups in making appointments of members to committees	Director of Governance
<b>CRIME AND DISORDER ACT 1998, SECTION 115 CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007/1830</b>		
4(3)	Primary Designated Officer for information sharing	Director of Governance
<b>LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22 LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS</b>		
7	Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public	Director of Governance
10	Inform the relevant Select Committee Chair or the committee members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity requirements (in the "Key Decisions Plan") and make available for public inspection notices relating to this	Director of Governance

12	Produce a written statement of Cabinet decisions made at meetings	Director of Governance
13	Produce a written statement of decisions made by individual Cabinet Members	Director of Governance
14	Make a copy of written statements of Cabinet and Cabinet Member and officer executive decisions and associated reports available for inspection by the public	Director of Governance
15 and 2	Make available for inspection a list of background papers	Director of Governance
16(5)	Determine whether certain documents contain exempt information	Director of Governance
16(7)	Determine whether certain documents contain advice provided by a political adviser or assistant	Director of Governance
20	Determine whether documents contain confidential information, exempt information or the advice of a political adviser or assistant	Director of Governance
<b>LOCAL GOVERNMENT ACT 2000, SECTION 34 LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) REGULATIONS 2000</b>		
4-5	Publish the verification number of local government electors for the purpose of petitions under the Local Government Act 2000	Director of Governance
<b>REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000 THE REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF OFFICES, RANKS AND POSITIONS) ORDER 2000</b>		
21, 22, 27, 28 and 29	The Senior Responsible Officer for RIPA	Director of Governance
<b>REGULATION OF INVESTIGATORY POWERS ACT 2000, SECTIONS 22(2)(B) AND 25(2) THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER 2010 THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE AND PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010 THE REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN INTELLIGENCE SOURCES: CODE OF PRACTICE) ORDER 2010</b>		
-	Designated Senior Responsible Officer for the use of surveillance and the acquisition and disclosure of communications data	Director Environment & Communities
<b>FREEDOM OF INFORMATION ACT 2000</b>		
36	Qualified person to confirm or deny whether disclosure	Director of Governance



	of information is likely to prejudice the effective conduct of public affairs	
<b>ACCESS TO THE COUNTRYSIDE (MAPS IN DRAFT FORM) (ENGLAND) REGULATIONS 2001</b>		
9-11	Authorised officer to receive deposit of reduced scale maps	Executive Director for Place & Growth
<b>THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001</b>		
Sch 1, Pt II, Paras 5-6	Notifications to the Cabinet concerning appointments and dismissals	Chief Operating Officer
<b>LOCAL GOVERNMENT ACT 2003</b>		
25	When the annual budget report is considered by Cabinet or by the County Council, the Chief Financial Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves	Chief Operating Officer
<b>MONEY LAUNDERING REGULATIONS 2003</b>		
7(1)(a)	Nominated officer to receive disclosures of suspected money laundering	Chief Operating Officer
<b>CHILDREN ACT 2004</b>		
18	Appointment as Director of Children's Services	Director of Children's Services
<b>HOUSING ACT 2004</b>		
4	Receipt and inspection of complaints of category 1 and 2 hazards on residential premises	Director Economy & Housing
<b>TRAFFIC MANAGEMENT ACT 2004</b>		
17	Appointment as Traffic Manager to perform such tasks as the authority considers will assist it to perform its network management duty	Director Highways & Transport
<b>MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES) REGULATIONS 2005 (AS AMENDED)</b>		
	Proper Officer for the purposes of the Registration Act 1953, the Marriage Act 1949 (as amended by the Marriage Act 1994), the Civil Partnership Act 2004, the Marriages and Civil Partnerships (Approved Premises) Regulations 2005	Director of Environment & Communities

	as amended and receive applications, set fees and offer discounts, where applicable	
<b>NATIONAL HEALTH SERVICE ACT 2006</b>		
73A	Appointment as Director of Public Health	Director of Public Health
<b>THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006</b>		
Rule 50 and Sch 2	Receipt from Returning Officer of the names and persons elected to the Council	Director of Governance
54	Registration officer for the retention and destruction of documents following an election	Director of Governance
<b>CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007/1830</b>		
4(3)	Nominated officer to facilitate the sharing of information under an information sharing protocol	Director of Governance
<b>WORKING TOGETHER TO SAFEGUARD CHILDREN: A GUIDE TO INTER-AGENCY WORKING TO SAFEGUARD AND PROMOTE THE WELFARE OF CHILDREN (DFE GUIDANCE, MARCH 2010)</b>		
	Local Authority Designated Officer (LADO)	Executive Director of Children & Families
	Caldicott Guardian	Executive Director of Children & Families
<b>THE HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010</b>		
2, 3 and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Director of Public Health
<b>LOCALISM ACT 2011</b>		
29	Establish, maintain and publish a Register of Interests	Director of Governance
31	Receipt of notice of members' disclosable pecuniary interests and entering such interests in the authority's register	Director of Governance
32	Consideration of whether a member's interest is a sensitive interest	Director of Governance
33(1)	Receiving applications for dispensations	Director of Governance
33(2)	Grant dispensations to members to speak only or to speak and vote on matters where they have a	Director of Governance

	Disclosable Pecuniary Interest	
Sch 2, Pt1, Para 9FB	Designation as Scrutiny Officer	Head of Democratic Services
<b>THE LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) REGULATIONS 2011</b>		
7, 8, 11 and 13	Various steps relating to petitions	Director of Governance
<b>THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012</b>		
2, 7, 10, 12, 13-16, 20	Functions relating to the recording and publication of information relating to Executive decisions, including exclusion of information from agenda and reports relating to private meeting matters	Director of Governance
12-13	Grant dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a member or officer taking such a decision	Director of Governance
12-14	Recording of executive decisions and by individual members and making documents available for inspection by members of the public	Director of Governance
<b>NHS BODIES AND LOCAL AUTHORITIES (PARTNERSHIP ARRANGEMENTS, CARE TRUSTS, PUBLIC HEALTH AND LOCAL HEALTHWATCH) REGULATIONS 2012</b>		
22(4)	Designated as Responsible Person for ensuring compliance with the regulations	Chief Executive
22(5)	Designated as Complaints Manager for managing the procedures for handling complaints	Chief Executive
<b>DATA PROTECTION ACT 2016</b>		
69, 70 and 71	The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018	Information Governance Manager/Data Protection Officer

### **Non-Executive Scheme of Officer Delegation**

11.15. Full Council has delegated to committees and officers the exercise of a range of functions set out in the table below (as referred to in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended), which are not the responsibility of the Executive.

- 11.16. Officers may, in turn, delegate their powers to more junior officers, or escalate the making of those decisions to the relevant Director, the relevant committee or Council, but must ensure that such delegations are documented to the satisfaction of the Chief Executive and Director of Governance and are regularly reviewed.
- 11.17. Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility, except those reserved by law to others. Any Non-Executive function may be exercised by the Chief Executive notwithstanding its delegation to another Director, except those reserved by law to others.
- 11.18. Officers (or officers authorised by them) may take action on urgent matters, which would otherwise require reference to, or consultation with Full Council or a committee, if there is no time for such reference or consultation to be made; relevant committee Chairs should be consulted if time permits. All such decisions should be reported to the next meeting of Full Council or committee.
- 11.19. Certain Non-Executive decisions taken by officers must be recorded and published, in accordance with the Guide to Recording and Publishing Officer Decisions (see Part 2 Section 12).

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
<i>Titles in italics in column 3 indicate full delegation to the named officer. Where only council or a committee name is shown indicates no delegations to officers.</i>		
<b>A. Functions relating to town and country planning and development control</b> <i>Delegations in this section should be read in conjunction with the separate delegations contained in the Code of Practice for members and Officers Dealing with Planning Matters (see Part 5 Section 11).</i>		
5. Power to determine application for planning permission or permission in principle.	Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or Director for Economy & Housing
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
8. Power to decline to determine application for planning permission or permission in principle.	Section 70A, 70B and 70C of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
9. Duties relating to the making of determinations of planning applications.	Sections 69, 69A, 76, 91, 92 and 96A of the Town and Country Planning Act 1990 and Parts 2, 6 and 8 of the Town and Country Planning (General Development Procedure)	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
	Order 2015 (as amended) and directions made thereunder	
10. Power to determine application for planning permission or permission in principle made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (as amended). Sections 69, 91, 92 and 96A of the Town and Country Planning Act 1990 and the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	The Town and Country Planning (General Permitted Development) (England) Order 2015	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
12. Power to enter into agreement regulating development or use of land.	Sections 106, 106A and 106BA of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
13. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191, 192(2) and 193 of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 2007	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
16. Power to authorise entry onto land.	Sections 196A, B and C of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
18. Power to serve a planning contravention notice, breach of	Sections 171C, 183(1) and 187A of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
condition notice or stop notice.		
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
19. Power to issue, vary and withdraw an enforcement notice.	Section 172 and 173A of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act	PLANNING COMMITTEE and/or <i>Director for Economy &amp; Housing</i>
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990	<i>Director for Economy &amp; Housing</i>
24. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	<i>Director for Economy &amp; Housing</i>
26. Duties relating to applications for listed building consent	Sections 13(1) and 14(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990; and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01	<i>Director for Economy &amp; Housing</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	<i>Director for Economy &amp; Housing</i>
28. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990	<i>Director for Economy &amp; Housing</i>
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990	<i>Director for Economy &amp; Housing</i>
30. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990	<i>Director for Economy &amp; Housing</i>
31. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990	<i>Director for Economy &amp; Housing</i>
32. Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017	<i>Director for Economy &amp; Housing</i>
<b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b>		
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, sections 48, 57,	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
	58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(c) of the Gambling Act 2005 (Commencement No 6 and Transitional Provisions Order 2006 ("the Gambling Act Order"))	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) of the Gambling Act Order	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
11. Power to grant permits in respect of premises where	Schedule 3 to the Lotteries and Amusements Act 1976 as	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>



<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
amusements with prizes are provided.	saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order	
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinemas Act 1985	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14A. Any function of a licensing authority	Licensing Act 2003 and any regulations or orders made under that Act	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14AZA. Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and regulations made thereunder	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14AA. Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14AB. Functions relating to exchange of information.	Section 30 of the Gambling Act 2005	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14AC. Functions relating to occasional use notices.	Section 39 of the Gambling Act 2005	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14B. Power to resolve not to issue a casino premises licence	Section 166 of the Gambling Act 2005	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14C. Power to designate officer of a licensing	Section 304 of the Gambling Act 2005	<i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
authority as an authorised person for a purpose relating to premises.		
14CA. Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Section 284 of the Gambling Act 2005	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
14D. Power to institute criminal proceedings	Section 346 of the Gambling Act 2005	<i>Director of Governance</i>
14E. Power to exchange information	Section 350 of the Gambling Act 2005	<i>Director of Environment &amp; Communities</i>
14F. Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007	<i>Director of Environment &amp; Communities</i>
14G. Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the Gambling Act 2005	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
16. Power to license performances of hypnotism.	The Hypnotism Act 1952	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907	<i>Director of Environment &amp; Communities</i>
20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982	<i>Director of Environment &amp; Communities</i>
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874 and section 213 of	<i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
	the Local Government Act 1972	
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964	<i>Director of Environment &amp; Communities</i>
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975	<i>Director of Environment &amp; Communities</i>
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987	<i>Director of Environment &amp; Communities</i>
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971	<i>Director of Environment &amp; Communities</i>
29. Power to grant or renew a licence for a licensable activity (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).	Regulation 4 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976	LICENSING COMMITTEE and/or <i>Director of Environment &amp; Communities</i>
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974 and the Animal By-Products Order 1999	<i>Director of Environment &amp; Communities</i>
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, bylaws made under that Parts I and II of the Children and Young Persons Act 1963	<i>Director of Environment &amp; Communities or Director of Children's Social Care</i>
36. Power to approve premises for the	Section 46A of the Marriage Act 1949 and the Marriages (Approved	<i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
solemnisation of marriages.	Premises) Regulations 1995 (as amended by SI 2003/1961 and The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 and amended by SIs 2011/2661 and SI 2013/2294)	
37. Power to register common land or town or village greens, except where solely for the purpose of giving effect to: (a) an exchange of lands effected by an order under s.19(3) of, or para 6(4) of Sch.3 to, the Acquisition of Land Act 1981 or (b) an order under s.147 of the Inclosure Act 1845	Regulation 6 of the Commons Registration (New Land) Regulations 1969	<i>Director of Economy &amp; Housing</i>
38. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966	<i>Director of Economy &amp; Housing</i>
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939	<i>Director of Environment &amp; Communities</i>
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993	<i>Director of Environment &amp; Communities</i>
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991	<i>Director of Highways &amp; Transport</i>
43. Power to issue licences for the movement of pigs.	The Pigs (Records, Identification and Movement) Order 2011	<i>Director of Environment &amp; Communities</i>
44. Power to license the sale of pigs.	The Pigs (Records, Identification and Movement) Order 2011	<i>Director of Environment &amp; Communities</i>
45. Power to license collecting centres for the movement of pigs.	The Pigs (Records, Identification and Movement) Order 2011	<i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
46. Power to issue a licence to move cattle from a market.	Reg.3 of the Cattle Identification Regulations 2007	<i>Director of Environment &amp; Communities</i>
46A. Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Sections 115E, 115F and 115K of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
47. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
47A. Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
48. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
49. Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
50. Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
51. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
52. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
53. Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
54. Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
55. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994	<i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995	<i>Director of Environment &amp; Communities</i>
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995	<i>Director of Environment &amp; Communities</i>
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993	<i>Director of Environment &amp; Communities</i>
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995	<i>Director of Environment &amp; Communities</i>
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	<i>Director of Environment &amp; Communities</i>
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	<i>Director of Environment &amp; Communities</i>
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	<i>Director of Environment &amp; Communities</i>
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	<i>Director of Environment &amp; Communities</i>
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	<i>Director of Environment &amp; Communities</i>
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991	<i>Director of Environment &amp; Communities</i>
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991	<i>Director of Environment &amp; Communities</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
71. Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001	<i>Director of Environment &amp; Communities</i>
72. Functions relating to the registration of common land and town or village greens.	Part 1 of the Commons Act 2006, the Commons Registration (England) Regulations 2008 and the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007	<i>Director of Economy &amp; Housing</i>
<b>C. Functions relating to health and safety at work</b>		
Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974	<i>Chief Operating Officer</i>
<b>D. Functions relating to elections</b>		
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983	FULL COUNCIL
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983	FULL COUNCIL
3. Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.	FULL COUNCIL
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972	FULL COUNCIL
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972	FULL COUNCIL
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983	FULL COUNCIL

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
8. Duty to divide constituency into polling districts.	Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983	FULL COUNCIL
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983	FULL COUNCIL
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983	FULL COUNCIL
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983	FULL COUNCIL
12. Power to fill vacancies in the event of insufficient nominations at an ordinary election of parish councillors.	Section 21 of the Representation of the People Act 1985	FULL COUNCIL
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972	<i>Chief Executive</i>
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972	<i>Chief Executive</i>
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972	FULL COUNCIL
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000	<i>Chief Executive</i>
18. Duty to consult on change of scheme for elections.	Sections 33(2), 38 (2) and 40(2) of the 2007 Act	<i>Chief Executive</i>
19. Duties relating to publicity.	Sections 35, 41 and 52 of the 2007 Act	<i>Chief Executive</i>
20. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the 2007 Act	<i>Chief Executive</i>
21. Power to alter years of ordinary elections of parish councillors.	Section 53 of the 2007 Act	<i>Chief Executive</i>



<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
22. Functions relating to change of name of electoral area.	Section 59 of the 2007 Act	<i>Chief Executive</i>
<b>E. Functions relating to name and status of areas and individuals</b>		
1. Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972	FULL COUNCIL
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972	FULL COUNCIL
3. Power to confer title of honorary alderman or alderwoman or to admit an honorary freeman or freewoman.	Section 249 of the Local Government Act 1972	FULL COUNCIL
4. Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972	FULL COUNCIL
<b>EB. Functions relating to community governance</b>		
1. Duties relating to community governance reviews.	Section 79 of the Local Government and Public Involvement in Health Act 2007	FULL COUNCIL and COMMUNITY GOVERNANCE REVIEW COMMITTEE
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the Local Government and Public Involvement in Health Act 2007	FULL COUNCIL and COMMUNITY GOVERNANCE REVIEW COMMITTEE
3. Functions relating to terms of reference of review.	Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007	COMMUNITY GOVERNANCE REVIEW COMMITTEE
4. Power to undertake a community governance review.	Section 82 of the Local Government and Public Involvement in Health Act 2007	COMMUNITY GOVERNANCE REVIEW COMMITTEE
5. Functions relating to making of recommendations.	Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007	COMMUNITY GOVERNANCE REVIEW COMMITTEE
6. Duties when undertaking review.	Section 93 to 95 of the Local Government and Public Involvement in Health Act 2007	COMMUNITY GOVERNANCE REVIEW COMMITTEE
7. Duty to publicise outcome of review.	Section 96 of the Local Government and Public Involvement in Health Act 2007	COMMUNITY GOVERNANCE REVIEW COMMITTEE
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the Local Government and Public Involvement in Health Act 2007	<i>Director of Governance</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
9. Power to make agreements about incidental matters.	Section 99 of the Local Government and Public Involvement in Health Act 2007	<i>Director of Governance</i>
<b>F. Power to make, amend, revoke, re-enact or enforce bylaws</b>		
	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978	<i>Chief Officers</i>
<b>FA. Functions relating to smoke-free premises, etc</b>		
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the Health Act 2006	<i>Director of Environment &amp; Communities</i>
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the Health Act 2006	<i>Director of Environment &amp; Communities</i>
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007	<i>Director of Environment &amp; Communities</i>
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006	<i>Director of Environment &amp; Communities</i>
<b>G. Power to promote or oppose local or personal Bills</b>		
	Section 239 of the Local Government Act 1972	FULL COUNCIL
<b>H. Functions relating to pensions etc</b>		
1. Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972	<i>Chief Operating Officer</i>
<b>I. Miscellaneous functions</b>		
<b>Part I: functions relating to public rights of way</b>		
1. Power to create footpath, bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
2. Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
4. Power to stop up footpaths, bridleways and restricted byways.	Section 118 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
5. Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
7. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
8. Power to divert footpaths, bridleways and restricted byways	Section 119 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
9. Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
18. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
19. Power to authorise temporary disturbance of surface of footpath,	Section 135 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
bridleway or restricted byway.		
20. Power temporarily to divert footpath, bridleway or restricted byway.	Section 135A of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980	<i>Director of Highways &amp; Transport</i>
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981	PLANNING COMMITTEE and <i>Director of Highways &amp; Transport</i>
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981	<i>Director of Highways &amp; Transport</i>
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981	<i>Director of Highways &amp; Transport</i>
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981	<i>Director fo Highways &amp; Transport</i>
28. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.	<i>Director of Highways &amp; Transport</i>
29. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984 and the Cycle Tracks Regulations 1984	<i>Director of Highways &amp; Transport</i>
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1985	<i>Director of Economy &amp; Housing</i>
30A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990	<i>Director of Highways &amp; Transport</i>
31. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990	<i>Director of Highways &amp; Transport</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
32. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990	<i>Director of Highways &amp; Transport</i>
33. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000	<i>Director of Highways &amp; Transport</i>
34. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000	<i>Director of Highways &amp; Transport</i>
<b>Part II: other miscellaneous functions</b>		
35. Functions relating to sea fisheries.	Ch.1 of Part 6 of the Marine and Coastal Access Act 2009	<i>Director of Environment &amp; Communities</i>
36. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	FULL COUNCIL
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972	<i>Chief Executive</i>
38. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972	FULL COUNCIL
39. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972	<i>Chief Operating Officer</i>
40. Power to appoint officers for particular purposes (appointment of proper officers).	Section 270(3) of the Local Government Act 1972	FULL COUNCIL
41. Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981	Director of Environment & Communities
42. Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE and <i>Director of Environment &amp; Communities</i>
43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989	FULL COUNCIL
44. Duty to designate officer as the monitoring officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989	FULL COUNCIL

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
44A. Duty to provide staff, etc to person nominated by monitoring officer.	Sections 82A(4) and (5) of the Local Government Act 2000	FULL COUNCIL
44B. Powers relating to overview and scrutiny committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000	FULL COUNCIL
45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 1996	AUDIT AND GOVERNANCE COMMITTEE
46. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997	<i>Director of Highways &amp; Transport</i>
47. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999	<i>Executive Director for Place &amp; Growth</i>
47A. Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003	<i>Director of Highways &amp; Transport</i>
48. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000	FULL COUNCIL
49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001	<i>Director of Environment &amp; Communities</i>
50. Power to make or revoke an order designating a locality as an alcohol disorder zone.	The Local Authorities (Alcohol Disorder Zones) Regulations 2008	<i>Director of Environment &amp; Communities</i>
51. Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	<i>Director of Economy &amp; Housing</i>
52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006	<i>Director of Economy &amp; Housing</i>

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006	<i>Director of Governance</i>

## **Executive Scheme of Officer Delegation**

### **Introduction**

- 11.20. Officers are appointed to undertake particular roles. Those roles may be established by the terms of their appointment, job or role description, their position in the organisation, or from a specific instruction or the allocation of specific responsibilities by their manager. Officers' roles may vary from time to time to reflect changes in service delivery.
- 11.21. In order to ensure the smooth functioning of the authority and the efficient delivery services, the Council and the Cabinet delegates to officers all of the powers that they need to do whatever their role requires of them from time to time.
- 11.22. All powers and functions not specifically reserved to members in this Constitution (see Part 2 Section 12) or by statute stand delegated to officers in accordance with the cascade principle set out below.

### **Cascade of Powers**

- 11.23. Officers' powers have been delegated by means of a cascade of powers. This means there is a standing delegation of all necessary powers from the Leader to the Chief Executive and from there to the Executive Directors, Chief Operating Officer and Directors. The cascade continues down through the Directors to team managers and relevant officers in each Service.
- 11.24. Officers may, in turn, delegate their powers to more junior officers, or escalate the making of those decisions to the relevant Director or to Cabinet, but must ensure that such delegations are documented to the satisfaction of the Chief Executive and Director of Governance and are regularly reviewed.
- 11.25. In each case the powers delegated are the full range and extent of powers vested in the authority from time to time as necessary in order to discharge functions, implement decisions, and undertake the efficient operational management of the Services that the Executive Director, Chief Operating Officer and/or Director are responsible for.
- 11.26. This includes the power to do anything ancillary or incidental to, arising from, or necessary to give effect to or facilitate the exercise of powers and the discharge of functions delegated to officers.

### **Use of powers**

- 11.27. When officers act under delegated powers, they do so in the name of the relevant Director, Executive Director or Chief Operating Officer who will retain ultimate responsibility for ensuring that powers are exercised at the appropriate level by suitably competent and qualified officers.
- 11.28. It is for team managers and Directors, in conjunction with the Executive Director or Chief Operating Officer, to determine, record and keep under review the extent to which officers in their service are authorised to exercise delegated powers in their name. They shall do this by ensuring that there is clarity in setting out their service and team structures and defining the respective roles of their officers.
- 11.29. It is the responsibility of each officer in the chain of cascade to ensure that powers are being exercised at the most appropriate level by suitably competent and qualified officers. They shall at all times have due regard for the nature, subject matter, and likely impact of any decision and liaise closely with those above them in the chain of cascade, including relevant members, especially where a matter has potentially significant strategic, policy or operational implications.
- 11.30. Any ambiguity that may arise as to whether or not a particular officer is, by reference to the terms of their appointment, job or role description, or their position in the organisation, authorised in respect of any particular function is to be resolved by reference back up through the chain of cascade to team managers, Director, Executive Director, Chief Operating Officer or ultimately to the Chief Executive as appropriate who shall, where necessary, give written confirmation of the allocation of any given responsibility.
- 11.31. In exceptional circumstances, and with the agreement of those above them in the chain of cascade, officers may decline to exercise powers which rest with them where it is considered, in all the circumstances, that it would be more appropriate for another officer (whether or not further up the chain of cascade) or for members to exercise the power instead.
- 11.32. Unless specifically prohibited by the terms of any authorisation, officers may arrange for any power which rests with them to be discharged by another suitably competent and qualified officer but they shall remain responsible for any powers so exercised.
- 11.33. Officers may direct that certain types of decisions, or decisions on particular matters, be reserved to them (or to another officer) notwithstanding that they would ordinarily be taken at a point further along the chain of cascade.
- 11.34. Where the duly empowered officer closest to the point of service delivery is unavailable or unable to act then, subject to any specific arrangements that may have been put in place, a suitably qualified and competent officer who is most proximate to the absent officer in the chain of cascade is empowered to act in place of that officer. This will usually follow the chain of cascade or line of management back up through team managers and Directors to the Chief Executive.

### **Controls on the use of powers**

- 11.35. Officers are not empowered in respect of matters that are specifically reserved to members or which amount to the adoption or implementation of new policy (see Part 2 Section 12).



- 11.36. Officers are only empowered to act in respect of matters which fall foursquare within their Service area, suite of responsibilities and sphere of competence
- 11.37. Officers who propose to exercise powers in respect of any matter that is not wholly within their Service area, suite of responsibilities or sphere of competence shall be obliged to act in consultation with and take appropriate advice from those officers with the relevant responsibilities and expertise and particularly from the Director of Finance and the Director of Governance in respect of financial and legal considerations.
- 11.38. Before taking decisions officers shall be satisfied that they can demonstrate, by keeping appropriate records, that they are duly authorised to act and that they have undertaken all appropriate consultation.
- 11.39. Officers must at all times observe and abide by the principles governing decision making (see Part 2 Section 2).

### **Notices, authorisations, determinations, orders, licences, agreements and consents**

- 11.40. For the avoidance of doubt the cascade of power through the officer structure includes the power to take all action necessary in connection with or ancillary to:
- (a) The instruction of the Director of Governance in respect of legal (or quasi legal) proceedings
  - (b) The authorisation of officers to undertake certain roles, or to exercise or discharge any powers, duties or functions including investigatory or regulatory functions and affecting entry to land or premises.
  - (c) The issuing, service, variation, or withdrawal of any notice, direction, determination, requisition, ultimatum or demand.
  - (d) The making, confirmation, variation or withdrawal of any order or regulation.
  - (e) The formation, variation or termination of any contract or agreement.
  - (f) The grant, variation, withdrawal or termination of any permission, authorisation, license or consent.

### **Authorising expenditure and signing and sealing documents**

- 11.41. The Finance and Contract Procedure Rules and individual Service Schemes of Financial Delegation set out the financial limits that officers must work within and procedures that they must follow when authorising expenditure.
- 11.42. The Finance and Contract Procedure Rules (see Part 3 Section 6) set out which documents can be signed by officers within individual Services and which documents must be signed and/or sealed by the Director of Governance.

### **Legal Proceedings and Protecting the Council's Interests**

- 11.43. All matters in respect of the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Director of Governance (and their duly authorised officers) who shall be authorised to institute,

defend, settle, discontinue or otherwise participate in any such proceedings or take any other action considered necessary to give effect to decisions or protect the interests of the Authority.

### **Recording and Publishing Officer Decisions**

11.44. This protocol sets out the procedural framework to decision making and establishes a system to document decisions taken by officers under delegated authority.

#### **Types of officer decisions**

11.45. An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

11.46. A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

11.47. The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing.

11.48. Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail.

11.49. Key Decisions, Material Decisions, Significant Decisions and Urgent Decisions are defined below:

**Key Decisions** are Executive decisions that are likely to:

- (a) result in expenditure (except internal operational expenditure on things like advertising, locum staff, office cleaning services, library books, vehicles, consumables, utilities, etc) or savings of £1million or more; or
- (b) have a significant effect on communities living or working in an area comprising two or more wards.

**Material Decisions** are Executive decisions (other than purely operational or administrative in nature) taken by officers under delegated powers by a specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:

- (a) that are contentious, controversial or politically sensitive; or
- (b) where there is likely to be a strong public interest; or
- (c) Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- (d) Raise new issues of policy

**Significant Decisions** are Non-Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- (a) is to grant a permission or licence;
- (b) affects the legal rights of an individual;
- (c) is to award a contract or incur expenditure which 'materially' affects the authority's financial position

**Urgent Decisions** are decisions made in circumstances where:

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the Council's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the Council, its members or the public to a significant level of risk, loss, damage or disadvantage

11.50. The following types of officer decision must be formally recorded and published subject to the exceptions set out:

Type of Officer Decision	Exception	Publication
<p>Key Decisions</p> <p>Executive decisions that are likely to result in spending or savings that are 'significant':</p> <ul style="list-style-type: none"> <li>• in relation to the budget for the service or function in question or</li> <li>• in terms of the effect on communities living or working in two or more electoral divisions</li> </ul> <p>Includes internal operational expenditure on things like advertising, locum staff, office cleaning services, library books, vehicles, consumables, utilities etc or savings of £1 million or more</p>	<p>Officers do not take Key Decisions except the Chief Executive in the case of urgent decisions (see Part 2 Section 9)</p>	<p>As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at Council officers and published on the Council's website, that includes details of:</p> <ul style="list-style-type: none"> <li>• the decision and the date it was made;</li> <li>• the reasons for it;</li> <li>• any alternative options considered and rejected;</li> <li>• any conflicts of interests declared by any Cabinet Member consulted by the officer and any dispensations granted by</li> </ul>
<p>Material Decisions</p> <p>Executive decisions under powers delegated by a</p>	<p>Does not apply:</p>	

<p>specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:</p> <ul style="list-style-type: none"> <li>• That are contentious, controversial or politically sensitive; or</li> <li>• Where there is likely to be a strong public interest; or</li> <li>• Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or</li> <li>• That raise new issues of policy</li> </ul>	<p>(i) to routine operational, organisational or administrative decisions;</p> <p>(ii) where the expenditure or saving has already been approved by Cabinet or Cabinet Member and the decisions has been published;</p> <p>(iii) Confidential or Exempt Information; or</p> <p>(iv) where the expenditure or saving is already recorded and published under separate statutory requirements.</p>	<p>the Chief Executive in respect of any declared conflict;</p> <ul style="list-style-type: none"> <li>• the report considered by the decision-maker;</li> <li>• any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.</li> </ul> <p>The decision record must be kept for inspection for 6 years and the background papers for 4 years.</p>
<p>Significant Decisions</p> <p>Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:</p> <ul style="list-style-type: none"> <li>• is to grant a permission or licence</li> <li>• affects the legal rights of an individual</li> <li>• is to award a contract or incur expenditure which 'materially' affects the authority's financial position</li> </ul>	<p>Does not apply:</p> <p>(i) To routine operational, organisational or administrative decisions;</p> <p>(ii) Confidential or Exempt information;</p> <p>(iii) Where the date, details of and reasons for the decision are already required to be produced under a statutory requirement;</p> <p>(iv) If only the rights of an individual or business are affected, unless there is a wider public impact/ interest in the action.</p>	

## The process

- 11.51. Before taking any decision, the authorised officer must consider the principles of decision making set out in Part 2 Section 2.
- 11.52. Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Key Decisions Plan.
- 11.53. Where an officer makes an urgent Key Decision they must comply with the legal requirements set out in the Access to Information Rules (see Part 4 Section 1).

## **Call-In**

- 11.54. Key Decisions made by officers are subject to call-in by Overview & Scrutiny committees and cannot be implemented until either the Call-in period has expired or the relevant Overview & Scrutiny committee has made a decision regarding the Call-in. The Call-in procedure is set out in Part 2 Section 11.
- 11.55. Although the formal Call-in process only applies to officer Key Decisions, Overview & Scrutiny committees may call an officer to account over any decision made.

## **Recording and publishing the decision**

- 11.56. The officer decisions for publication (listed above) are recorded in the same manner as Cabinet decisions. The officer must provide Democratic Services with a completed Officer Decision Record within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Director. The Decision Record will be accompanied by any relevant background papers and, where appropriate (e.g. in respect of a controversial or complex matter) a full report (based on the Cabinet report template).
- 11.57. Democratic Services will maintain a record of all officer decisions referred for publication, including any report upon which each decision was made and background papers. Subject to any exemption from publication, they will ensure that this decision is available for public inspection via the website, at the Council's offices or by post if requested and on receipt of payment for copying and postage.
- 11.58. A written record of such decisions must be available for public inspection for at least 6 years and the background papers for at least 4 years.

## **Consultation with members**

- 11.59. Officers to whom specific decision-making powers have been delegated following a Cabinet decision subject to consultation with Cabinet Members, will ensure that such consultation takes place prior to making the decision.
- 11.60. Officers acting within the remit of their general delegated powers within the Constitution will ensure that they identify issues upon which members should be consulted and will ensure that appropriate consultation takes place.

## Summary of Decisions Reserved to Members

### ***Cabinet Member for Legal & Finance approvals:***

- (i) Supplementary revenue estimate or a virement not originally identified in the approved budget or where there is an overall increase in the cash income or expenditure of the Council where the source of funding does not include general reserves, earmarked reserves, contingency provisions or grant funding between £250,001 and £500,000
- (ii) Use of general contingency between £500,001 and £1 million.
- (iii) New schemes to be added to the approved capital programme, or increases to existing schemes, where the funding does not include ringfenced funding, funding as a result of an external grant bid or the use of additional Council resources (which includes borrowing, capital receipts and capital reserves) between £250,001 and £500,000.
- (iv) In-year carry forward of underspends in service budgets over £100,000.
- (v) Disposal of farm assets with a value over £1 million provided that this is in line with the overarching policy for the disposal of farm assets.
- (vi) Disposal or acquisition of land, not covered under section C9.6 (a) and (b) of the Finance Procedure Rules, with a value between £500,001 and £1 million.
- (vii) Write-off of losses on the disposal of property between £50,000 and £100,000 and non-property assets over £20,000.
- (viii) Write-off of debts for a reason other than one listed in D6.3 of the Financial Procedure Rules of a value between £100,001 and £500,000
- (ix) Granting any new lease, easement, wayleave or other right or interest in land, the acceptance of the surrender or forfeiture of any lease with financial implications and the settlement of dilapidations with a value between £500,001 and £1 million.
- (x) Disposal of non-property assets with a value between £50,001 and £500,000
- (xi) Allocation of grants, donations and other discretionary contributions not originally included in the annual report to Cabinet where the value of the contribution is between £50,001 and £500,00.
- (xii) Decisions relating to the Council's role as shareholder or owner of any Alternative Service Delivery Vehicle (ASDV).

### ***Relevant Cabinet Member approvals:***

- (xiii) Increases in charges above or below inflation with a financial impact of between £250,001 and £500,000.

### ***Cabinet approvals:***

- (xiv) Supplementary revenue estimate or a virement not originally identified in the approved budget or where there is an overall increase in the cash income or expenditure of the Council where the source of funding does not include general reserves, earmarked reserves, contingency provisions or grant funding between £500,001 and £1 million.
- (xv) Creation of new earmarked reserves (not technical or statutory), or for the use of a reserve for a different purpose than originally agreed, of a value between £500,000 and £1 million.
- (xvi) Use of general contingency over £1 million
- (xvii) Transfer of funding between specific approved schemes in the capital programme over £1 million.
- (xviii) New schemes to be added to the approved capital programme, or increases to existing schemes, where the funding does not include ringfenced funding, funding as a result of an external grant bid or the use of additional Council resources (which includes borrowing, capital receipts and capital reserves) between £500,001 and £1 million.
- (xix) Disposal or acquisition of land, not covered under section C9.6 (a) and (b) of the Finance Procedure Rules, with a value over £1 million
- (xx) Write-off of losses on the disposal of property over £100,000
- (xxi) Granting of any new lease, easement, wayleave or other right or interest in land, the acceptance of the surrender or forfeiture of any lease with financial implications and the settlement of dilapidations, with a value over £1 million
- (xxii) Disposal of non-property assets with a value over £500,000
- (xxiii) Provision of new services to be provided by the Council to third parties in the public sector and on a commercial basis, where the financial impact is between £500,001 and £1 million.
- (xxiv) Increases in charges above or below inflation with a financial impact between £500,001 and £1 million
- (xxv) Write-off of debts for a reason other than one listed in D6.3 of the Financial Procedure Rules of a value over £500,000.
- (xxvi) Submit and accept external funding grants where total value where match funding required is over £1 million
- (xxvii) Allocation of grants, donations and other discretionary contributions not originally included in the annual report to Cabinet, where the value of the contribution is over £500,000
- (xxviii) Winding up or liquidation of an ASDV where set out in the shareholder agreement or articles of the ASDV

***Staffing Committee approvals:***

(xxix) Any severance or early retirement payment over £100,000 (including actuarial costs)

***Council approvals:***

(xxx) Supplementary revenue estimate or a virement not originally identified in the approved budget or where there is an overall increase in the cash income or expenditure of the Council where the source of funding does not include general reserves, earmarked reserves, contingency provisions or grant funding over £1 million

(xxxi) Supplementary revenue estimates that are to be funded wholly or in part from general reserves, regardless of value and where there are significant implications (as determined by the Director of Finance) for future years' budgets

(xxxii) Creation of new earmarked reserves (not technical or statutory), or the use of a reserve for a different purpose than originally agreed, of a value over £1 million

(xxxiii) New schemes to be added to the approved capital programme, or increases to existing schemes, where the funding does not include ringfenced funding, funding as a result of an external grant bid or the use of additional Council resources (which includes borrowing, capital receipts and capital reserves) over £1 million

(xxxiv) New schemes or increases to existing schemes in the capital programme that result in an increase to the overall approved Council funding within the capital programme, i.e. increase in the use of reserves (which includes the capital reserve), borrowing and capital receipts.

(xxxv) Provision of new services to be provided by the Council to third parties in the public sector and on a commercial basis where the financial impact is over £1 million

(xxxvi) Increases in charges above or below inflation with a financial impact of over £1 million

(xxxvii) Bids requiring funding from general reserves (including the capital reserve) regardless of value



## **PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES**

### **Section 1 - Council Procedure Rules**

#### **Council Meetings**

##### **Annual Meetings**

1. In a year where there is an ordinary election of councillors, the Annual Meeting of the Council will take place within 21 calendar days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place in March, April or May, as determined by the Council.
2. In the period after ordinary council elections and before the Annual Meeting, any member who holds office within the Council immediately prior to the election AND is re-elected, shall continue in that office until the date of the Annual Meeting.
3. The Annual Meeting of the Council will:
  - (a) Elect a Chair for the new civic year;
  - (b) Elect a Deputy Chair for the new civic year;
  - (c) If necessary, elect an Executive Leader;
  - (d) Decide the allocation of seats to political groups in accordance with the political proportionality rules;
  - (e) Elect Chairs and Deputy Chairs for committees and appoint members to committees in line with political group nominations;
  - (f) Approve the minutes of the last meeting.

##### **Ordinary Meetings**

4. Ordinary Meetings will:
  - (a) If the Chair or Deputy Chair are not present, elect a member of the Council to Chair the meeting;
  - (b) Approve the minutes of the last meeting;
  - (c) Receive any declarations of interest from members;
  - (d) Receive any announcements from the Chair;
  - (e) In exceptional circumstances and at the discretion of the Chair, receive announcements from a councillor or an officer;

- (f) Receive the Leader's Statement (where appropriate);
- (g) In accordance with these rules to:
  - (i) receive any questions from, and provide answers to, the public;
  - (ii) receive any petitions;
  - (iii) receive any questions from and provide answers to councillors.
- (h) Deal with any business from the last council meeting;
- (i) Receive any reports on current issues from the Cabinet, the Council's committees, joint committees, boards or officers;
- (j) Receive any reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (k) Consider any motions;
- (l) Consider any other business specified in the summons to the meeting.

### **Rescheduling Ordinary Meetings**

- 5. A resolution may be passed at an Ordinary Meeting of Council requiring that:
  - (a) any subsequent Ordinary Meeting be held at a different date, time or place; or,
  - (b) an additional Ordinary Meeting be held at a specific date, time or placeprovided in either case that the date proposed is no fewer than 10 days away from the date of the meeting at which a resolution under this paragraph is carried.
- 6. There will be a presumption against making changes to the agreed timetable of meetings. However, between Ordinary Meetings the Chair may, following consultation with the Deputy Chair, alter the date, time or place of an Ordinary Meeting.

### **Budget Meetings**

- 7. The Council meeting convened to consider the Budget shall follow the procedure set out in paragraph 4(a) to (d) above only, but in addition shall receive any questions from, and provide answers to, the public and consider proposals from the Cabinet in relation to the Council's Budget and Policy Framework.
- 8. Any vote (including procedural and on amendments) relating to budget setting and council tax decisions made by Full Council must be undertaken by a recorded vote.

9. Section 106 of the Local Government Finance Act 1992 bars a councillor from voting on the Council's budget if they have an outstanding council tax debt of over two months. If a member is present at any meeting at which relevant budgetary matters are discussed, they must disclose that s.106 applies and may not vote. Failure to comply is a criminal offence.

### **Extraordinary Meetings**

10. Between Ordinary Meetings, an Extraordinary Meeting of Council may take place as follows:
  - (a) Called by the Chair, following consultation with the Deputy Chair, on giving no fewer than six clear working days' notice of the proposed date to the Director of Governance.
  - (b) If the Chair refuses or does not call an Extraordinary Meeting within seven days after being presented with a requisition for that purpose signed by five members, then any five members, on that refusal or on the expiration of those seven days, may forthwith call an Extraordinary Meeting.
  - (c) The Director of Governance - in consultation with the Chair.
11. The business to be transacted at an Extraordinary Meeting shall be restricted to the matters for which the meeting was called as set out in the summons/agenda, and no other business shall be considered.

### **Special Purpose Meetings**

There are also meetings of the Council that may be convened for a specific statutory purpose, e.g. the appointment of honorary aldermen and honorary alderwomen.

### **Conduct of Meetings**

#### **Chair and Deputy Chair**

12. The Chair will preside over meetings.
13. If the Chair is absent then the Deputy Chair will preside.
14. Cabinet Members shall not be eligible for appointment to the position of Chair or Deputy Chair of the Council.
15. If the Chair and the Deputy Chair are absent then the Director of Governance (or their nominee) will preside and the first item of business shall be the appointment of another member (other than a Cabinet Member) to preside over the meeting.
16. Persons presiding over meetings in the place of the Chair shall have the same powers and duties as the Chair.

#### **Respect for the Chair and Deputy Chair**

17. Where able, members and officers will stand whilst the Chair and the Deputy Chair of the Council enter and leave the room, except in the case of a remote meeting.
18. Whenever the Chair rises (or otherwise indicates) during a debate, any member then standing shall sit down and the meeting shall be silent.

### **Election to Offices**

19. Members shall not be eligible for appointment to the position of Chair or Deputy Chair of a committee unless they are a member of the committee in question.
20. Where a vacancy occurs in any office, an election will be held at the next Ordinary Meeting unless the Council decides otherwise.
21. Unless the Council decides otherwise, elections to office will be conducted by a show of hands (or such other method as is agreed by the Chair) and a single election may take place in respect of any number of offices.

### **Quorum**

22. No business shall be transacted at a Full Council meeting where fewer than 19 members are present.
23. If a meeting becomes inquorate after it has commenced, then it shall be adjourned. Remaining business will be considered at the next Ordinary Meeting.

### **Matters for Decision**

24. All matters for decision will be included within the agenda.
25. The Chair may agree that an item of business which is urgent shall be dealt with at a meeting even if it is not on the agenda for that meeting. The Chair shall give the reason for the urgency.
26. Business shall be dealt with in the order in which it is set out in the agenda unless the Chair decides otherwise.
27. There will be an early item on every agenda requiring members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (see Part 4 Section 6) and withdraw from the meeting at the appropriate point where they have an interest which requires them to do so.

### **Duration of Meetings**

28. Unless a resolution is passed for the meeting to continue, any meeting that has lasted for three hours will adjourn immediately. Remaining business will be considered at the next Ordinary Meeting.

### **Minutes, Records and Disclosure of Information**

### **Minutes and Records of Decisions**

29. At each Ordinary Meeting, the Chair will move that the minutes of the last meeting be confirmed as an accurate record.
30. Only matters relating to the accuracy of the minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Chair shall initial each page and sign the minutes.
31. There is no requirement to sign the minutes of a previous meeting at an Extraordinary Council Meeting.
32. Members may make comments on the Record of Cabinet Decisions and Minutes of Committees at the discretion of the Chair.
33. Questions about the accuracy of any matter arising from the Record of Cabinet Decisions or Committee minutes are not for determination by Council but may be referred to the Cabinet or committee as the case may be.

### **Records of Attendance**

34. Councillors attending the whole or part of a meeting must sign their name on the attendance sheet provided.

### **Leader's Statement**

35. In exceptional circumstances, the Chair may permit the Leader to make a statement summarising important or urgent developments or activities affecting the Borough since the preceding meeting of the Council. The Leader's speech on this item will be limited to three minutes.
36. The leader of the largest opposition group will be given the opportunity to ask a question (plus one supplementary question) on the Leader's Statement. All questions will be answered immediately by the Leader or the relevant Cabinet Member if the Leader refers any question to them, unless sufficient information to give an answer is not available. In these circumstances, a response will be provided in writing within five working days of the Council meeting at which the question was raised.

### **Questions from Members Questions**

#### **without Notice**

37. Questions may be asked about any business on the agenda when that business is under discussion.

#### **Questions on Notice**

38. Subject to paragraphs 39 and 40, any member may ask (as appropriate) the Leader or a Cabinet Member any question about a matter in respect of which the Council has powers or duties or which particularly affects the Borough.

39. A member may only ask a question under paragraph 38 if they have either:
- (a) given notice to the Director of Governance no later than 10am three clear working days before the meeting or
  - (b) the question relates to an urgent matter, they have the consent of the Chair to ask it and they have given notice containing the text of the question to be asked to the Director of Governance before the start of the meeting
40. Upon receipt of a Notice of Question under paragraph 39(a) or (b), the Chair on the advice of the Director of Governance may determine that the question shall not be asked if it:
- (a) does not relate to a matter in respect of which the Council has powers or duties;
  - (b) can, with the agreement of the proposed questioner, be more properly asked in another forum;
  - (c) is defamatory, frivolous, offensive or vexatious;
  - (d) is more than 250 words in length
  - (e) the member asking the question has asked for a written answer rather than an oral answer.
  - (f) is substantially the same as a question that has been asked by a member (whether at Council or in another forum) within the last three months, which has been adequately answered or actioned, and there has been no material change in circumstances since that time
41. If a question requires the disclosure of confidential or exempt information as defined in the Local Government Act 1972, it may be raised at a relevant point on the agenda (as determined by the Chair) following a resolution to exclude the public.

### **Replies and Supplementary Questions**

42. Questions will be asked and answered without discussion. The member responding will use their reasonable endeavours to address all of the matters raised in the question. The member responding may:
- (a) decline to answer any question
  - (b) reply directly
  - (c) reply by reference to a publication
  - (d) reply by written answer with a copy to such other members of the Council as the meeting agrees
  - (e) refer the question to an appropriate committee or to the Cabinet
43. The time allowed for a supplementary question shall be limited to 2 minutes. Any written supplementary question shall be limited to 250 words.
44. Following the answer to each question, the questioner may ask a supplementary question without notice, which must relate to the initial answer. The Chair may reject a supplementary question on any of the grounds set out in this section

of these rules. In particular, a reply will not be given (at the answering member's discretion) if the question is:

- (a) not related to the initial answer
- (b) unduly lengthy
- (c) inappropriate

### **Time for Questions**

- 45. The period of time allocated to members to ask questions under this section (including any permitted supplementary questions) will be determined by the Chair.
- 46. If there are more than six questions that qualify to be asked, then the Chair will select questions at random, on a politically alternate basis.
- 47. A written response to any questions that are not answered at the meeting will be sent to the questioner and published on the Council's website within ten days of the meeting (where practical).

### **Urgent Business**

- 48. Any item of urgent Non-Executive business that has to be decided before the next Council meeting may be determined by the Chief Executive in accordance with this part.
- 49. The Chief Executive may take any necessary action after consulting the relevant Chair, the Leader and Opposition spokespersons (or, where unavailable, their deputies). The relevant Cabinet member shall also be advised and consulted, where practical.
- 50. The Chief Executive is authorised to take any action necessary during any gaps in governance that arise, such as the period during a year of elections to the Council between the day four days after the date of the elections and the date of Annual Council.
- 51. A report of any action taken under this part shall be made available by electronic means to all members.

### **Public Speaking and Questions**

- 52. Members of the public may speak or ask a question at Council, Cabinet and committee meetings open to the public on any subject that is relevant to matters on the agenda.
- 53. A separate procedure is defined for public speaking at Planning Committee (see Part 3 Section 3).
- 54. The Chair will retain sole discretion as to the management of public speaking and questions, but normally a total period of 15 minutes will be permitted with speakers being allowed to speak for up to five minutes each.

55. Questions will be asked and answered without debate.
56. In responding to questions, members may answer directly, decline to answer, agree to answer at or by a later (specified) date (whether or not in writing), or refer the question to a more appropriate forum, member or officer.
57. Questions will not be answered if they:
  - (a) are about a matter that the Council is not responsible for or does not affect the Borough
  - (b) are defamatory, frivolous, offensive or vexatious
  - (c) require the disclosure of Exempt Information
  - (d) make or relate to allegations against, or compromise comments about the conduct of individual members or officers

### **Motions**

58. Motions may be moved by any member but they shall not be discussed unless proposed and seconded.
59. Unless Notice of a Motion has already been given, the Chair may require Motions to be provided in writing before they are further discussed or put to the meeting.

### **Motions without Notice**

60. The following Motions may be moved without notice:
  - (a) to appoint a Chair and/or Deputy Chair of the meeting
  - (b) in relation to the accuracy of the minutes
  - (c) to change the order of business on the agenda
  - (d) to give consent where the consent of the Council is required by these Procedure Rules
  - (e) any Motion relating to any item currently under discussion
  - (f) to refer the matter to an appropriate body, individual or subsequent meeting
  - (g) to withdraw a Motion
  - (h) to amend a Motion
  - (i) to proceed to the next business
  - (j) to put the question
  - (k) to adjourn the debate



- (l) to adjourn the meeting
- (m) to continue the meeting beyond three hours
- (n) to extend the time allowed for speeches
- (o) to suspend a particular Procedure Rule(s)
- (p) to exclude the press and public
- (q) that a member who misconducts themselves should not be heard further
- (r) that a member should leave the meeting

### **Motions Which May Be Moved During Debate**

61. Only Motions listed at paragraph 60 (d) to (r) may be moved whilst another Motion is already under debate.

### **Motions on Notice**

62. A Motion on Notice is not a decision-making mechanism but can enable, if passed, a statement of intent or a clear indication of the policy preference of Council. Motions are a way that members can introduce to the Council chamber issues which they regard of importance to the Borough and seek to persuade Full Council to debate the issue. Any decision that may flow from the Motion (such as committing resources or policy changes or reversal) would need to go through the appropriate Council decision-making processes.
63. Any member may place a Motion relating to a matter that the Council is responsible for, or which affects the Borough, on a Full Council meeting agenda.
64. Notice of every Motion (in respect of which notice is required) shall be given to the Director of Governance no more than twenty and no fewer than seven clear working days prior to the meeting at which the Motion is intended to be heard.
65. If Notice is given of any Motion which, in the opinion of the Chair (and on the advice of the Director of Governance) is deemed to be inappropriate or illegal, the Chair may decline to include it on the agenda. If a Motion is declined, the member who gave Notice will be informed why.
66. The order in which Motions shall be placed on meeting agendas will be determined by reference to any other business required to be transacted and in accordance with the order in which Notices of Motion are received.
67. The Chair may alter the order in which Motions are placed on agendas where it is considered that there is good reason to do so (whether or not upon the request of the prospective Mover).
68. At the appropriate point in the relevant meeting, the Chair shall offer the Mover up to two minutes to explain why they wish the motion to be debated at Council.

Once an indication is given, the Chair will invite a Secunder for the Motion. The right of any Secunder to make a speech shall depend on how the Council decides to deal with the Motion.

69. Following the introduction and seconding of any Motion under paragraph 64, the Council will vote on whether or not to debate the motion for up to 15 minutes. If not debated the Motion will automatically be referred to the relevant executive decision maker or appropriate committee.
70. If a Motion is debated, then the rules relating members' speeches below shall apply with the first entitlement to speak resting with the Mover.
71. If the Motion is referred to the Cabinet or a committee, then the Mover and Secunder shall be given the right to speak at the forum to which the Motion is referred.
72. If a Motion relates to a matter that requires a decision of the Cabinet, then the Council must refer the Motion to the Cabinet, either before or after any debate at Council.
73. A Motion requiring notice which has not been duly given in accordance with this section may nevertheless be dealt with at the meeting if the Chair is of the opinion that there are special circumstances justifying its consideration as a matter of urgency. The Chair may be asked to provide reasons for their decision.

#### **Repeat Motions and Rescinding Resolutions**

74. Subject to paragraph 75, no Motion may be moved which would have the effect of rescinding any resolution passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.
75. A Motion of the type prohibited under paragraph 74 may be moved if:
  - (a) brought upon a minuted recommendation of the Cabinet or a committee; or
  - (b) Notice of the Motion is signed by at least 24 members has been given and accepted under paragraphs 68 and 69.

#### **Amendments and Alterations to Motions**

76. An amendment to a motion must:
  - (a) be relevant to and intelligible with the motion;
  - (b) add and/or delete a word or words;
  - (c) not introduce a new topic;
  - (d) not negate, contradict or overturn the motion;
  - (e) be worded so that, if it is agreed, it can be passed as a valid resolution;

- (f) not be, in the opinion of the Director of Governance, defamatory, frivolous, offensive or otherwise out of order.
77. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.
78. If an amendment is carried, the Motion as amended shall take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.
79. After an amendment had been carried, the Chair will read out the amended Motion before accepting any further amendments or, if there is none, putting it to the vote.
80. If an amendment is lost, another amendment may be moved on the original Motion.
81. Not more than one amendment may be made to a Motion by any one councillor.
82. Amendments to the Budget or Policy Framework at Budget Council meetings must be cleared by the Section 151 Officer before the meeting.
83. If notice of an amendment to a Motion on the agenda has been received prior to the meeting, the Chair will ask the mover of the original Motion to indicate if they agree to accept the amendment. If so, the amendment becomes part of the substantive Motion without debate.
84. If an amendment is moved and seconded during debate, the Chair will ask the mover and seconder of the original Motion if they are content to accept the amendment. If so, the amendment becomes part of the substantive motion without debate.
85. A member may alter a Motion of which they have given notice with the consent of meeting, or in the case of a Motion proposed and seconded, with the consent of the seconder and the meeting. In either case the meeting's consent shall be signified without discussion.
86. Any alteration proposed must be of a type permitted to be moved as an amendment.

#### **Withdrawal of Motions and Notices of Motion**

87. A member may withdraw their Notice of Motion at any time before it is proposed.
88. A member may withdraw a Motion after it has been proposed with the consent of both the meeting and any Secunder. The meeting's consent will be signified

without discussion. No member may speak on the Motion after the Mover has asked permission to withdraw it unless permission is refused.

### **Closure of Motions**

89. At the conclusion of a member's speech, another member may move (without comment) any of the Motions set out in paragraph 60 (i) to (l) inclusive.
90. Upon the seconding of a Motion to proceed to the next business, the Chair shall (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.
91. Upon the seconding of a Motion to put the question, the Chair shall (unless of the opinion that the matter has not been sufficiently discussed) put the Motion to put the question to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.
92. Upon the seconding of a Motion to adjourn the debate or meeting, the Chair shall (unless of the opinion that the matter has not been sufficiently discussed) put the adjournment Motion to the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

### **State of the Borough Topical Debates**

93. Members wishing to initiate a State of the Borough Topical Debate at Council are required to submit to the Director of Governance suggested topics for debate no fewer than 20 clear working days prior to the Council meeting at which the debate is intended to be held.
94. A topical debate is not a standing item for every meeting of the Council and may be included on the agenda as and when appropriate, with reference to the content of the agenda, to be agreed by the Chair and the Chief Executive.

### **Members' Speeches**

#### **Content and Length of Speeches**

95. Members will confine speeches to the question under discussion, a personal explanation or a point of order. Unless otherwise provided in these Procedure Rules, no speech will exceed five minutes, without the consent of the meeting. The five minute time limit will exclude any time lost as a result of other members rising on a point of order or personal explanation.

#### **Only One Member to Stand at a Time**

96. Where able, when speaking at a meeting, a member shall stand (or such other method as is agreed by the Chair) to address the Chair. Whilst a member is speaking the other members will remain seated, unless rising on a point of order or in personal explanation.

97. At all other meetings, whilst a member is speaking the other members will remain silent, unless intervening on a point of order or personal explanation.

### **Order of Speeches**

98. The Mover of a Motion shall speak first, followed by the Seconder. When seconding a Motion, a member may advise the Chair that they reserve their right to speak until later in the debate.
99. Members shall, where able, indicate their intention to speak during a debate by raising their hand.
100. If two or more members indicate their intention to speak, the Chair shall determine the order of speeches.

### **When a member May Speak Again**

101. A member who has spoken on any Motion shall not speak again whilst it is the subject of debate except:
- (a) to speak once on an amendment moved by another member
  - (b) to move a further amendment if the Motion has been amended since they last spoke
  - (c) if the member's first speech was on an amendment moved by another member, then they may speak on the main issue whether or not the amendment on which they previously spoke was carried
  - (d) in exercise of a right of reply
  - (e) on a point of order
  - (f) by way of personal explanation
  - (g) to move one of the Motions specified in paragraph 60

### **Right of Reply**

102. The mover of a Motion shall have a right to reply at the close of the debate on the Motion, immediately before it is put to the vote.
103. If an amendment is moved, the mover of the original Motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it.
104. The mover of the amendment shall have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate on the amendment.

### **Points of Order and Personal Explanations**

105. A member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.
106. After a member has raised a point of order or personal explanation, the Chair shall rule on its admissibility. The Chair's ruling shall be final and not open to discussion.
107. A point of order shall relate only to an alleged breach of a Procedure Rule or statutory provision and the member shall specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.
108. A personal explanation shall be confined to some material part of a former speech by the rising Member which appears to them to have been misunderstood in the current debate.

### **Disorderly Conduct and Disturbances**

109. The Chair may direct (or a member may move), in respect of any member considered to be misconducting themselves, that the member shall not be heard further.
110. The Chair may direct (or a member may move), either following a direction (or resolution) under paragraph 60, or directly in the case of gross misconduct, either:
  - (a) that the member in question leaves the meeting or
  - (b) that the meeting is adjourned
111. The Chair, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
112. The Chair may warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Chair may direct any person to be removed from the meeting.
113. In the event of a general disturbance in any part of the meeting room open to the public, the Chair may direct that part of the room to be cleared.

### **Voting**

#### **Method of Voting**

114. Unless otherwise provided elsewhere in this constitution, all matters will be decided by a simple majority of those members present and voting at the time the question is put.
115. Members must be in their designated seats for their vote to be counted.

116. Voting will be by a show of hands (or such other method as is agreed by the Chair), or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

### **Casting Vote**

117. Where there are equal votes cast for a Motion, the Chair may exercise a second or casting vote.

### **Recording Votes**

118. If eight members so request by rising in their places before the vote has begun to be taken (or such other method as is agreed by the Chair), the vote will be recorded to show whether and how each Member voted.
119. A member may require, after a vote is completed, that the minutes of the meeting record whether and how they voted.
120. A member may request, immediately after the item of business is voted upon, that a lost Motion be recorded in the minutes.
121. Immediately after a vote is taken on any item on the budget, council tax or housing revenue account, there must be recorded in the minutes of that meeting the names of the persons who cast a vote for or against the decision or who abstained from voting.

### **Officer Advice**

122. The Chair may request an appropriate officer to offer advice or draw the attention of the meeting to any relevant factors where a debate involves questions of a technical, legal, financial, operational or administrative nature.

### **Suspension of Procedure Rules**

123. With the exception of procedure rules relating to:
- (a) a member's right to request a record of how they voted and
  - (b) the confirmation of the minutes as an accurate record of the last meeting
- any of the Procedure Rules may be suspended for the duration of a meeting either:
- (i) in the case of their being more than one third of all members of the Council present, by a Motion without Notice or
  - (ii) in all other cases by a Motion on Notice

### **Interpretation of Procedure Rules**

124. The Chair (who may take advice from the Director of Governance) determines all matters relating to the interpretation or application of the Procedure Rules which arise during a meeting. The Chair's decision shall be final.
125. The Director of Governance determines all matters relating to the interpretation or application of the Procedure Rules which arise between meetings. The Director of Governance's decision shall be final.
126. Any requirement to make a notice or information available to anyone shall be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, on request, printed off at council offices to be given to personal callers in hard copy.
127. References in the Procedure Rules to an officer includes references to any duly authorised representative of that officer.
128. References in the Procedure Rules to members shall (unless the context otherwise requires) to be taken to mean references to members of the Council, Cabinet or committee in question.
129. References in the Procedure Rules to Motions includes (where the context so requires or admits) references to amendments to Motions.
130. References in the Procedure Rules to committees includes all committees, sub-committees, panels and boards constituted by the Council that exercise delegated powers, but excluding any committee, sub-committee, panel or board that operates solely in an advisory capacity.
131. Reference in the Procedure Rules to a day or days shall be taken to mean between the hours of 09:00 and 17:00 on any day that is not a Saturday, Sunday or public holiday.
132. References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events shall be taken to mean clear working days calculated by excluding the day upon which both of the specified events occur.

### **Notice Requirements**

133. All Notices given by members under the Procedure Rules will be treated as having been given to the recipient by any of the following means:
  - (a) post properly addressed to the recipient at their usual business address
  - (b) leaving it properly addressed for the recipient at their usual business address
  - (c) email sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the member's name
  - (d) submitting a form on the Council's website designated for this purpose



134. All notices given to members under the Procedure Rules shall be treated as having been given to the recipient by any of the following means:
- (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address that the member has notified to the Director of Governance for these purposes)
  - (b) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Director of Governance), either in addition to or substitution for the methods set out in paragraphs 133 (a) and (b)
  - (c) email sent to an email account registered with the Council in the member's name from an email account registered to the Council
135. All notices given under the Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.
136. If more than one signatory is required to give valid notice, any single notice given must bear all the signatures of all necessary signatories and be given in accordance with paragraph 133 (a) or (b). Alternatively, each of the required signatories may give individual notices in accordance with paragraph 133(c) above.
137. Notices shall be deemed to have been given:
- (a) in the case of 133(a) or 134(a), on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
  - (b) in the case of 133(b) or 134(b), on the day upon which the notice is left
  - (c) in the case of 133(c) on the day upon which receipt is acknowledged otherwise than by any automated process
  - (d) in the case of 134(c) on the day upon which notice is sent

### **Example Calculation of Time in Respect of Notice Periods**

138. The following example is provided to demonstrate the effect of paragraphs 133 and 134. In the following example, it is assumed that none of the weekdays referred to is a public holiday.
139. If a notice is required to be given five days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 134.
140. Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09:00 and 17:00 hours.

141. If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 134. The five week days in the ensuing week then rank as the required five clear days between giving the notice and day upon which the meeting is being held.

Fri	Sat	Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Sun	Mon
Notice Given	Not counted	Not counted	Clear Day 1	Clear Day 2	Clear Day 3	Clear Day 4	Clear Day 5	Not Counted	Not Counted	Meeting

## **PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES**

### **Section 2 - Cabinet Procedure Rules**

#### **Cabinet Meetings**

1. The Leader will approve and publish an annual calendar of Cabinet meetings. There will be a presumption against alterations to the calendar but the Leader may, in consultation with the Director of Governance, alter the time, date or location of any meeting or convene additional meetings, as necessary.
2. The Chief Executive, Director of Governance or Chief Finance Officer may include items on Cabinet agendas or require special meetings of the Cabinet to be held in pursuance of their statutory duties.

#### **Chair**

3. The Leader will chair meetings of the Cabinet or, in their absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Cabinet will appoint one of its members to preside.

#### **Quorum**

4. No business shall be transacted at a meeting where less than one half of all Cabinet members are present.
5. If a meeting becomes inquorate after it has commenced then it shall be adjourned. Remaining business will be considered at the next Cabinet meeting.

#### **Attendance at Meetings**

6. Cabinet Members attending the whole or part of a meeting must sign their name on the attendance sheet provided.
7. Council members on whose behalf the power under paragraph 22 has been exercised, may attend the relevant meeting and address the Cabinet at the appropriate point in the meeting.
8. The Cabinet may invite any person it considers appropriate to its meetings for the purpose of discussing matters of mutual interest or concern or to advise the Cabinet. Such persons may only be given access to Confidential or Exempt Information on terms approved by the Director of Governance.
9. The Chief Executive, Chief Financial Officer and the Director of Governance (and their nominees) are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the Director of Governance has been given reasonable notice that a meeting is to take place.

10. Notwithstanding their rights as a member of the public, members who are not Cabinet members ('visiting members') may attend any meeting of the Cabinet (even if considering Exempt Information) if required for the purposes of performing their duties as members. Advice should be taken where meetings will be considering information of a personal, sensitive or confidential nature.
11. Visiting members:
  - (a) may not vote on Cabinet business
  - (b) must notify the Chair at least two working days prior to the start of the meeting if they wish to speak on a particular item. If advance notice is not given, visiting members will only be allowed to speak at the Chair's discretion
  - (c) attending remotely at a meeting must notify the Director of Governance at least two working days prior to the start of the meeting if they wish to speak on a particular item. If advance notice is not given visiting members will only be allowed to speak at the Chair's discretion
  - (d) will, at the discretion of the Chair, be invited to speak at the beginning of the debate on any item notified under paragraph (b) and (c) and be invited to sum up at the end of a debate
  - (e) will not, other than as provided for in paragraph (d) above or by the Chair, be permitted to participate in any debate at the meeting

### **Decisions taken in public**

12. Cabinet decisions can be taken by the collective Cabinet (being the Cabinet, or any committee appointed by the Cabinet), individual Cabinet Members or by officers exercising delegated powers.
13. Collective Cabinet meetings are held in public unless the information to be discussed:
  - (a) cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure) and/or
  - (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information
14. If all (or part) of any Cabinet meeting is held in with the exclusion of the public, reasons for the need for such exclusion will be given by reference to any or all of the relevant circumstances referred to in paragraphs 13(a) and/or (b) above.
15. Collective Cabinet may choose to meet in private even if the circumstances set out in paragraphs 13(a) or (b) do not apply. This will only happen very rarely when it is considered necessary to efficiently conduct routine business, which does not involve taking or discussing any Key Decisions.
16. Decisions taken by individual Cabinet Members or officers do not have to be taken in public, but are subject to requirements to give notice of decisions, keep records and provide access to information as set out in the Access to Information Rules (see Part 4

Section 1).

### **Public Question Time/Open Session**

17. A total period of 15 minutes is allocated for members of the public to address the Cabinet on any matter relevant to items of business on that meeting's agenda.
18. Members of the public wishing to address the Cabinet are required to register their intention with the Director of Governance no less than two clear working days prior to the meeting via the officer contact details shown on the meeting agenda. Any questions which are not relevant to items on the agenda may be submitted in writing.

### **Information generated for Cabinet meetings and decisions**

19. Cabinet meetings will require the production and publication of the following written information ('Decision Information'):
  - (a) meeting agendas, setting out the business to be decided at a meeting;
  - (b) reports (including any appendices or supplementary information) containing all the information that the meeting needs to debate or decide a matter on the agenda;
  - (c) background documents, i.e. documents (that have not already been published) containing information that a report or a material part of a report is based on;
  - (d) approved minutes, containing a record of decisions or (where Exempt Information is discussed) a summary of proceedings and any decision reached.
20. With the exception of agendas, Cabinet decisions that are not taken in meetings will also ordinarily result in the production of Decision Information.
21. Proceedings of the Cabinet take place in accordance with the Access to Information Rules (see Part 4 Section 1).
22. All decisions will be taken in accordance with the Principles of Decision Making (see Part 2 Section 2).

### **Matters for Decision and Placing Items on the Agenda**

23. All matters for decision shall be included within the agenda. Urgent items may be considered at the Leader's discretion, subject to compliance with the rules relating to notice of decisions.
24. The Leader may (at their sole discretion) exercise the power under paragraph 23 at the request of any Council member.
25. Whilst the order of business at Cabinet meetings is a matter for the Leader to determine, there shall be an early item on every agenda requiring:
  - (a) Members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (see Part 4 Section 6) and withdraw from the meeting at the appropriate point during the meeting where they have an interest which

requires them to do so.

(b) The Cabinet to confirm the record of decisions taken at its last meeting.

26. In respect of Cabinet meetings, the following apply:

- (a) Agendas are determined by the Leader, in consultation with relevant Chief Officers;
- (b) Items will only be placed on the agenda if they have appeared on the Key Decisions Plan, unless the short notice or urgent decisions provisions apply in exceptional circumstances (see Part 2 Section 10);
- (c) There shall be an indication against each item on Cabinet agendas as to whether or not the item is classified as a Key Decision;
- (d) Any Cabinet Member may place an item on a meeting agenda by notice given to the Director of Governance no fewer than six clear working days prior to the date of the meeting;
- (e) The Cabinet must consider all matters referred to it by a Scrutiny committee or under the Budget and Policy Framework setting procedure (see Part 2 Section 5);
- (f) The Chief Executive, Director of Governance and Chief Finance Officer may each include items on Cabinet agendas.

### **Conduct of Debate**

27. All matters relating to motions and speeches shall be determined by the Chair.

### **Voting**

- 28. Unless otherwise provided elsewhere in this constitution, all matters will be decided by a simple majority of those Cabinet members present and voting at the time the question is put.
- 29. Members must be in their designated seats for their vote to be counted.
- 30. Voting will be by a show of hands (or such other method as is agreed by the Chair), or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.
- 31. Where there are equal votes cast, the Chair may exercise a second or casting vote.
- 32. A member may require, after a vote is completed, that the minutes of the meeting record whether and how they voted.
- 33. If one third of the members present so request, the vote will be recorded to show whether and how each member voted.

34. A member may, immediately after the item of business is voted upon, request that a lost motion be recorded in the minutes.

#### **Disorderly Conduct and Disturbances**

35. The Chair may direct (or a member may move), in respect of any member considered to be misconducting themselves, that the member shall not be heard further.
36. The Chair may direct (or a member may move), either following a direction (or resolution) under paragraph 35, or directly in the case of gross misconduct, either:
  - (a) that the member in question leaves the meeting or
  - (b) that the meeting is adjourned
37. The Chair, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
38. The Chair shall be at liberty to warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Chair shall be at liberty to direct any person to be removed from the meeting.
39. In the event of a general disturbance in any part of the meeting room open to the public, the Chair shall be at liberty to direct that part of the room to be cleared.

#### **Officer Advice**

40. The Chair may request an appropriate officer to offer advice or draw the attention of the Cabinet to any relevant factors where a debate involves questions of a technical legal, financial, operational or administrative nature.

#### **Interpretation of Procedure Rules**

41. The Chair (who may take advice from the Director of Governance) determines all matters relating to the interpretation or application of the Procedure Rules which arise during a meeting. The Chair's decision shall be final.
42. The Director of Governance determines all matters relating to the interpretation or application of the Procedure Rules which arise between meetings. The Director of Governance's decision shall be final.
43. Any requirement to make a notice or information available to anyone shall be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, on request, printed off at council offices to be given to personal callers in hard copy.
44. References in the Procedure Rules to an officer includes references to any duly authorised representative of that officer.

45. References in the Procedure Rules to members shall (unless the context otherwise requires) to be taken to mean references to members of the Council, Cabinet or committee in question.
46. References in the Procedure Rules to Motions includes (where the context so requires or admits) references to amendments to Motions.
47. References in the Procedure Rules to committees includes all committees, sub-committees, panels and boards constituted by the Council that exercise delegated powers, but excluding any committee, sub-committee, panel or board that operates solely in an advisory capacity.
48. Reference in the Procedure Rules to a day or days shall be taken to mean between the hours of 09:00 and 17:00 on any day that is not a Saturday, Sunday or public holiday.
49. References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events shall be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

#### **Notice Requirements**

50. All Notices given by members under the Procedure Rules will be treated as having been given to the recipient by any of the following means:
  - (a) post properly addressed to the recipient at their usual business address
  - (b) leaving it properly addressed for the recipient at their usual business address
  - (c) email sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the member's name
  - (d) submitting a form on the Council's website designated for this purpose
51. All notices given to members under the Procedure Rules shall be treated as having been given to the recipient by any of the following means:
  - (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address that the member has notified to the Director of Governance for these purposes)
  - (b) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Director of Governance), either in addition to or substitution for the methods set out in paragraphs 50(a) and (b)
  - (c) email sent to an email account registered with the Council in the member's name from an email account registered to the Council
52. All notices given under the Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate



the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.

53. If more than one signatory is required to give valid notice, any single notice given must bear all the signatures of all necessary signatories and be given in accordance with paragraph 50(a) or (b). Alternatively, each of the required signatories may give individual notices in accordance with paragraph 48(c) or (d) above.
54. Notices shall be deemed to have been given:
- (a) in the case of 50(a) or 51(a), on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
  - (b) in the case of 50(b) or 51(b), on the day upon which the notice is left
  - (c) in the case of 50(c) to (d), on the day upon which receipt is acknowledged otherwise than by any automated process
  - (d) in the case of 51(c), on the day upon which notice is sent

#### **Example Calculation of Time in Respect of Notice Periods**

55. The following example is provided to demonstrate the effect of paragraphs 48 and 49. In the following example, it is assumed that none of the weekdays referred to is a public holiday.
56. If a notice is required to be given five days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 48.
57. Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09:00 and 17:00 hours.
58. If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 49. The five week days in the ensuing week then rank as the required five clear days between giving the notice and day upon which the meeting is being held.

Fri	Sat	Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Sun	Mon
Notice Given	Not Counted	Not Counted	Clear Day 1	Clear Day 2	Clear Day 3	Clear Day 4	Clear Day 5	Not Counted	Not Counted	Meeting

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## **PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES**

### **Section 3 - Committee Procedure Rules**

#### **Constituting and Appointing to Committees**

1. At each Annual Council, the Council will constitute any committees that it considers appropriate to deal with matters which are not reserved to the Council, allocated to the Cabinet or delegated to officers.
2. The Council will set out the terms of reference for each committee and appoint members to its committees in accordance with any rules that apply to political proportionality or composition of the committee in question.
3. The Council will also appoint a Chair and Deputy Chair to each of its committees from the members of the committee in question. If a Chair or Deputy Chair has not been appointed by Council by the time the committee first meets, then the committee will appoint a Chair and Deputy Chair from its membership.

#### **Opposition Spokespersons**

4. Political groups may appoint one of their members from each committee to act as the group's spokesperson for that committee.

#### **Meeting Dates**

5. Council will approve and publish a calendar of meetings each year.
6. There will be a presumption against alterations to the calendar but the relevant Chair may, in consultation with the spokespersons and Director of Governance, alter the time, date or location of any meeting, or convene a special meeting if necessary.

#### **Reviewing Arrangements**

7. These arrangements (and the term of office of committee members) are reviewed at each Annual Council, but the Council may review or alter any of its committee arrangements at any Council meeting.

#### **Conduct of Meetings**

##### **Chair and Deputy Chair**

8. The Chair of a committee will preside over committee meetings.
9. If the Chair is absent then the Deputy Chair will preside.

10. If the Chair and the Deputy Chair are absent, then the committee will appoint one of its members to preside.
11. Persons presiding over meetings in the place of the Chair have the same powers and duties as the Chair.

#### **Respect for the Chair**

12. Whenever the Chair rises during a debate the meeting will be silent.

#### **Quorum**

13. Where the total membership of a committee is 12 Members or fewer, the quorum will be three members.
14. Where the total membership of a committee is more than 12 Members, the quorum will be one quarter of the total membership.
15. No business will be transacted at a meeting that is inquorate.
16. If a meeting becomes inquorate after it has commenced then it will be adjourned. Remaining business will be considered at the next meeting.

#### **Public Question Time/Open Session**

17. A total period of 15 minutes is allocated for members of the public to address a Committee on any matter relevant to items of business on that meeting's agenda.
18. Members of the public wishing to address a Committee are required to register their intention with the Director of Governance no less than two clear working days prior to the meeting via the officer contact details shown on the meeting agenda. Any questions which are not relevant to items on the agenda may be submitted in writing.

#### **Matters for Decision**

19. All matters for decision by the committee will be included within the agenda.
20. There will be an early item on every agenda requiring members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct and withdraw from the meeting at the appropriate point during the meeting where they have an interest which requires them to do so.
21. The Chair may agree that an item of business which is urgent will be dealt with at a meeting even if it is not on the agenda for that meeting. The Chair will give the reason for the urgency.
22. Business will be dealt with in the order in which it is set out in the agenda unless the Chair decides otherwise.

#### **Minutes Records and Disclosure of Information Minutes**

23. At each ordinary meeting, the Chair will move that the minutes of the last meeting be confirmed as an accurate record.

24. Only matters relating to the accuracy of the minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Chair will sign the minutes
25. Signed minutes of each committee meeting will be submitted to the next meeting of that committee's parent body.
26. Any question about the accuracy of any minute of a body must be considered and determined by that body at its next meeting.

## **Motions**

### **Motions Without Notice**

27. Only Motions relating to business on the agenda of the committee may be proposed, however committee members may propose Motions relating to the inclusion of business (that is within the remit of the committee) on future meeting agendas.
28. A committee member may propose Motions without notice but they will not be discussed unless seconded.
29. The Chair may require Motions to be handed up in writing before they are further discussed or put to the meeting.

### **Motions During Debate**

30. The following Motions may be moved whether or not another Motion is already under debate:
  - (a) to give the consent of the committee where the consent of the committee is required by the Procedure Rules
  - (b) any Motion relating to any item currently under discussion
  - (c) to refer the matter to an appropriate body, individual or subsequent committee meeting
  - (d) to withdraw a Motion
  - (e) to amend a Motion
  - (f) to proceed to the next business
  - (g) to put the question
  - (h) to adjourn the debate
  - (i) to adjourn the meeting
  - (j) to extend the time allowed for speeches
  - (k) to suspend a particular Procedure Rule(s)
  - (l) to exclude the press and public
  - (m) that a member who misconducts themselves should not be heard further

- (n) that a member should leave the meeting

### **Motions and Rescinding Decisions**

31. Unless brought upon recommendation in a report before the committee, no Motion may be moved which would have the effect of rescinding any decision of the committee passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.

### **Amendments and Alterations to Motions**

32. An amendment to a motion must:
- (a) be relevant to and intelligible with the motion;
  - (b) add and/or delete a word or words;
  - (c) not introduce a new topic;
  - (d) not negate the motion, contradict or overturn the motion;
  - (e) be worded so that, if it is agreed, it can be passed as a valid resolution;
  - (f) not be, in the opinion of the Director of Governance, defamatory, frivolous, offensive or otherwise out of order.
33. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.
34. If an amendment is carried, the Motion as amended shall take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.
35. After an amendment had been carried, the Chair will read out the amended Motion before accepting any further amendments or, if there is none, putting it to the vote.
36. If an amendment is lost, another amendment may be moved on the original Motion.
37. Not more than one amendment may be made to a Motion by any one councillor.
38. A member may alter a Motion of which they have given notice with the consent of meeting, or in the case of a Motion proposed and seconded, with the consent of the seconder and the meeting. In either case the meeting's consent shall be signified without discussion.
39. Any alteration proposed must of the type permitted to be moved as an amendment.

### **Withdrawal of Motions**

40. A member may withdraw a Motion which they have proposed.

### **Closure of Motions**

41. At the conclusion of a member's speech, another member may move (without comment) any of the Motions set out in paragraph 30(f) to (i).
42. Upon the seconding of a Motion to proceed to next business, the Chair will (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.
43. Upon the seconding of a Motion to put the question, the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the Motion to put the question to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.
44. Upon the seconding of a Motion to adjourn the debate/meeting, the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the adjournment Motion to the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

### **Members' Speeches**

#### **Content and Length of Speeches**

45. Members will confine speeches to the question under discussion, a personal explanation or a point of order. No speech may exceed five minutes without the consent of the committee. The five minute time limit will exclude any time lost as a result of other members rising on a point of order or personal explanation.

#### **Only One Member to Speak at a Time**

46. Whilst a member is speaking, other members will remain silent, unless intervening on a point of order or in personal explanation.

#### **Order of Speeches**

47. The Mover of a Motion will speak first, followed by the Secunder. When seconding a Motion, a member may advise the Chair that they reserve their right to speak until later in the debate.
48. If two or more members indicate their intention to speak, the Chair will determine the order of speeches.

#### **Right of Reply**

49. The Mover of a Motion will have a right to reply at the close of the debate on the Motion, immediately before it is put to the vote.

50. If an amendment is moved, the Mover of the original Motion will have a right of reply at the close of the debate on the amendment.
51. The mover of the amendment will have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate on the amendment.

### **Points of Order and Personal Explanations**

52. A member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.
53. A point of order will relate only to an alleged breach of a Procedure Rule or statutory provision and the member will specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.
54. A personal explanation will be confined to some material part of a former speech by the intervening Member which appears to them to have been misunderstood in the current debate.
55. The ruling of the Chair on a point of order or on the admissibility of a personal explanation will be final and not open to discussion.

### **Voting**

#### **Method of Voting**

56. All matters will be decided by a simple majority of those members present and voting at the time the question is put.
57. Members must be in their designated seats or present via a remote meeting for their vote to be counted.
58. Voting will be by a show of hands (or such other method as is agreed by the Chair), or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

#### **Casting Vote**

59. Where there are equal votes cast for a Motion, the Chair may exercise a second or casting vote.

#### **Recording Votes**

60. A member may require, after a vote is completed, that the minutes of the meeting record whether and how they voted.
61. If one third of the members present so request, the vote will be recorded to show whether and how each member voted.
62. A member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the minutes.



## **Rights of Other Council Members**

### **Attendance at Meetings**

63. Notwithstanding their rights as a member of the public, members who are not committee members ('visiting members') may attend any meeting of a committee (even if considering Exempt Information) if required for the purposes of performing their duties as members. Advice should be taken where meetings will be considering information of a personal, sensitive or confidential nature.
64. Visiting members:
- (a) may not vote on committee business
  - (b) must notify the Chair at least 15 minutes prior to the start of the meeting if they wish to speak on a particular item. If advance notice is not given, visiting members will only be allowed to speak at the Chair's discretion
  - (c) will, at the discretion of the Chair, be invited to speak at the beginning of the debate on any item notified under paragraph (b) and be invited to sum up at the end of a debate
  - (d) will not, other than as provided for in paragraph (c) or by the Chair, be permitted to participate in any debate at the meeting

### **Placing Items on Agendas**

65. Any member may give no fewer than 10 clear working days' notice to the Director of Governance requesting that an item of business be included on the agenda of a committee meeting.
66. Notice may be given to the Director of Governance by a visiting member at a committee meeting in respect of an item of business that the visiting member would like to be included on the agenda of the next meeting of that committee.
67. Any notice given under paragraphs 65 and 66 will clearly state the nature of the business in question.
68. A member may not give notice under this part requesting the inclusion of more than one item of business on the same meeting agenda.

### **Records of Attendance**

69. Members attending the whole or part of a meeting in person must sign their name on the attendance sheet provided.

### **Urgent Business**

70. Any item of urgent business which has to be decided before the next ordinary meeting of a committee, or before a special meeting can be convened, may be determined by the Chief Executive.

71. The Chief Executive may take any necessary action after consulting the relevant Chair and, where practical, the relevant spokespersons.
72. A report of any action taken will be made available by electronic means to all committee members.

### **Public Speaking at Planning Committees**

#### **Entitlement to Speak**

73. Members of the public, elected representatives of town and parish councils and applicants for planning permission (or their agents) may speak at the Planning Committee in support of or in opposition to any application being determined (whether or not following deferral) by the committee.
74. Members of the public may only speak if they have submitted representations on the application in question in writing to the Head of Planning ([planning@cheshirewestandchester.gov.uk](mailto:planning@cheshirewestandchester.gov.uk)) no fewer than 10 clear working days before the date of the committee meeting.

#### **Registering to Speak**

75. Those entitled to speak under paragraph 73 will not be permitted to speak unless they have given notice of their desire to do so to the Development Management Service:
  - (a) in the case of attendance in person before 12 noon on the day before the committee meeting or
  - (b) in the case of attending remotely, two days before the start of the meeting

#### **Procedure at Committee**

76. The Chair retains full discretion to manage public speaking as they see fit, but ordinarily the following rules will apply.
77. The Chair will invite one person only from each of the following categories of speaker to address the committee in the following order:
  - (a) Objector
  - (b) Supporter
  - (c) Town or Parish Council representative
  - (d) Applicant

#### **Content and Length of Speeches**

78. Each speaker will be permitted to speak for a maximum of three minutes.
79. Speakers must confine their speeches solely to the material planning considerations and merits of the application in question. More information on

what ranks as a material planning consideration and what does not is available on the Council's website or from the Development Management Service.

80. Speakers are not permitted to ask questions.

### **Circulating Additional Materials**

81. Other than materials which have been registered on the planning application file during the statutory consultation period (or any extension of the same), speakers will not be permitted to circulate, display or refer to any plans, photographs or other materials at the committee meeting.

### **Planning Committee Members' Call-In Procedure**

#### **Notice of Planning Applications**

82. All members will receive email notification of planning applications<sup>1</sup> affecting land in their ward ('Application Notification'). Members have a period of 15 clear working days in which to request that an application be called in to Planning Committee.

#### **Requesting a Committee Call-in**

83. If, upon receipt of an Application Notification, a member (the Requesting Member) has any queries or concerns about the planning merits of an application, or requires more time to consider their position in respect of the same, they shall at the earliest opportunity but in any event within 15 clear working days of the date of Application Notification, send a written request ('a Call-in Request Notice') to the Head of Planning ([planning@cheshirewestandchester.gov.uk](mailto:planning@cheshirewestandchester.gov.uk)) requesting that the application be referred to Planning Committee and that the use of delegated powers is removed. The request must specify a reason why, having regard to the planning merits of the proposal, the application should be determined by the Planning Committee.
84. Upon receipt of a Call-In Request Notice, the Head of Planning will consider the planning merits of the request and, if they consider the request should be declined, shall refer the matter to the Planning Committee Chair along with a summary of the request.
85. Upon receipt of the referral from the Head of Planning, the Planning Committee Chair shall consider the request and, having due regard to the advice of the Head of Planning and any advice from the Director of Governance, determine the Call-in Request in light of:

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<sup>1</sup> "Planning Applications" in the Planning Committee Members' Call-in Procedure embraces all applications for planning permission for development of land and buildings, except for applications for permission in principle or technical details consent, applications to vary or amend existing permissions or obligations, applications to determine reserved matters, and applications for prior approval.

- (a) the matters referred to in paragraph 83 and
  - (b) the extent to which the planning application and/or Call-in Request raise planning matters of wider public interest such that the matter should properly be debated and decided at Planning Committee
86. In the event that the Call-in Request is not declined, the matter shall be referred for determination to the Planning Committee. The committee report will record that the matter has been called-in, by whom and the planning reasons for the same. The Requesting Member shall also attend the Planning Committee meeting to explain why they have called the application in. If the Requesting Member is unable to attend the committee meeting, they shall arrange for another member to address the committee in their absence, or provide a written statement to be read to the committee as an alternative.
87. In the event that the Call-in Request is declined, the Chair's decision will be notified to the Requesting Member and case officer and the application may be determined under delegated powers. The Chair's determination on Call-in Requests shall be final.
88. In the event that a Requesting Member whose Call-in Request has been not been declined decides that they no longer require the matter to be determined by the Planning Committee, they may give written notice to the case officer before the date of the meeting at which the application is due to be determined.
89. In the event that:
- (a) no Call-In Request Notice is received within 15 clear working days of the date of the Application Notification; or
  - (b) a Call-in Request is declined; or
  - (c) a Requesting Member whose Call-in Request has been granted decides that they no longer require the matter to be determined by the Planning Committee
- the case officer shall (subject to the application of any of the criteria in the Planning Committee terms of reference) proceed to determine the application under delegated powers.

### **Miscellaneous Matters**

#### **Disorderly Conduct and Disturbances**

90. The Chair may direct (or a member may move), in respect of any member considered to be misconducting themselves, that the member will not be heard further.
91. The Chair may direct (or a member may move), either following a direction (or resolution) under paragraph 28, or directly in the case of gross misconduct, either:

- (a) that the member in question leaves the meeting or
  - (b) that the meeting is adjourned
92. The Chair, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
93. The Chair may warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Chair may direct any person to be removed from the meeting.
94. In the event of a general disturbance in any part of the meeting room open to the public, the Chair may direct that part of the room to be cleared.

#### **Officer Advice**

95. The Chair may request an appropriate officer to offer advice or draw the attention of the committee to any relevant factors where a debate involves questions of a technical, legal, financial, operational or administrative nature.

#### **Interpretation of Procedure Rules**

96. The Chair (who may take advice from the Director of Governance) determines all matters relating to the interpretation or application of the Procedure Rules which arise during a meeting. The Chair's decision shall be final.
97. The Director of Governance determines all matters relating to the interpretation or application of the Procedure Rules which arise between meetings. The Director of Governance's decision shall be final.
98. Any requirement to make a notice or information available to anyone shall be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, on request, printed off at council offices to be given to personal callers in hard copy.
99. References in the Procedure Rules to an officer includes references to any duly authorised representative of that officer.
100. References in the Procedure Rules to members shall (unless the context otherwise requires) to be taken to mean references to members of the Council, Cabinet or committee in question.
101. References in the Procedure Rules to Motions includes (where the context so requires or admits) references to amendments to Motions.
102. References in the Procedure Rules to committees includes all committees, sub-committees, panels and boards constituted by the Council that exercise delegated powers, but excluding any committee, sub-committee, panel or board that operates solely in an advisory capacity.

103. Reference in the Procedure Rules to a day or days shall be taken to mean between the hours of 09:00 and 17:00 on any day that is not a Saturday, Sunday or public holiday.
104. References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events shall be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

### **Notice Requirements**

105. All Notices given by members under the Procedure Rules will be treated as having been given to the recipient by any of the following means:
- (a) post properly addressed to the recipient at their usual business address
  - (b) leaving it properly addressed for the recipient at their usual business address
  - (c) email sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the member's name
  - (d) submitting a form on the Council's website designated for this purpose
106. All notices given to members under the Procedure Rules shall be treated as having been given to the recipient by any of the following means:
- (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address that the member has notified to the Director of Governance for these purposes)
  - (b) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Director of Governance), either in addition to or substitution for the methods set out in paragraphs 105(a) and (b)
  - (c) email sent to an email account registered with the Council in the member's name from an email account registered to the Council
107. All notices given under the Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.
108. If more than one signatory is required to give valid notice, any single notice given must bear all the signatures of all necessary signatories and be given in accordance with paragraph 105(a) or (b). Alternatively, each of the required signatories may give individual notices in accordance with paragraph 105(c) or (d) above.
109. Notices shall be deemed to have been given:

- (a) in the case of 105(a) or 106(a), on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
- (b) in the case of 105(b) or 106(b), on the day upon which the notice is left
- (c) in the case of 105(c) to (e), on the day upon which receipt is acknowledged otherwise than by any automated process
- (d) in the case of 106(c), on the day upon which notice is sent

### Example Calculation of Time in Respect of Notice Periods

110. The following example is provided to demonstrate the effect of paragraphs 103 and 104. In the following example, it is assumed that none of the weekdays referred to is a public holiday.
111. If a notice is required to be given five days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 1054.
112. Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09:00 and 17:00 hours.
113. If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 1054. The five week days in the ensuing week then rank as the required five clear days between giving the notice and day upon which the meeting is being held.

Fri	Sat	Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Sun	Mon
Notice Given	Not Counted	Not Counted	Clear Day 1	Clear Day 2	Clear Day 3	Clear Day 4	Clear Day 5	Not Counted	Not Counted	Meeting

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## **PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES**

### **Section 4 - Scrutiny Procedure Rules**

#### **Chairs and Deputy Chairs**

1. The Chair will preside over meetings.
2. If the Chair is absent then the Deputy Chair will preside.
3. If the Chair and the Deputy Chair are absent, then the committee will appoint one of its members to preside.
4. Persons presiding over meetings in the place of the Chair will have the same powers and duties as the Chair.
5. Whenever the Chair rises during a debate, the meeting will be silent.

#### **Quorum**

6. No business will be transacted at a meeting of a Scrutiny committee where there are fewer than five members present, or three for the Health Scrutiny Committee.
7. If a meeting becomes inquorate after it has commenced, then it will be adjourned. Remaining business will be considered at the next meeting.

#### **Public Question Time/Open Session**

8. A total period of 15 minutes is allocated for members of the public to address a Scrutiny Committee on any matter relevant to the items of business on that meeting's agenda.
9. Members of the public wishing to address a Scrutiny Committee are required to register their intention with the Director of Governance no less than two clear working days prior to the meeting via the officer contact details shown on the meeting agenda. Any questions which are not relevant to items on the agenda may be submitted in writing.

#### **Matters for Decision**

10. All matters for decision will be included within the agenda.
11. The Chair may agree that an item of business which is urgent will be dealt with at a meeting even if it is not on the agenda for that meeting. The Chair will give the reason for the urgency.
12. Business will be dealt with in the order in which it is set out in the agenda unless the Chair decides otherwise.
13. There will be an early item on every agenda requiring members to declare any

relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (see Section 4 Part 6) and withdraw from the meeting at the appropriate point where they have an interest which requires them to do so.

### **Minutes Records and Disclosure of Information Minutes**

14. At each ordinary meeting the Chair will move that the minutes of the last meeting be confirmed as an accurate record.
15. Only matters relating to the accuracy of the minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Chair will sign the minutes
16. Signed minutes of each committee meeting will be submitted to the next meeting of that committee's parent body.
17. Any question about the accuracy of any minute of a body must be considered and determined by that body at its next meeting.

### **Placing Items on the Agenda**

18. Any member of the Council (having due regard to any relevant guidance) is entitled to have a matter relevant to the remit of the Scrutiny Committee placed on its next available meeting agenda by serving no fewer than 10 clear working days' notice on the Director of Governance (see Councillor Call for Action in Part 2 Section 11).
19. A member may not give notice under this part requesting the inclusion of more than one item of business on the same meeting agenda.
20. Council or the Cabinet may require a Scrutiny Committee to consider a matter and report.
21. A matter referred to it under paragraph 18, 19 or 20 will be placed on an agenda of the Scrutiny Committee as soon as reasonably practicable.

### **Public Access to Meetings**

22. Committee meetings will be ordinarily be held in public unless the information to be discussed:
  - (a) cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or
  - (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information
23. If all (or, upon decision, part) of any committee meeting is held in private with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference to any or all of the relevant circumstances referred to

in paragraph 20(a) and/or (b).

### **Rules of Debate**

24. The following rules of debate will apply but the Chair may apply a more informal style of debate to suit any particular meeting. The Chair will ultimately determine all matters relating to the conduct of the debate when any informal style of debate is applied.

### **Motions Without Notice**

25. Only Motions relating to business on the agenda of the committee may be proposed.
26. A committee member may propose Motions without notice but they will not be discussed unless seconded.
27. The Chair may require Motions to be handed up in writing before they are further discussed or put to the meeting.

### **Motions During Debate**

28. The following Motions may be moved whether or not another Motion is already under debate:
- (a) to give the consent of the committee where such consent is required by the Procedure Rules
  - (b) any Motion relating to an item currently under discussion
  - (c) to refer the matter to an appropriate body, individual or subsequent committee meeting
  - (d) to withdraw a Motion
  - (e) to amend a Motion
  - (f) to proceed to the next business
  - (g) to put the question
  - (h) to adjourn the debate
  - (i) to adjourn the meeting
  - (j) to extend the time allowed for speeches
  - (k) to suspend a particular Procedure Rule(s)
  - (l) to exclude the press and public
  - (m) that a member who misconducts themselves should not be heard further
  - (n) that a member should leave the meeting

### **Motions and Rescinding Decisions**

29. Unless brought upon a recommendation in a report before the committee, no Motion may be moved which would have the effect of rescinding any decision of the committee passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.

### **Amendments and Alterations to Motions**

30. An amendment to a motion must:
- (a) be relevant to and intelligible with the motion;
  - (b) add and/or delete a word or words;
  - (c) not introduce a new topic;
  - (d) not negate, contradict or overturn the motion;
  - (e) be worded so that, if it is agreed, it can be passed as a valid resolution;
  - (f) not be, in the opinion of the Director of Governance, defamatory, frivolous, offensive or otherwise out of order.
31. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.
32. If an amendment is carried, the Motion as amended shall take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.
33. After an amendment had been carried, the Chair will read out the amended Motion before accepting any further amendments or, if there is none, putting it to the vote.
34. If an amendment is lost, another amendment may be moved on the original Motion.
35. Not more than one amendment may be made to a Motion by any one member.
36. A member may alter a Motion of which they have given notice with the consent of meeting, or in the case of a Motion proposed and seconded, with the consent of the seconder and the meeting. In either case the meeting's consent shall be signified without discussion.
37. Any alteration proposed must of the type permitted to be moved as an amendment.

### **Withdrawal of Motions**

38. A member may withdraw a Motion which they have proposed

### **Closure of Motions**

39. At the conclusion of a member's speech, another member may move (without comment) any of the Motions set out in paragraph 26(f) to (i) inclusive.
40. Upon the seconding of a Motion to proceed to next business, the Chair will (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.
41. Upon the seconding of a Motion to put the question, the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the Motion to put the question to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.
42. Upon the seconding of a Motion to adjourn the debate or meeting, the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the adjournment Motion to the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

### **Content and Length of Member Speeches**

43. Members will confine speeches to the question under discussion, a personal explanation or a point of order. No speech may exceed five minutes, without the consent of the committee. The five minute time limit will exclude any time lost as a result of other members rising on a point of order or personal explanation.

### **Only One Member to Speak at a Time**

44. Whilst a member is speaking, the other members will remain silent unless intervening on a point of order or in personal explanation.

### **Order of Speeches**

45. The Mover of a Motion will speak first, followed by the Secunder. When seconding a Motion, a member may advise the Chair that they reserve their right to speak until later in the debate.
46. If two or more members indicate their intention to speak, the Chair will determine the order of speeches

### **Right of Reply**

47. The Mover of a Motion will have a right to reply at the close of the debate on the Motion, immediately before it is put to the vote.
48. If an amendment is moved, the Mover of the original Motion will have a right of reply at the close of the debate on the amendment.
49. The mover of the amendment will have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate.

### **Points of Order and Personal Explanations**

50. A member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.
51. A point of order will relate only to an alleged breach of a Procedure Rule or statutory provision and the member will specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.
52. A personal explanation will be confined to some material part of a former speech by the intervening Member which appears to them to have been misunderstood in the current debate.
53. The ruling of the Chair a point of order or on the admissibility of a personal explanation will be final and not open to discussion.

### **Voting Method of Voting**

54. All matters will be decided by a simple majority of those Members present and voting in the room at the time the question is put.
55. Members must be in their designated seats for their vote to be counted.
56. Voting will be by a show of hands (or such other method as is agreed by the Chair), or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

### **Casting Vote**

57. Where there are equal votes cast for a Motion, the Chair may exercise a second or casting vote.

### **Recording Votes**

58. A member may require, after a vote is completed, that the minutes of the meeting record whether and how they voted.
59. If one third of the members present so request, the vote will be recorded to show whether and how each Member voted.
60. A member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the minutes.

### **Records of Attendance**

61. Council members attending the whole or part of a meeting must sign their name on the attendance sheet provided.

### **Rights of Other Council Members**

#### **Attendance at Committee**

62. Notwithstanding their rights as a member of the public, members who are not members of the committee ('visiting members') may attend any meeting of a committee (even if considering Exempt Information) if required for the purposes of performing their duties as members. Cabinet members will not be expected to attend, unless invited. Advice should be taken where meetings will be considering personal information of a sensitive or confidential nature.
63. Visiting members:
- (a) may not vote on committee business
  - (b) must notify the Chair before the start of the meeting, if they wish to speak on a particular item. If advance notice is not given, visiting members will only be allowed to speak at the Chair's discretion
  - (c) will, at the discretion of the Chair, be invited to speak at the beginning of the debate on any item notified under paragraph (b), and be invited to sum up at the end of a debate
  - (d) will not, other than as provided for in paragraph (c) or by the Chair, be permitted to participate in any debate at the meeting

### **Disorderly Conduct and Disturbances**

64. The Chair may direct (or a member may move), in respect of any member considered to be misconducting themselves, that the member shall not be heard further.
65. The Chair may direct (or a member may move), either following a direction (or resolution) under paragraph 62, or directly in the case of gross misconduct, either:
- (a) that the member in question leaves the meeting or
  - (b) that the meeting is adjourned
66. The Chair, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
67. The Chair may warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Chair may direct any person to be removed from the meeting.
68. In the event of a general disturbance in any part of the meeting room open to the public, the Chair may direct that part of the room to be cleared.

### **Officer Advice**

69. The Chair may request an appropriate officer to offer advice or draw the attention of the committee to any relevant factors where a debate involves questions of a technical, legal, financial, operational or administrative nature.

### **Interpretation of Procedure Rules**

70. The Chair (who may take advice from the Director of Governance) determines all matters relating to the interpretation or application of the Procedure Rules which arise during a meeting. The Chair's decision shall be final.
71. The Director of Governance determines all matters relating to the interpretation or application of the Procedure Rules which arise between meetings. The Director of Governance's decision shall be final.
72. Any requirement to make a notice or information available to anyone shall be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, on request, printed off at council offices to be given to personal callers in hard copy.
73. References in the Procedure Rules to an officer includes references to any duly authorised representative of that officer.
74. References in the Procedure Rules to members shall (unless the context otherwise requires) to be taken to mean references to members of the Council, Cabinet or committee in question.
75. References in the Procedure Rules to Motions includes (where the context so requires or admits) references to amendments to Motions.
76. References in the Procedure Rules to committees includes all committees, sub-committees, panels and boards constituted by the Council that exercise delegated powers, but excluding any committee, sub-committee, panel or board that operates solely in an advisory capacity.
77. Reference in the Procedure Rules to a day or days shall be taken to mean between the hours of 09:00 and 17:00 on any day that is not a Saturday, Sunday or public holiday.
78. References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events shall be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

### **Notice Requirements**

79. All Notices given by members under the Procedure Rules will be treated as having been given to the recipient by any of the following means:
  - (a) post properly addressed to the recipient at their usual business address
  - (b) leaving it properly addressed for the recipient at their usual business address
  - (c) email sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the member's name



- (d) submitting a form on the Council's website designated for this purpose
80. All notices given to members under the Procedure Rules shall be treated as having been given to the recipient by any of the following means:
- (e) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address that the member has notified to the Director of Governance for these purposes)
  - (f) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Director of Governance), either in addition to or substitution for the methods set out in paragraphs 79(a) and (b)
  - (g) email sent to an email account registered with the Council in the member's name from an email account registered to the Council
81. All notices given under the Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.
82. If more than one signatory is required to give valid notice, any single notice given must bear all the signatures of all necessary signatories and be given in accordance with paragraph 79(a) or (b). Alternatively, each of the required signatories may give individual notices in accordance with paragraph 79 (c) or (d) above.
83. Notices shall be deemed to have been given:
- (h) in the case of 79(a) or 80(a), on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
  - (i) in the case of 79(b) or 80(b), on the day upon which the notice is left
  - (j) in the case of 79(c) to (d), on the day upon which receipt is acknowledged otherwise than by any automated process
  - (k) in the case of 80(c), on the day upon which notice is sent

### **Example Calculation of Time in Respect of Notice Periods**

84. The following example is provided to demonstrate the effect of paragraphs 77 and 78. In the following example, it is assumed that none of the weekdays referred to is a public holiday.
85. If a notice is required to be given five days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 78.

86. Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09:00 and 17:00 hours.
87. If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 78. The five week days in the ensuing week then rank as the required five clear days between giving the notice and day upon which the meeting is being held.

Fri	Sat	Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Sun	Mon
Notice Given	Not Counted	Not Counted	Clear Day 1	Clear Day 2	Clear Day 3	Clear Day 4	Clear Day 5	Not Counted	Not Counted	Meeting

## **PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES**

### **Section 5 - Remote Meetings Procedure Rules**

(permissible for formal meetings only if/when legislation allows)

#### **Remote Access to Meetings**

1. For all purposes of the Constitution, the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:
  - (a) “Place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and
  - (b) “Open to the public” includes access to the meeting being through remote means, including video conferencing, live webcast, and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and
  - (c) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technical or other failure of provision, then they shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.
  - (d) Members must confirm their attendance when asked to do so by the Chair at the start of the meeting.
  - (e) The Chair will confirm the total number of members in attendance at the start of the meeting.
  - (f) Should the meeting become inquorate due to a technical issue after it has commenced, the meeting will in the first instance be temporarily suspended. If the meeting does not become quorate again within 15 minutes, it shall be adjourned to a time and date fixed by the Chair.

#### **Members in Remote Attendance**

2. A member in remote attendance is present and attends the meeting, including for the purposes of the meeting’s quorum, if at any time all three of the following conditions are satisfied, those conditions being that the member in remote attendance is able at that time:

- (a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance;
  - (b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
3. A member should not switch on their microphone until invited to do so by the Chair, except when they wish to raise a point of order, personal explanation or request a recorded vote, in which case they may switch their microphone on to say the words “point of order”, “point of personal explanation” or “recorded vote”. They must then wait for the Chair to invite them to speak.
4. Members shall indicate their intention to speak during a debate by using the “hands up” function within the software.
5. Unless a recorded vote is demanded:
- (a) the Chair will take the vote by roll call (recorded vote) and the number of votes for or against the motion or amendment or abstaining from voting will be confirmed; or,
  - (b) if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.
6. At a remote meeting of Full Council, any member may request by stating “recorded vote” that they wish the vote to be recorded to show whether and how each Member voted, and seven or more other members supporting this shall use the “hands up” function within the software to indicate they wish the vote to be recorded.
7. A member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in paragraph 8 are not met. In such circumstances, the Chair may, as they deem appropriate:
- (a) adjourn the meeting for a short period to permit the conditions for remote attendance of member contained in paragraph 8 to be re-established;
  - (b) count the number of members in attendance for the purposes of the quorum;
  - (c) continue to transact the remaining business of the meeting in the absence of the member in remote attendance.

#### **Remote Attendance by Members of the Public**

8. A member of the public entitled to attend the meeting in order to exercise a right to speak is in remote attendance at any time if all three of the following

conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

- (a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, members in attendance;
  - (b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting;
  - (c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
9. A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in paragraph 10 are not met. In such circumstance the Chair may, as they deem appropriate:
- (a) adjourn the meeting for a short period to permit the conditions for remote attendance contained in paragraph 10 to be re-established;
  - (b) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for their attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest;
  - (c) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

### **Remote Voting**

10. Unless a recorded vote is demanded (which may be confirmed by the requisite number of members confirming the demand verbally when requested by the Chair):
- (a) the Chair will take the vote by roll-call (recorded vote) and the number of votes for or against the motion or amendment or abstaining from voting will be confirmed, or
  - (b) if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

### **Members excluded from the meeting**

11. Where a member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

12. Any member withdrawing from a remote meeting due to a conflict of interests will be brought back into the meeting when the Chair directs that the discussion of the matter has concluded.
13. The Chair retains the right to mute all participants' microphones during a debate.
14. In the event of disorderly conduct and disturbances, the person or persons responsible for the disturbance may be removed from the meeting at the discretion of the Chair.

## PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES

### 6. Finance and Contract Procedure Rules

#### 1 Introduction

- 1.1 Section 1 of the Constitution contains an overview of the main components of the council and how they relate to each other. It explains how the decisions that the council has to make are either made by all of the elected Members acting together (“**Council**”), by the Cabinet (or individual Cabinet Members), by committees or by Officers.
- 1.2 Section 2 explains the council’s core objective in decision making and sets out the principles of decision making that all Members and Officers must observe. The rest of the Constitution sets out various rules about who is authorised to take different types of decisions and how they should be taken and recorded.
- 1.3 Whenever a decision is taken it will generally have a financial implication in terms of either a cost or a saving for the council. These Finance and Contract Procedure Rules (“**the Rules**”) provide the framework for managing those implications and setting out who is authorised to make decisions which have different types of financial implications.
- 1.4 The Rules apply to every Member and Officer of the council and anyone acting on the council’s behalf. These rules sit alongside all of the rules, codes, protocols and principles contained in or made under the Constitution. All decision makers need to ensure that they are not only empowered under the Constitution to make every decision that they propose to make, but that they are also authorised under these Rules to incur the financial implications of every decision that they make.
- 1.5 All Members and Officers are under a duty to ensure the security of resources under their control, and to ensure that the use of resources is lawful, properly authorised, provides value for money and achieves best value. Failure to comply with the Rules may lead to disciplinary action, even legal action, or

may amount to a criminal offence so Officers should always seek advice if they are in any doubt about any aspects of the Rules.

## 2 Overview of Roles and Responsibilities for Financial Management

- 2.1 The Constitution sets out in detail the arrangements Council has put in place for decisions to be taken by Members and Officers. The Finance and Contract Procedure Rules apply to the financial implications of all decisions taken under those arrangements. It is important that all decision makers are familiar with the provisions in the Constitution and under these Rules which authorise them to make decisions.
- 2.2 The following is a “high level” summary of the decision making arrangements contained in the Constitution:-
- (a) Council. Council adopts the Budget and Policy Framework. It also is responsible for discharging a number of functions it has “reserved” for itself. Council has also constituted a number of committees which discharge delegated powers. Section 2 of the Constitution contains information about the roles and responsibilities of Council and its committees.
  - (b) The Cabinet. The Cabinet is responsible for proposing the Budget and Policy Framework to Council. Once approved, the Cabinet is responsible for taking all the necessary steps to implement it. The Cabinet operates collectively, and through individual Cabinet Members. Section 2 of the Constitution contains information about the roles and responsibilities of the Cabinet and individual Cabinet Members.
  - (c) Officers. Officers are responsible for the vast majority of day to day operational decisions under powers delegated to them by both Council and the Cabinet. In addition there are certain specified officers (“**Statutory**” and “**Proper Officers**”) who are responsible for discharging certain specified functions. Section 2 of the Constitution contains more information about the roles and responsibilities of Officers.

### **The Chief Finance Officer (Section 151 Officer)**

- 2.3 The Council’s Chief Operating Officer is the Chief Finance (S151) Officer and is the ‘responsible financial officer’ under the Accounts and Audit Regulations. He



or she is responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government Act 2003 and all other relevant legislation.

- 2.4 Section 114 of the 1988 Act requires the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally. The designated deputy for this purpose is the Director of Finance. Whilst the Chief Finance Officer is the responsible financial officer, a number of decisions within the Finance and Contract Procedure Rules are delegated to the Director of Finance.

### **Finance and Contract Procedure Rules**

- 3.1 The Finance and Contract Procedure Rules form part of a series of documents that must be followed to ensure effective financial management.
- 3.2 Council approves and adopts these Finance and Contract Procedure Rules which are contained within the Constitution. These Rules provide a framework for managing the Council's financial affairs, and the financial implications of decisions made under the delegation arrangements set out in the Constitution. These Rules apply to everyone who makes decisions for the Council or on its behalf.
- 3.3 The Rules set out the financial limits which Members and Officers must operate within. Directors also set out Service Schemes of Financial Delegation which further clarify the authorisation limits for Officers within their services.
- 3.4 The Chief Finance Officer is responsible for keeping the Rules under review, issuing any advice or guidance, making minor amendments, or recommending significant amendments to Council as and when required.
- 3.5 The Chief Finance Officer is also responsible for reporting breaches of the Rules to Full Council and/or the Cabinet.
- 3.6 Chief Officers are responsible for ensuring that all Officers in their departments are aware of the requirements of the Rules (and any associated guidance) and comply with them at all times.
- 3.7 It is not possible for these Rules to cover every eventuality that may arise. In the case of any doubt, advice should always be taken and the spirit of the Rules should always be followed.

## Financial Management

### In this Section:-

A1	Why is Financial Management Important?
A2	What's covered in this Section?
A3	Budgeting Overview
A4	Budget Management Framework
A5	Revenue Budget changes (supplementary revenue estimates and virements)
A6	Funding budget changes (supplementary revenue estimates) from General Reserves
A7	Creation and Use of Earmarked Reserves
A8	Use of Contingency Provisions
A9	Capital Budget changes (supplementary capital estimates and virements)
A10	Administrative changes to revenue budgets
A11	Year End Revenue and Capital Carry Forwards
A12	Accounting Policies and Statement of Accounts

## **A1 Why is Financial Management Important?**

A1.1 Financial management is essential to ensure that public funds are kept secure and used properly to best effect. This section explains who is accountable for the proper financial management of the Council.

## **A2 What's covered in this Section?**

A2.1 This section contains an overview of the process for approving changes to the Council's budget, including:

- (a) when Director and/or Member approval is required;
- (b) what can be approved within service Schemes of Financial Delegation;
- (c) accounting policies and statement of accounts.

## **A3 Budgeting Overview**

A3.1 In February each year, Council sets a budget for the following financial year. Inevitably in a large and complex organisation, changes will need to be made to this approved budget during the year. To ensure that there is appropriate approval and control over these changes, the Council operates two main approaches. These are:

- (a) Changes that have a material financial or policy impact will generally require the approval of Chief Officers and/or Members. The type and level of approval required will depend on the nature of the proposed changes and the source of funding. Specific guidance on the approval process is set out below.
- (b) Changes which are essentially of an administrative nature can generally be approved by officers at or below Director Level. The approval limits for individual officers are set out in each Service's Scheme of Financial Delegation. This should be reviewed on an annual basis and published on the intranet. Further details about Service Schemes of Financial Delegation are set out in section A10 below.

## **A4 Budget Management Framework**

A4.1 The Director of Finance is responsible for establishing an appropriate framework of budget management and controls that ensures that:-

- (a) budget management is exercised within the annual budget, unless Council agrees otherwise;
- (b) each Director has timely information available on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- (c) expenditure is committed only against an approved budget;
- (d) all officers responsible for committing expenditure comply with relevant guidance, including the Finance and Contract Procedure Rules;
- (e) Each cost centre has a single named manager, determined by the relevant Director and set out in each Service Scheme of Financial Delegation; and
- (f) significant variances from approved budgets are investigated and reported by budget managers regularly.

A4.2 Directors are responsible for maintaining budgetary control within their departments, in adherence to the principles set out in this document, and in particular:-

- (a) to ensure that all income and expenditure are properly recorded and accounted for;
- (b) to ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure;
- (c) To ensure that spending remains within the service's overall approved budget, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast;

- (d) to ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget;
- (e) to ensure prior approval at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the council's services;
- (f) to agree with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director's level of service activity;
- (g) to ensure Schemes of Financial Delegation are maintained for each service;
- (h) to ensure value for money is obtained in service delivery;
- (i) to ensure that resources are used only for the purposes for which they were intended;
- (j) to prepare regular reports in the approved format on overall financial and non-financial performance and progress against service plan targets (as part of the Council Plan), and for submitting these to the Cabinet, collectively and individually, and the Scrutiny Committee after consulting the relevant Departmental Finance Manager in accordance with agreed procedures.

A4.3 The key reporting stages are:

- (a) approval of the service plan and Performance Management Framework, including budget statement and performance targets;
- (b) approval of projects through the capital governance process for inclusion in the Capital Programme;
- (c) quarterly reviews of revenue and capital expenditure. Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all major capital schemes completed during the year.

A4.4 In addition, the reports will be specifically required to give details in respect of the following:-

- (a) potential overspends and proposed remedial action, including any impact on future year's budgets which may need consideration in the ongoing Medium Term Financial Strategy;
- (b) amendments to approved budgets such as supplementary revenue estimates and capital budget increases or decreases where Member approval is required; and
- (c) write off of bad debts or assets where Member approval is required.

**A5 Budget Changes (supplementary revenue estimates and virements) that represent a change to approved policies / increase in expenditure.**

A5.1 Where services wish to undertake an activity not originally identified in the approved budget, or there is an overall increase in the cash income or expenditure of the Council where this is fully funded, approval must be sought for a supplementary revenue estimate or a virement.

A5.2 The level of approval required will depend on the source and level of funding.

A5.3 Where funding is received from Central Government for a ringfenced purpose, approval is only required from the Director of Finance regardless of value.

A5.4 Where funding is received as the result of a bidding process, approval will be in line with the approval process for external funding bids, set out in section F.

A5.5 Where the source of funding does not include general reserves, earmarked reserves contingency provisions or grant funding, the approval levels are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Directors	Up to £100,000
Directors in consultation with relevant Cabinet Members	£100,001 to £250,000
Cabinet Member Legal and Finance	£250,001 to £500,000
Cabinet	£500,001 to £1m
Council	Over £1m

**A6 Funding budget changes (supplementary revenue estimates) from General reserves**

A6.1 Supplementary revenue estimates which are to be funded wholly or in part from general reserves, regardless of value, must be approved by Council. Council approval is also required where there are significant implications (as determined by the Director of Finance) for future years' budgets.

<b>Approver</b>	<b>Approval Limit</b>
Council	All values

## **A7 Creation and Use of Earmarked Reserves**

A7.1 Earmarked reserves are set up for specific purposes and/or are held for technical or statutory reasons. Examples of technical and statutory reserves include:

- Insurance reserve
- Housing Revenue Account reserves,
- Dedicated Schools Grant reserve

A7.2 Where the use of reserves is for the purpose already agreed and /or budgeted, or where the transfer or use is technical or statutory in nature, approval is only required from the Director of Finance for any value.

A7.3 For the creation of a new earmarked reserve (not technical or statutory), or for the use of a reserve for a different purpose than originally agreed, the approval levels are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Director of Finance	Up to £250,000
Director of Finance in consultation with the Cabinet Member Legal and Finance	£250,001 to £500,000
Cabinet	£500,001 to £1m
Council	Over £1m

A7.4 The Director of Finance will review all earmarked reserves on an annual basis and where the earmarked reserve is no longer required these will be released into the Council's General Fund.

## **A8 Use of Contingency Provisions**

A8.1 Contingency budgets are set aside for specific purposes e.g. pay and inflation, redundancy etc. as well as general contingency provision.

A8.2 Where the use of contingencies is for the purpose approved as part of the overall Council budget, only approval of the Director of Finance is required for any value.

A8.3 Approval limits for the use of general contingency are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Director of Finance	Up to £500,000
Cabinet Member Legal and Finance	£500,001 to £1m
Cabinet	Over £1m

## **A9 Capital Budget Changes (Supplementary capital estimates and virements)**

- A9.1 The Council's approved capital programme comprises two component parts:
- Approved schemes – specific schemes approved for delivery as part of the capital programme approval
  - Schemes under development – funding for these schemes is set aside as part of the capital programme approval but delivery is subject to the confirmation of a number of factors, including timescales and costs. Business case approval is also required in order for the schemes to be included in the approved programme.

### Transfers between approved schemes

- A9.2 The approval required to transfer funding between specific approved schemes is as follows:

<b>Approver</b>	<b>Approval Limit</b>
Director of Finance	Up to £500,000
Director of Finance in consultation with Cabinet Member Legal and Finance and relevant Cabinet Member	Over £500,000 up to £1m
Cabinet	Over £1m

- A9.3 Any significant adjustments of this nature will be reported to Members on a quarterly basis as part of the review of performance reporting.

### New Schemes and Schemes Under Development

- A9.4 Any new schemes or schemes under development to be added to the approved programme in year will need to follow the existing governance process and will require business case approval from the Director of Finance and Cabinet Member for Legal & Finance, regardless of value or source of funding.
- A9.5 For new schemes, appropriate approval is required to add the scheme to the approved programme before it can commence. The level of approval required for adding a new scheme to the programme will depend on the source of



funding.

- A9.6 Where new schemes are fully funded from grant received for a specific ringfenced purpose, approval is only required from the Director of Finance regardless of value.
- A9.7 Where funding is received as the result of a bidding process, approval will be in line with the approval process for external funding bids, as set out in section F.
- A9.8 Where the funding does not include the use of additional Council resources (which includes borrowing, capital receipts and capital reserves) the approval limits are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Directors in consultation with Director of Finance	Up to £100,000
Directors in consultation with Director of Finance and relevant Cabinet Members	£100,001 to £250,000
Cabinet Member Legal and Finance	£250,001 to £500,000
Cabinet	£500,001 to £1m
Council	Over £1m

- A9.9 Increases to existing schemes will also be subject to the approvals set out in paragraphs 9.6, 9.7 and 9.8.
- A9.10 Where new schemes or increases to existing schemes result in an increase to the overall approved Council funding within the capital programme, i.e. increase in the use of reserves (which includes the capital reserve), borrowing and capital receipts, Council approval is required irrespective of value. Council approval is also required where there are significant implications (as determined by the Director of Finance) for future years.

<b>Approver</b>	<b>Approval Limit</b>
Council	All values

- A9.11 Where services wish to reduce the size of a capital scheme as a result of a third party decision to withdraw external funding this is considered to be administrative adjustment and no formal approval is needed.

## **A10 Administrative changes to revenue budgets**

- A10.1 Each service will operate a Service Scheme of Financial Delegation governing which officers in each service can make decisions with certain financial implications. Service Schemes of Financial Delegation will include a section on

approval of financial and budget transactions.

A10.2 Some revenue virements are essentially of an administrative nature as they do not involve a change from existing approved policies. Administrative virements would include the following examples:-

- (a) re-analysis of school “one-line” budgets;
- (b) implementation of restructuring and reorganisation proposals that have already received the appropriate level of officer and member approval;
- (c) routine changes to the structure of the chart of accounts;
- (d) changes to notional accounting budgets which are required for reporting purposes but which do not impact on the Councils cash expenditure. Examples include changes to the depreciation and deferred grants budget.

A10.3 Where the virement is of an administrative nature, Member approval is not required and therefore approval will be based on the Service Scheme of Financial Delegation. The relevant Departmental Finance Manager should be consulted where there is uncertainty as to whether a proposed virement constitutes a change of approved policy.

## **A11 Year End Revenue and Capital Carry Forwards**

### Carry forward of underspends

A11.1 During the course of the financial year, services can request permission to provisionally carry forward an underspend at year end. In-year, these carry forwards will be approved in principle as “subject to outturn”. The approval limits for these in-year individual carry forwards are:

<b>Approver</b>	<b>Approval Limit (per individual item)</b>
Director of Finance	Up to £100,000
Cabinet Member Legal and Finance	Over £100,001

A11.2 All carry forward proposals must be supported by the appropriate justification demonstrating that the resources carried forward will be earmarked for a specific purpose or issue. Directors should include provisional indications of likely carry forward requests in their quarterly reviews of performance.

A11.3 Before approval is sought for a carry forward, Directors should ensure that there are no unfunded overspends within their department. It is extremely unlikely that proposed carry forwards for a service will be approved if there are unfunded overspends elsewhere within the department.

A11.4 For capital budgets, underspends against rolling annual allocations funded from Council resources or unringfenced grant funding will only be approved on an exception basis, with any commitments expected to be the first call on the following year's capital allocation. For committed one-off schemes re-profiling into future years will be automatically approved provided the scheme remains a priority for the Council at that time.

#### Carry forward of overspends

A11.5 Any residual overspending on a Service revenue budget or capital allocation at outturn may be carried forward as the first call on the following year's budget. This will be determined by the Director of Finance.

### **A12 Accounting Policies and Statement of Accounts**

A12.1 The Director of Finance is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Council Accounting in the United Kingdom for each financial year ending 31 March.

A12.2 The key controls for accounting policies are:-

- (a) Systems of internal control that ensure financial transactions are lawful;
- (b) Suitable accounting policies are selected and applied consistently;
- (c) Accurate and complete accounting records are maintained;
- (d) Financial statements are prepared which present a true and fair view of the financial position of the Council.

A12.3 The Director of Finance is responsible for:-

- (a) Selecting suitable accounting policies and ensuring that they are applied consistently;
- (b) Exercising supervision over financial and accounting records and systems;

- (c) Preparing and publishing reports containing the statements on the overall finances of the Council including the Council's Annual Report and Accounts.

A12.4 The Director of Finance is responsible for determining the accounting procedures and records for the Council. All accounting procedures will be approved by the Director of Finance.

A12.5 Directors are responsible for ensuring that staff in their departments are aware of, and adhere to, the accounting policies, procedures and guidelines set by the Director of Finance.

A12.6 All accounts and accounting records will be compiled by the Director of Finance or under his/her direction.

## Financial Planning

### In this Section:-

B1	Why is Financial Planning important?
B2	Policy Framework
B3	Revenue Expenditure
B4	Revenue Budget Preparation
B5	Budget Monitoring and Control
B6	Determination, Monitoring & Control of affordable borrowing
B7	Responsibility for borrowing
B8	Capital Approvals and Strategic Projects
B9	Capital Monitoring and Amendments to the Capital Programme
B10	Capital Receipts
B11	Leasing and Rental Agreements
B12	Maintenance of Reserves

## **B1 Why is Financial Planning Important?**

B1.1 Section 2 of the Constitution explains how Council adopts the Budget and Policy Framework following proposals from the Cabinet, and that once adopted the Cabinet is responsible for its implementation. In terms of financial planning, the key elements of the Budget and Policy Framework are:-

- (a) The Council Plan – this sets out the Council’s long term aims and objectives. It is regularly revisited to ensure that the Council’s priorities remain relevant to its overall aims and to assess the progress being made in achieving these.
- (b) The Budget - The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council’s plans and policies.
- (c) The Capital Strategy - Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. The Capital Strategy sets the framework for the planning, prioritisation, management and funding of capital expenditure.
- (d) The Commercial Investment Strategy - The commercial investment strategy is designed to meet the dual purposes of providing the Council with a framework to help it shape, manage and prioritise its existing and planned investments and to support transparency of reporting for investments and associated risks. This framework seeks to ensure that the Council has a clear set of guidelines that it will use when considering commercial investment opportunities
- (e) Specific Service Plans and Strategies which have financial implications.

## **B2 Policy Framework**

B2.1 Council is responsible for approving the Budget and Policy Framework. The policy framework will comprise the statutory plans and strategies which the Council is required to produce.

- B2.2 Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- B2.3 Council is responsible for approving the process to enable changes to be made to the budget during the financial year. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- B2.4 On an annual basis the Council has:-
- (a) The Council Plan detailing its objectives and targets over a 3 to 4 year planning horizon;
  - (b) A Medium Term Financial Strategy outlining the financial scenario over a 3 to 4 year planning horizon and the policy and expenditure options required to respond to this scenario.
- B2.5 The Chief Finance Officer will advise the Council on the financial environment, financial policies (including the appropriate levels of reserves and contingencies, the amount of borrowing outstanding and an appropriate treasury management strategy) and the policy and expenditure options to assist in the determination of its Budget. Individual Directors will support this process by assessing and advising on their respective service policy and expenditure options in a form determined by the Director of Finance.
- B2.6 The Cabinet, advised by the Director of Finance, will develop a budget package including financing options, policy and expenditure options and capital programme. This will be subject to review by the relevant Scrutiny Committee and Cabinet before consideration by Council. The final Budget and Council Tax precept will be approved by Council.

### **Revenue Budget Preparation, Monitoring and Control**

#### **B3 Revenue Expenditure**

- B3.1 Revenue expenditure is broadly defined as any expenditure incurred on the day to day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.

#### **B4 Revenue Budget Preparation**

- B4.1 The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Cabinet, before submission to Council. Council may amend the budget or ask the Cabinet to reconsider it before approving it in accordance with the Constitution.
- B4.2 It is the responsibility of Directors to ensure that budget estimates reflecting agreed plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.
- B4.3 The Chief Finance Officer is responsible for approving the Council's tax base for the forthcoming year and reflecting this within the budget.
- B4.4 The Cabinet will then submit a 'final budget' to Council for approval.
- B4.5 The Chief Finance Officer is responsible for reporting to Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.
- B4.6 Council shall not approve additional net expenditure to either revenue or capital budgets without first having considered the advice of the Cabinet and the Director of Finance on the financial implications arising.

#### **B5 Budget Monitoring and Control**

- B5.1 The Director of Finance is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.
- B5.2 It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Finance. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance to any problems.
- B5.3 In addition, the Director of Finance will:
- (a) administer the Council's scheme of virement (both administrative virements and those requiring Member approval);
  - (b) prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

#### **B6 Determination, Monitoring & Control of Affordable Borrowing**



- B6.1 Under the Local Government Act 2003 the Council is required to have regard to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code for Capital Finance in Local Authorities (Prudential Code).
- B6.2 The key objectives of the Prudential Code are to ensure that within a clear framework, the capital investment plans of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management activity supports prudence, affordability and sustainability.
- B6.3 The Prudential Code requires that prior to the commencement of the financial year the prudential indicators for the forthcoming financial year and at least the two subsequent financial years must be approved as part of the Treasury Management Strategy.
- B6.4 In addition the Council will set for itself the following Financial Health Indicators (FHIs) for the current year, the following year and the two successive years:
- (a) interest and debt repayment costs as a % of net budget;
  - (b) The total borrowing requirement as a % of the Council's net budget.

## **B7 Responsibility for Borrowing**

- B7.1 The Director of Finance is responsible for:-
- (a) establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that gross external borrowing does not exceed the Council's authorised limit;
  - (b) reporting to Council any significant deviations from expectations;
  - (c) ensuring that regular monitoring is undertaken in year against the prudential indicators of affordability and sustainability, by reviewing estimates of financing costs to revenue, the capital financing requirement and the local FHIs;
  - (d) reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or not achieving in-year capital receipts.

## **Capital Programme**

### **B8 Capital Approvals and Strategic Projects**

- B8.1 The Council has developed a governance process which sets out the process and

documentation that must be used for all proposals to be included in the Council's approved capital programme and for strategic projects. The purpose of this process is to ensure that all proposals are both affordable and fit with corporate priorities.

B8.2 The Head of Financial Management will review this process as required and it is the responsibility of each project manager to ensure that they keep up to date with the process and documentation.

## **B9 Capital Monitoring and Amendments to the Capital Programme**

B9.1 All capital schemes and allocations should be approved through the annual capital programme setting process, within the timetable set out by the Director of Finance and approved at the annual budget setting Council.

B9.2 In exceptional cases there will be a need for a new capital project to be approved in-year. The approval process for these in-year schemes is set out in Section A (A9).

B9.3 Project Managers must ensure that the project specification remains consistent with the approved business case and continues to represent value for money for the Council. Where project outcomes or costs alter significantly from those originally approved a revised Business Case must be completed for approval in line with the capital governance process.

B9.4 Wherever possible, expenditure in respect of Highways improvements funded by developers and rechargeable works should be included in the Capital Programme. Where this is not possible Directors may approve capital expenditure in respect of:

- (a) Highway improvements fully funded by developers under Section 278 of the Highways Act 1980, provided that a formal agreement has been completed with the developer;
- (b) Other rechargeable reinstatement work costing in excess of £10,000;
- (c) Urgent work to repair, replace or reinstate vehicles, buildings or equipment, where the work is to be fully funded from insurance monies following consultation with the Director of Finance.

## **B10 Capital Receipts**

B10.1 The Director of Finance must be informed of all proposed sales of land and buildings so that the effect on financial management can be assessed. Rules for land and property disposals are set out in C (C9).

B10.2 The amount of receipts to be set aside for the repayment of debt, and how the balance of such receipts is to be used, will be determined as part of the financial planning

process for revenue and capital.

## **B11 Leasing and Rental Agreements**

B11.1 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. Advice can be obtained from the Head of Financial Management on general leasing arrangements and on whether the lease is a finance or operating lease.

B11.2 For leases relating to land or property refer to chapter C (section 9.9) of the Finance and Contract Procedure Rules.

## **B12 Maintenance of Reserves**

B12.1 The Chief Finance Officer is responsible for advising the Cabinet and/or Council on prudent levels of reserves for the Council, taking into account the advice of the external auditor.

B12.2 The key controls are:

- (a) to maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom and agreed accounting policies;
- (b) for each reserve established, the purpose, usage and basis of transactions should be clearly identified;
- (c) authorisation of expenditure from reserves is in accordance with the limits set out in Sections A6 (for General Reserves) and A7 (for Earmarked Reserves).

## Risk Management and Control of Resources

### **In this Section:-**

C1	Insurance
C2	Risk Management
C3	Business Continuity
C4	Internal Controls
C5	Internal Audit
C6	External Audit
C7	Preventing Fraud and Corruption
C8	Assets
C9	Property
C10	Inventories
C11	Stocks
C12	Cash
C13	Asset disposal/Write off (Non Property)
C14	Treasury Management
C15	Investments and Borrowings
C16	Trust Funds and Funds held for Third Parties
C17	Salaries and Wages
C18	Early Retirement/Severance
C19	Travelling and Subsistence
C20	Code of Conduct
C21	Third Party Funds
C22	Retention of Records

### **C1 Insurance**

C1.1 The Director of Finance will maintain and administer the Council's insurances. The Director of Finance is responsible for authorising the settlement or repudiation of insurance claims and associated costs acting on advice from the Council's insurance solicitors, insurers and claims handlers.

C1.2 Directors are responsible for informing the Director of Finance immediately of:

- (a) any insurance claims received;
- (b) any events which may result in an insurance claim against the Council;
- (c) the terms of any indemnity which the Council is required to give prior to entering into any contracts etc;
- (d) any new risks which might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new

projects, new ways of working, and changes in legislation requiring new ways of delivery etc where the insurance impact is often overlooked;

(e) changes to the assets insured by the Council;

(f) changes to the responsibility of the Council.

C1.3 No new insurances may be taken out without prior consultation with the Director of Finance.

C1.4 Directors must ensure the retention of documents in accordance with the corporate retentions policy and that there is co-operation with the Insurance Team in providing the correct documentation within the strict timescales of the Civil Procedure Rules when dealing with claims.

C1.5 Service budgets may be charged with the cost of legal penalties or losses incurred by the Council as a result of any failure to comply with the requirements of the Civil Procedure Rules and these Finance and Contract

C1.6 Procedure Rules relating to claims.

## **C2 Risk Management**

C2.1 The Council's approach to Risk Management is that it should be effective in helping to optimise the balance between risk taking and control, maximising opportunities and encouraging innovation.

C2.2 Directors are responsible for ensuring the Risk Management Policy and Strategy is implemented and that the Risk Management framework operates within their Service. Risk Management should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.

C2.3 There are several levels of risk register within the Council. There should be a movement of risks both upwards and downwards through the levels and treatment addressed at the most appropriate level of the organisation:-

(a) Corporate Risk Register - contains risks that impact on the organisation's overall objectives either because of their frequency of occurrence across several services or the significance of the impact;

- (b) Service Risk Registers - contain strategic and operational risks that impact on the delivery of service objectives;
- (c) Team Risk Registers – contain operational risks that impact on the delivery of team priorities and act as a feeder for risks to be elevated to the Service Risk Register;
- (d) Programme/Project Risk Register – contain risks associated with individual projects. Due to the speed of project delivery risks are more likely to be more dynamic and more frequently monitored and reported.

C2.4 Directors are responsible for ensuring Risk Management is carried out at both an operational and strategic level in accordance with the corporate risk management framework.

C2.5 The Service Risk Register is a perpetual living document and should be reviewed annually to align with the relevant Service outcome plan. These risk registers will help to inform the Council's risk appetite and the Corporate Risk Register.

C2.6 Service Risk Registers will be monitored and reviewed quarterly and reported as part of the quarterly performance reports.

C2.7 Directors will take account of and address corporate risks where appropriate within their Service Risk Register, and inform the Head of Compliance and Assurance of any Service risks that could be considered significant enough to highlight at a corporate level.

C2.8 The Corporate Risk Register is maintained by the Head of Compliance and Development. It will be reported to the Corporate Management Board on a regular basis.

C2.9 Audit and Governance Committee will also receive risk management reports on a regular basis to monitor the effective development and operation of risk management in the Council. The Committee provides independent assurance of the adequacy of the risk management framework and the internal control environment.

### **C3 Business Continuity**

C3.1 Corporate Management Board is responsible for determining the Business Continuity Strategy and ensuring it is compliant with the Civil Contingencies Act 2004. Directors are responsible for implementing it, and monitoring and reviewing its effectiveness.

- C3.2 The Director of Governance develops the strategy and supporting framework on behalf of the Corporate Management Board.
- C3.3 Audit and Governance Committee is responsible for approving the Business Continuity Strategy and reviewing its effectiveness as part of the risk management framework and the internal control environment.
- C3.4 Directors are responsible for ensuring that arrangements are in place to ensure the continuity of service delivery in the event of a disruptive incident. This is managed via the development of robust Business Continuity Plans which are regularly maintained and tested in accordance with the Business Continuity Strategy.
- C3.5 Directors are responsible for ensuring that arrangements/contracts for significant areas of service provision include requirements for contractors/partners/suppliers to have robust and tested business continuity plans. This should include the ongoing monitoring and compliance with this requirement via contract performance management and, where necessary, joint exercises.

#### **C4 Internal Controls**

- C4.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C4.2 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C4.3 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **C5 Internal Audit**

- C5.1 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 more specifically require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.
- C5.2 The Public Sector Internal Audit Standards (PSIAS) defines Internal Audit as “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”.
- C5.3 The Internal Audit team (part of the Compliance & Assurance Service) delivers this function within the Council.
- C5.4 The Accounts and Audit Regulations 2015 require the Council to review the effectiveness of its governance framework, including the system of internal control, on an annual basis and report the results in an Annual Governance Statement. This statement must provide a description of the governance framework within the Council, a description of any work undertaken to assess its effectiveness, and any significant governance weaknesses identified.
- C5.5 To contribute to the production of the Annual Governance Statement, the Head of Internal Audit is responsible for planning and delivering a programme of independent review of the Council’s activities, the scope of the programme being based on the Council’s objectives and an assessment of the risk which may affect the achievement of these objectives.
- C5.6 The Head of Internal Audit is also responsible for reporting to those charged with Governance and currently satisfies this requirement by presenting an annual report to the Audit and Governance Committee, summarising the audit plan for the coming year and a commentary on audit activity which is completed or in progress. Quarterly reports setting out progress against the annual audit plan and delivery against its key performance indicators are also taken to the Audit and Governance Committee. In addition, any matters of material importance in relation to audit matters are also reported to the Cabinet and Audit and Governance Committee.



C5.7 Audit staff will have full access to all premises, staff, assets, records and third party fund transactions as is necessary to conduct their reviews. With regards to organisations participating in partnering arrangements, including alternative delivery vehicles where provided for in the contract or service level agreement, Audit staff shall have such access to premises, staff, assets and records of the partner as is necessary for the purposes of the partnering arrangement. Partners will be required to grant reasonable access when requested and details of such access should be agreed with the partner and set out in the Partnering Agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place. Similar rights of access should be determined as part of the establishment of any alternative delivery vehicles, and should be similarly agreed and documented in the contract or service level agreement.

## **C6 External Audit**

C6.1 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

C6.2 The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of relevant authorities and these new arrangements include the ability for local authorities to appoint their own local (external) auditors via an 'auditor panel'. An auditor panel can be established individually or jointly with one or more other authority.

C6.3 The Council may, from time to time, also be subject to audit, inspection or investigation by external bodies such as Ofsted or HM Revenue and Customs, who have statutory rights of access.

## **C7 Preventing Fraud and Corruption**

C7.1 The Head of Internal Audit is responsible for the development and maintenance of an Anti-Fraud and Corruption Strategy.

C7.2 The Council has an approved Anti-Fraud and Corruption Strategy which places responsibility for maintaining an anti-fraud culture with all Members, managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party

fund, must be notified immediately to the Fraud and Investigation Manager, in conjunction with other officers detailed in the Council's Anti-Fraud and Corruption Strategy, who will decide what steps are necessary.

C7.3 In line with the Anti-Fraud and Corruption Strategy, the Director of Governance in their role as Monitoring Officer will, in consultation with the appropriate Director, decide whether any matter under investigation should be referred to the Police or appropriate enforcement agency following advice from the Fraud and Investigation Manager.

## **C8 Assets**

C8.1 In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land and infrastructure; furniture; equipment; plant; stores and "intellectual property" such as computer software, data and information of all kinds.

C8.2 Directors are responsible for the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security.

C8.3 Directors are responsible for ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.

C8.4 Directors are responsible for ensuring that all computer software used is properly licensed.

C8.5 Directors are expected to have policies in place for:-

- (a) the effective disposal of surplus assets;
- (b) asset replacement programme;
- (c) compilation of and regular review of asset inventories.

## **C9 Property**

C9.1 The Council's approach to property asset management is based on two main principles:-

- (a) Property is a corporate resource, owned by the Council, not by individual Services. This principle underpins the fact that property is one of the Council's most expensive resources and that it needs to be managed proactively to support service delivery and improvement across all Services;
- (b) Property is held to support the delivery of the Council's corporate objectives. This is to be delivered through a rigorous policy of property review and the disposal of any properties that are no longer required to meet corporate objectives.

C9.2 The Council's policies, aims and objectives relating to property asset management are explained further in the Asset Management Strategy.

C9.3 Property assets are comparatively "illiquid and changes necessarily take time to implement. Directors should be aware of this when planning new initiatives or changes to service delivery patterns and must ensure that the Head of Property is consulted at the earliest possible stage of the planning process in order that appropriate advice and support can be given.

C9.4 Directors are responsible for ensuring that property under their day to day control is occupied/used in accordance with all appropriate legal and regulatory requirements and that nothing occurs which might diminish the value of the asset. Particular care is required when carrying out alterations to a building and where any form of shared use with another organisation is planned. The advice of the Director of Finance and Head of Property must be obtained before this is permitted.

C9.5 All property acquisitions, lettings and disposals must be negotiated and approved in accordance with the approvals set out in these Finance Procedure Rules, or within the Property Scheme of Delegation. The Head of Property will be responsible for the negotiations of all such transactions.

C9.6 Property acquisitions and disposals can be authorised as follows:-

- (a) Farms – providing this is in line with the overarching policy for the disposal of farms assets the disposal will be subject to the following individual transactional approvals:

<b>Value of Farm Sale</b>	<b>Approval Required</b>
Up to £1,000,000	Chief Operating Officer

	in consultation with Cabinet Member for Legal & Finance
£1,000,001 and above	Cabinet Member for Legal & Finance

(b) Commercial Assets - provided the sale/purchase is in line with the criteria set out in the Property Reinvestment Programme strategy, and a business case has been approved as per the policy, no further approval is required;

(c) All other disposals or acquisitions of land or property not covered by (a) and (b) above.

<b>Value of sale / acquisition (£)</b>	<b>Approval Required</b>
Up to £100,000	Head of Property
£100,001 to £500,000	Chief Operating Officer in consultation with the Director of Finance and the Cabinet Member for Legal & Finance
£500,001 to £1,000,000	Cabinet Member for Legal & Finance
Over £1,000,000	Cabinet

C9.7 The write-off of losses on the disposal of property can be authorised as follows.

<b>Approver</b>	<b>Loss on disposal</b>
Chief Operating Officer	Up to £50,000
Cabinet Member for Legal & Finance	£50,000 to £100,000
Cabinet	Over £100,000

C9.8 Losses on the disposal of property assets should be based on the market value of the asset. Approval for the write off of losses must be sought before disposal. Any write off which arises as a result of theft or fraud must be notified immediately to the Fraud and Investigation Manager.

C9.9 The following limits apply for the authorisation of:

- granting any new lease, easement, wayleave or other right to interest;
- accepting the surrender or forfeiture of any lease with financial implications;
- the settlement of dilapidations.

<b>Approver</b>	<b>Approval Limit</b>
Head of Property	Up to £100,000
Chief Operating Officer in consultation with Cabinet Member for Finance and Legal	£100,001 to £500,000
Cabinet Member for Legal and Finance	£500,001 to £1,000,000
Cabinet	Over £1,000,000

## **C10 Inventories**

- C10.1 Directors must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- C10.2 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

## **C11 Stocks**

- C11.1 Stock is defined as consumable items constantly required and held by a Service centre in order to fulfil its functions. Directors are responsible for the control of stocks. They must ensure that stocks are appropriately recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

## **C12 Cash**

- C12.1 Cash held on any Council premises should be held securely and should not exceed any sums for which the Council is insured. (Detailed guidance on limits is available from the Council's Insurance Team). If this is unavoidable, in exceptional circumstances, the Director is responsible for making appropriate security arrangements.
- C12.2 The type of receptacle used to secure the cash should be appropriate to the amount of cash held and records detailing the amounts should be maintained and stored separately to the cash.

## **C13 Asset Disposal/Write Off (Non Property)**

- C13.1 The disposal of non-property assets can be authorised as follows:-

<b>Approval level</b>	<b>Value of Disposal</b>
Directors	Up to £10,000
Directors in consultation with Director of Finance (or their nominated deputy) and Director of Governance	£10,001 to £50,000
Cabinet Member for Legal & Finance	£50,001 to £500,000
Cabinet	Over £500,000

C13.2 The write off of losses on disposal of non-property assets can be authorised as follows:-

<b>Approval level</b>	<b>Loss on disposal</b>
Directors	Up to £1,000
Directors in consultation with Director of Finance (or their nominated deputy) and Director of Governance	£1,001 to £20,000
Cabinet Member for Legal & Finance	Over £20,000

C13.3 Losses on disposal of non property assets should be based on the depreciated value of the asset and approval for the write off of losses must be sought before disposal. Write-off Schedules are required to be completed and approved at the appropriate level, dependant on the value of the goods (depreciated value at time of disposal/sale). The form should be retained locally within the service in line with corporate retention schedules.

C13.4 Any write off which arises as a result of theft or fraud must be notified immediately to the Fraud and Investigation Manager.

#### **C14 Treasury Management**

C14.1 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

C14.2 Audit & Governance Committee is responsible for approving the Treasury Management Policy Statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The Director of Finance has delegated responsibility for implementing and monitoring the statement.

C14.3 All money in the hands of the Council is controlled by the Chief Finance Officer as designated for the purposes of section 151 of the Local Government Act 1972.

- C14.4 The Chief Finance Officer is responsible for submitting to Audit & Governance Committee, for their approval, a proposed Treasury Management Strategy prior to the start of the financial year to which it relates.
- C14.5 All executive decisions on borrowing, investment or financing shall be delegated to the Director of Finance, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- C14.6 The Director of Finance is responsible for reporting on the activities of the treasury management operation and, on the exercise of the Director of Finance's delegated treasury management powers, to the Audit and Governance Committee on a quarterly basis during the financial year. In addition, an annual report on the treasury management activity undertaken in the previous financial year will be presented to Audit and Governance Committee for approval by 30 September of the succeeding financial year.

### **C15 Investments and Borrowings**

- C15.1 It is the responsibility of the Director of Finance to:-
- (a) ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Council;
  - (b) ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Director;
  - (c) effect all borrowings in the name of the Council;
  - (d) act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council;
  - (e) that the amount of borrowing outstanding at any point in time does not exceed the Council's authorised limit for the year.

### **C16 Trust Funds and Funds Held for Third Parties**

- C16.1 It is the responsibility of the Director of Finance to:-
- (a) arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Cheshire West and Chester Council on behalf of...');

- (b) arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Finance, and to maintain written records of all transactions;
- (c) ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

C16.2 All officers acting as trustees by virtue of their official position shall deposit trust assets and securities with the Director of Finance, unless the Trust Deed provides otherwise.

### **C17 Salaries and Wages**

C17.1 Directors are responsible, in consultation with the Head of Human Resources, for providing accurate and appropriate information and instructions to enable the calculation and prompt payment of salaries, expenses and pensions, including details of appointments, promotions, regradings, resignations, dismissals, retirements and absences from duty. The Director of Finance will make arrangements for payment to the appropriate bodies, of all statutory, including taxation, and other payroll deductions.

C17.2 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be on official forms or via authorised electronic inputs. Directors are responsible for ensuring that they are certified by an authorised officer and that they are submitted to the payroll provider in accordance with the specified timetable. This includes on-line input entered locally. The names of authorised officers must be secured by Directors and included in the Service Scheme of Financial Delegation.

C17.3 The Head of Human Resources will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

### **C18 Early Retirement/Severance**

C18.1 Where Directors wish to bring forward proposals under the Council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment. The relevant Director (or the Chief Executive if the request relates to a Director), Chief Finance Officer and Director of Finance (or their nominated deputy) must approve all requests. Approval from Staffing Committee is required for any request over £100,000, including actuarial costs.



C18.2 Directors will generally be required to meet the costs of severance and early retirement from within their approved budget, unless the request relates to an approved budget proposal.

### **C19 Travelling and Subsistence**

C19.1 Directors are responsible for instructing the Head of Human Resources and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to authorised employees in accordance with the terms of employment agreed by the Council.

C19.2 Directors are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss, and for ensuring that payments are only made in respect of journeys which are necessary and actually undertaken.

C19.3 All claims for reimbursement must be made using appropriate official claim forms or via authorised electronic inputs.

### **C20 Code of Conduct**

C20.1 The Code of Conduct for Employees applies to and will be followed by all officers. It covers standards, disclosure of information, political neutrality, relationships, appointments and other employment matters, outside commitments, personal interests, equality issues, separation of roles during tendering, gifts and hospitality, use of financial resources and sponsorship.

C20.2 Where an outside organisation wishes to sponsor or is asked to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality applies, as detailed in the Code of Conduct for Employees.

### **C21 Third Party Funds**

C21.1 A third party fund is defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care.

C21.2 Officers maintaining third party funds should maintain records of their nature and purpose, to be made available to the Director of Finance on request.

C21.3 Money or goods belonging to the third party fund must be kept completely separate from other money or goods belonging to the Council. Similarly, completely separate

records must be kept of the money or goods involved.

- C21.4 An independent auditor must be appointed who has suitable qualities, though not necessarily professionally qualified, to audit the third party fund on an annual basis where required by legislation. The Director of Finance will advise on such appointments. Annual Statements of Account and Audit Certificates must be formally presented to a Management Committee or other appropriate governing body.
- C21.5 Directors are responsible for ensuring that any third party funds controlled by Council staff are:-
- (a) Maintained in a register kept by the Service to be made available to the Director of Finance on request;
  - (b) maintained separately and correctly in accordance with these Finance and Contract Procedure Rules;
  - (c) subject to the same standards of stewardship and probity as Council funds.

## **C22 Retention of Records**

- C22.1 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.
- C22.2 The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.
- C22.3 All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also takes into account legislative requirements such as the Limitation Act and Data Protection Act; Freedom of Information requirements; and the business needs of the department.
- C22.4 The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. Some records however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods. The Council's retention schedules, available on the intranet, set out the length of time for which different types of records should be kept. The schedules are based on legislative requirements and best practice, and as such must be adhered to by Services.

## Financial Systems and Procedures

### **In this Section:-**

D1	Banking Arrangements
D2	Legal Powers – Charging by the Council
D3	Legal Powers – Trading by the Council
D4	Charging and Trading Policy
D5	Collection of Income
D6	Bad Debts
D7	General Principles - Ordering and paying for work, goods and services
D8	Payment of Invoices
D9	Non-invoice payments
D10	Purchase Cards
D11	Local Bank and Imprest Accounts
D12	Payment to Members
D13	Taxation

### **D1 Banking Arrangements**

- D1.1 It is the responsibility of the Director of Finance to operate bank accounts as are considered necessary. Opening or closing any bank account requires the approval of the Director of Finance or their nominated deputy.
- D1.2 The Director of Finance will approve the terms under which banking services, including overdraft facilities, are provided.
- D1.3 All bank accounts must be titled impersonally with the prefix of Cheshire West and Chester Council subject to any exceptions agreed by the Director of Finance.
- D1.4 Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Director of Finance. No bank accounts may be opened or arrangements made with any other bank except by agreement with the Director of Finance.
- D1.5 Bank transfers, CHAPS payments and faster payments from the General Fund and the Council's other main drawings accounts must be signed by the Director of Finance, or those officers authorised to sign through the agreed Scheme of Financial Delegation.
- D1.6 Transactions on the Council's secondary (i.e. imprest) account must be authorised as per the relevant Scheme of Financial Delegation.
- D1.7 Cheques drawn must bear the mechanically impressed or facsimile signature of the Chief Finance Officer or be signed by other officers authorised to sign through the

agreed Scheme of Financial Delegation.

D1.8 No direct debits should be set up unless authorisation has been sought from the Director of Finance.

## **Charging or Trading by the Council**

### **D2 Charging**

D2.1 This section applies to services which the Council has a power but not an obligation to provide and for which it is proposed to make a charge to recover all or part of the costs incurred by the Council in providing the services. Directors are responsible for ensuring that legal advice is sought before introducing charging, in relation to legal powers, authorisation, Member engagement, consultation and related issues. The Director of Governance should also be consulted before proceeding with a project that involves a new policy for charging for discretionary services or a variation on previous practice.

### **D3 Trading**

D3.1 This section (D3) applies to the provision of services which the Council proposes to provide to third parties in the public sector and on a commercial basis.

D3.2 The Council's approach to trading is one which is based on risk but which also empowers services and encourages external income generation. Legal advice must be sought in advance in relation to trading with bodies which are not classed as public bodies within the meaning of the Local Authorities (Goods and Services) Act 1970. The table below shows approval limits in respect of the provision of new services which the Council proposes to provide to third parties in the public sector and on a commercial basis:

<b>Approval level</b>	<b>Financial impact</b>
Senior Service Manager	Less than £5,000
Director	£5,001 - £100,000
Director in consultation with the Director of Finance, Director of Governance and the relevant Cabinet Member	£100,001 - £500,000
Cabinet	£500,001 - £1,000,000
Council	Over £1,000,000

### **D4 Charging and Trading Policy**

D4.1 Charges should be reviewed annually to ensure that they are still compliant with all the legal and financial requirements and increased annually where relevant. Unless there is a statutory limit on charges (e.g. planning fees), charges must be based on

the principle of full-cost recovery, including all service and corporate overheads. Directors are required to provide evidence of full cost recovery to the Director of Finance.

- D4.2 Any variation in annual increases compared to inflation; where Directors wish to charge more or less than the full cost; or where the proposal constitutes a new policy or a variation on previous practice the Director of Finance must be consulted in advance. Any increase above or below inflation should be approved in accordance with the table below:

<b>Approval level</b>	<b>Financial impact</b>
Directors	For increases above or below inflation up to £100,000
Directors in consultation with Director of Finance	For increases above or below inflation between £100,001 - £250,000
Relevant Cabinet Member	For increases above or below inflation between £250,001 - £500,000
Cabinet	For increases above or below inflation between £500,000 - £1,000,000
Council	For increases above or below inflation over £1,000,000

## **D5 Collection of Income**

- D5.1 Council officers must comply with arrangements determined by the Director of Finance for the safe and efficient collection and recording of all money due to the Council.
- D5.2 Directors are responsible for ensuring that accounts for income due to the Council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Director of Finance. These must include VAT where appropriate.
- D5.3 The cost of collection should be taken into account when raising accounts. Directors must ensure that the method of collection is appropriate to the value of the transaction. Officers must endeavour to collect payment at point of service/sale wherever possible, especially for low value charges (e.g. Under £100).
- D5.4 Directors are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and in the case of cash

and cheques, banked with the minimum of delay. The frequency of banking should avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security and insurance cover arrangements.

- D5.5 Where a service wishes to collect income by electronic means (i.e. by debit card, credit card, contactless payments etc) using an external service provider (e.g. Parentpay etc) then prior to putting in place such arrangements the service will need to seek the approval of the Director of Finance in respect of the accounting procedures to be put in place for recording the income. In addition, the service will be responsible for ensuring that the external service provider meets the requirements of the Payment Card Industry Data Security Standards (PCI DSS) both when appointed and for all subsequent periods during which their services are being used.
- D5.6 Directors are responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in the quarterly performance reports.
- D5.7 Credit notes must be authorised by appropriate officers nominated in the Service Scheme of Delegation.
- D5.8 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Director of Finance. All controlled stationery issued to a Director must be recorded in a register, which is held by a single officer within each Service.

## **D6 Bad Debts**

- D6.1 The Council has a Corporate Debt Policy with the guiding principle that customers have a responsibility to pay amounts that have been properly assessed as being due. The Council is committed to using the most appropriate and effective recovery methods available to it and does so in accordance with its approved Debt Recovery Code of Practice.
- D6.2 In certain circumstances and for justifiable reasons it will be necessary to classify some debts as irrecoverable and to recommend that they be written off.
- D6.3 Directors in consultation with the Director of Finance (or their nominated deputy) and the Director of Governance are authorised to write off any value of debt where there are reasons that prevent the Council from attempting any further recovery action. These reasons are as follows:
- a) The debtor has been declared bankrupt;
  - b) The debtor has gone into liquidation;
  - c) The debtor has had their debt remitted by the Court;
  - d) The debtor has been granted a Debt Relief Order for the debt;
  - e) The debtor is deceased and there is evidence of no estate;
  - f) Collection of the debt is statute barred
  - g) The debtor has entered into a Company Voluntary Arrangement (CVA)

D6.4 Debts that are being written off for a reason other than those listed in D6.3, must be approved in accordance with the following limits:

<b>Approval level</b>	<b>Collective Total of Debt</b>
Directors in consultation with Director of Finance (or their nominated deputy as per the scheme of delegation) and the Director of Governance	Up to £5,000
Directors in consultation with Director of Finance, Director of Governance	£5,001 to £20,000
Director of Finance, Director of Governance in consultation with Cabinet Member Legal & Finance	£20,001 to £100,000
Cabinet Member Legal & Finance	£100,001 to £500,000
Cabinet	Over £500,000

D6.5

Directors are responsible for ensuring that an adequate provision for bad debt is made in their service accounts and that contributions to this provision are included in budgetary projections and outturn reports. This should not however preclude pursuit of the debt.

## **D7 General Principles – Ordering and paying for work, goods and services**

D7.1 Directors are responsible for ensuring all required processes are followed to enable the prompt and accurate payment for goods and services provided and for the analysis of expenditure.

D7.2 Except for purchases by purchase card, or where an exception has been agreed in accordance with D7.9, all purchases must be supported by an official requisition and purchase order unless previously agreed with the Director of Finance. No payment will be made unless there is an official purchase order. All purchases, including by purchase card, must have regard to the Finance and Contract Procedure Rules.

D7.3 All requisition and purchase orders must be authorised in accordance with the relevant Service Scheme of Financial Delegation. All requisition and purchase orders must be raised within and relate to the current financial year. Any completed POs relating to previous financial years must be finally closed and in the case of call off orders, replacement POs arranged. Requisitions and POs must not cross financial

years. Where a requisition for the purchase of goods or services exceeds £5,000 in value Finance and Contract Procedure rules E33 – E.72 apply.

- D7.4 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and the terms and conditions for the goods and services to be provided.
- D7.5 Directors must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to creditors.
- D7.6 Directors must ensure robust processes to continually maintain service HR records and Service Schemes of Delegation so that electronic workflows associated with core financial systems are not compromised.
- D7.7 All purchasing activity must be carried out in accordance with the Council's Procurement Strategy and advice issued about efficient and effective use of the Council's core financial and e-procurement systems and processes. Such processes will include the deployment of purchase cards. Invoices received for payment must comply with the Council's best practice processes.
- D7.8 Approval of the Procurement Manager must be sought in advance of entering into any supply agreement with a commercial creditor who has not been set up on the Council's core financial system.
- D7.9 Directors must consult the procurement team on appropriate arrangements for purchases of goods and services which cannot be accommodated within standard ordering and payment processes.

## **D8 Payment of Invoices**

- D8.1 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment. Unless there are exceptional circumstances, all creditor invoices should be sent to the central payments team.
- D8.2 All invoices, as a minimum, must include the official purchase order number, the name and address of the Council (as customer), an invoice number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the net price, the amount of VAT charged at



the prevailing rate(s) and the total amount charged. Any discount for prompt payment must also be shown.

D8.3 Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.

D8.4 The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Director of Finance. Directors are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.

D8.5 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Director of Finance.

## **D9 Non-invoice payments**

D9.1 Where Directors wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted to the Director of Finance. Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on a regular basis Directors must consider, in conjunction with their Departmental Finance Manager, other alternative options which may be more appropriate.

D9.2 Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant Service Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element. A proforma invoice, a request for payment, a supplier statement and a credit card voucher are NOT official VAT receipts.

D9.3 Appropriately authorised requests for payment will be processed by the Director of Finance and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.

D9.4 Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

## **D10 Purchase Cards**

- D10.1 The Council operates a scheme which offers Officers the flexibility to procure goods and services with a Purchase Card.
- D10.2 Directors are responsible for the appropriate deployment and management of purchase cards within their service. Further guidance on the use of purchase cards is available on the Council's intranet site.
- D10.3 The Purchase Card Procedures set out the terms, processes and procedures under which the scheme operates. It is important that when the card is used, it is used to purchase appropriate items only. The card should be used for low value, low risk purchases and not be used to bypass Corporate Contracts.
- D10.4 Council Purchase Card spend is under constant scrutiny down to line level detail. Purchase cards should be used for official purposes only. All spend will be reviewed internally on a regular basis with a report issued to Compliance & Assurance Board on a six monthly basis.

## **D11 Local Bank and Imprest Accounts**

- D11.1 Local bank and imprest accounts may only be used as alternatives to purchase orders and purchase cards by prior consent and in accordance with specific guidance and instructions issued by the Director of Finance.
- D11.2 Directors are responsible for ensuring that where local arrangements are in place:
- (a) Service Schemes of Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements; and that these are reviewed and updated regularly;
  - (b) They are operated in accordance with guidance issued and that appropriate management supervision and compliance monitoring is undertaken;
  - (c) Adequate records are maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT;
  - (d) Arrangements are being operated for legitimate Council business only;
  - (e) Ensure reconciliation on a monthly basis to the Council's General Ledger and highlight any issues to the relevant Departmental Finance Manager.
- D11.3 Local arrangements may not be used in any circumstances to circumvent either the Council's Corporate Procurement Strategy or agreed approval and authorisation procedures, nor must they be used for any payments in respect of salaries and

wages, travelling or other employment expenses, or payments for work carried out under the Construction Industry Tax Deduction Scheme.

- D11.4 Claims for reimbursement of expenses paid using the imprest account should be submitted to payments section on a monthly basis.
- D11.5 The only monies that are to be credited to the imprest accounts are the reimbursements made by the Council's payments section using either the BACS system or the faster payments system.
- D11.6 Under no circumstances should a direct debit inwards (i.e. income) or a direct debit outwards (i.e. payment) be set up on an imprest account.
- D11.7 Under no circumstances should the balance on an imprest account be allowed to go overdrawn at the bank.

## **D12 Payment to Members**

- D12.1 The Director of Finance is responsible for paying all allowances to Members.
- D12.2 The Director of Finance will make payments to any Members entitled to claim allowances on receipt of the proper form, completed and certified in accordance with the Council's scheme for allowances.

## **D13 Taxation**

- D13.1 It is the responsibility of the Director of Finance to:-
- a) complete all Inland Revenue returns regarding PAYE;
  - b) submit the Council's VAT return to HMRC each month and complete a monthly return of VAT inputs and outputs to HM Revenue and Customs;
  - c) provide details to HM Revenue and Customs regarding the Construction Industry Tax Deduction Scheme;
  - d) maintain up-to-date guidance for Council employees on taxation issues.
- D13.2 It is the responsibility of Directors to:-
- a) ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations;
  - b) ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements;

- c) ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency;
- d) follow the guidance on taxation issued by the Director of Finance.

## **Contract Procedure Rules**

### **E1 Basic Principles**

E1.1 The aims of the Rules are to:

- (a) ensure compliance with all legal requirements;
- (b) achieve best value;
- (c) ensure transparency, openness, non-discrimination and fair competition;
- (d) demonstrate probity, consistency, accountability and integrity;
- (e) support the Council's corporate aims of value for money, best practice and leadership; and
- (f) ensure compliance with a Council Procurement Strategy.

E1.2 The principles of transparency, non-discrimination and equality are obligations that apply to all procurements and must be complied with at all times.

E1.3 Where these Rules provide for a decision to be made by a Director of Service, the decision may be delegated in writing by the relevant Director of Service to another Officer.

E1.4 These Rules are supplemented by Procurement Procedure Guidance ("PPG") as indicated. The PPGs will be updated as required so Officers must check the intranet site for the latest version.

### **E2 Statute**

E2.1 The Council is required by s.135 of the Local Government Act 1972 to make standing orders to ensure competition and regulate the procurement process.

E2.2 The Council must also comply with various other statutes when purchasing supplies, services or works, including the Public Contracts Regulations 2015 (the "Regulations"). Nothing in these Rules is intended to override national legislation.

E2.3 The risks of non-compliance are significant and include awards of damages and contracts being set aside.

### **E3 Compliance**

E3.1 These rules apply to the following undertaken by or on behalf of the Council:

- (a) the purchase of all supplies, services or works;
- (b) concessions<sup>1</sup>;
- (c) in circumstances where the Council is procuring supplies, services or works on behalf of a collaborative working arrangement; and
- (d) in circumstances where the Council is seeking a commercial partner for the purposes of a joint venture.

All references in these Rules apply equally to (a) to (d) above as appropriate and as advised by Procurement. All Officers are responsible for ensuring compliance with these Rules.

- E3.2 Third parties acting on behalf of the Council must also comply with the Rules. Officers instructing third parties to procure contracts must supply the third party with a copy of the Rules.
- E3.3 Officers and third parties must ensure that any conflicts of interest are avoided. Any conflicts of interest must be declared to appropriate line managers as set out in the Officer Code of Conduct. Legal advice must be obtained by Officers where any conflict has potential to impact on contractual relationships.
- E3.4 Corruption is a criminal offence. All Officers who let, manage or supervise contracts must act in accordance with the highest standards of propriety and ensure adequate records are kept.
- E3.5 Differences in the interpretation of these rules will be resolved by the Director of Governance in consultation with the Director of Finance.
- E3.6 These Rules do not apply to the sale, leasing or purchase of land or any interest in land or any contract of employment or loans or the sale, issue or purchase of any shares or other similar financial asset.
- E3.7 These Rules do not apply to an award of a contract in the following circumstances:
  - E3.7.1 any contracts between the Council and a company that is controlled by it (sometimes referred to as a Teckal company); or
  - E3.7.2 any contracts between the Council and a company that is jointly controlled by the Council with another contracting authority; or
  - E3.7.3 any contract which establishes or implements a co-operation between the Council and another contracting authority with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common and where implementation of the co-operation is governed solely by considerations relating to the public interest and participating contracting authorities perform on the open market less than 20% of the activities concerned by that co-operation.

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<sup>1</sup> Note that concessions have a different procedure see PPG 11

- E3.8 For contracts falling within the exceptions at E3.7, written advice from the Director of Governance must be obtained to ensure that the specific rules relating to the exceptions apply and to ensure that the award does fall outside of the scope of these Rules.
- E3.9 Additional supplies, services or works within the scope of a contract with a company that is wholly or jointly owned by the Council may be permitted but shall comply with the general provisions for authority to vary as found in paragraphs E12.7-E12.9. It may be possible to increase the scope of a contract falling within E3.7.1 and E 3.7.2, but before seeking to do so, the Officer shall prepare a business case demonstrating value for money. Increasing the scope of such a contract shall comply with the general change principles stated in paragraph 12.5 below, shall be recorded in writing by ODN and shall be authorised by the Director of Service and Director of Governance.
- E3.10 In calculating the total value of a contract, the following principles shall apply to determine the total value:
- (a) The total amount payable over the term of the contract plus any extension period, net of VAT, including any form of option and any renewal of the contract by all Council Services utilising the contract;
  - (b) Where the award of a contract involves lots, the total amount payable for all of the lots, net of VAT, including any form of option and any renewal of the contract by all Council Services utilising the contract; and
  - (c) For joint purchasing arrangements, the contract value shall be the aggregate of both parties' spend under the contract.
- E3.11 No Officer shall take any steps or omission which seeks to subdivide procurements or payments in order to avoid the application of the Rules or any part of the Rules or the Public Contracts Regulations 2015 (as amended).
- E3.12 Rules relating to grants and collaborative working arrangements are dealt with in Sections F and G of the Financial Procedure Rules.

#### **E4 Consequence of Breach**

- E4.1 Failure to comply with any of these rules may be considered a breach of the Officer Code of Conduct and may result in disciplinary action and legal proceedings against the Officer or third parties concerned. No Officer shall take any steps or fail to take steps to knowingly or recklessly seek to avoid the Rules.
- E4.2 Any Officer who fails to follow the Rules may lose the protection of the indemnity given to Officers by the Council and therefore may have personal liability for a contract or any losses.
- E4.3 Where it becomes apparent that a Service has failed to comply with the Rules the Director of Service must notify the Audit Manager. The Director of Service must compile a report outlining the reasons for the non-compliance and the steps taken to prevent a re-occurrence.

E4.4 The Audit Manager will, if the breach of the Rules is significant, submit a report to the Chief Finance Officer, Director of Finance and Director of Governance with appropriate recommendations before reporting to Audit and Governance Committee.

## **E5 Review**

E5.1 The Director of Governance will keep the Rules under review and shall have authority to make minor amendments and updates as required.

E5.2 Any significant changes require the consent of full Council.

E5.3 The Director of Governance will report to the Audit and Governance Committee who will make recommendations to Council.

E5.4 The Director of Governance and the Director of Finance will keep Procurement Procedure Guidance under review and have authority to make such amendments and updates as required.

## **E6 Corporate Contracts**

E6.1 Officers must always check if there is an existing Council contract in place before starting a new procurement activity.

E6.2 If a Council contract exists, it must be used unless the contract allows for, and the Council's procurement unit ("Procurement") authorise, another course of action.

## **E7 Frameworks**

E7.1 A framework contract is an agreement with suppliers which establishes the terms governing contracts from which orders for supplies, services or works may be placed or 'called off'.

E7.2 Frameworks may only be used when:

- (a) the supplies, services or works required are clearly identified within the framework; and
- (b) the framework allows the Council to participate; and
- (c) the framework adheres to the aims of the Rules.

E7.3 Officers must ensure that they follow the rules applicable to the framework which set out how individual contracts can be called off. Often this will involve a further procurement activity, referred to as a mini competition. Advice must be sought from Procurement. Advice must be sought from Legal Services concerning the contract terms to ensure the contract terms are acceptable.

E7.4 Authority to establish a new framework agreement must be evidenced in an Officer Decision Notice (ODN) signed by the Director of Governance and Director of Finance before procurement activity is started and must be supported by a business case. The business case must clearly state the maximum value of the framework agreement, the range of contracting authorities able to call-off from it and monitoring arrangements in particular relating to the total spend under the framework and compliance with call-off procedures.

E7.5 No framework agreement established by the Council shall exceed a contract term of 4 years unless exceptional circumstances exist which are substantiated and are related to the subject matter of the framework agreement. If a framework agreement is to exceed a term of 4 years then the reasons for this must be set out in the ODN to establish a new framework agreement (see E7.4).

E7.6 No contracting authority shall be entitled to call off from a framework agreement established by the Council unless the contracting authority has signed an access agreement with the Council. The Director of Governance must advise on the most appropriate form of access agreement.

## **E8 In-house suppliers**

E8.1 Various services can be provided internally from within the Council or by the Council's controlled companies, (see rule E3.7). Procurement can provide advice on utilising these services.

## **E9 Joint Procurement**

E9.1 It is best practice to consider working with others either internally or externally where there may be benefits to a joint procurement with other service areas or public bodies to achieve economies of scale and prevent duplication.

E9.2 Advice from the Director of Governance must be sought as to the most appropriate form of agreement for joint procurement activity and the apportionment of risk between the parties.

E9.3 If the Council is responsible for any procurement under such joint arrangements which result in the Council entering into a contract with a supplier, the Rules must be followed.

## **E10 Authority to Proceed**

E10.1 Before beginning a procurement, the Officer is responsible for ensuring that the appropriate authority and budget is in place. The form of the authority will depend on the value, strategic importance of the proposed contract, budget implications and risks.

E10.2 Officers must consider whether the decision to procure is a key decision and if so, ensure that details are entered onto the Forward Plan.

E10.3 Authority to proceed must be evidenced in writing. Acceptable forms of authority are:

- (a) minutes of the Cabinet; or
- (b) Officer Decision Notice; or
- (c) Member Decision Notice; or
- (d) relevant extract from the appropriate Service Scheme of Financial Delegation; or



- (e) email or other written authority from the budget holder including confirmation that the budget is available.

E10.4 Officer decision notices are only required in relation to decisions to set up a framework E7.4, extend or vary a contract E12.5 or waive these rules E24.

## **E11 Insurance**

E11.1 Officers are responsible for checking that all chosen contractors provide written evidence of adequate insurance to cover public liability, employers' liability and if necessary professional indemnity for the full duration of the contract.

E11.2 Indemnity levels must reflect the risk to the Council which typically will be for each and every contract:

- (a) £10 million for public liability;
- (b) £10 million for employer's liability;
- (c) £1 to 5 million for professional indemnity;
- (d) At least £5 million for medical indemnity for public health services contracts.

E11.3 The levels required may be reduced following the written consent of the Insurance Team either as a one off in respect of a particular contract or, where other arrangements have been agreed, for particular types of contract. The Officer shall consider insurance risks and issues before commencing a procurement and shall seek any necessary approvals prior to issue of the invitation to tender.

E11.4 In some circumstances, it may be necessary to obtain specialist insurance. Officers shall be responsible for making enquiries with Insurance Team.

## **E12 Form of Contract**

E12.1 The form of contract must be identified. Every request for a quote ("RFQ") or invitation to tender ("ITT") must be accompanied by the appropriate form of contract. The Council's standard form of contract must be used. In exceptional cases, an alternative form of contract may be used such as the supplier's form of contract or a varied form of the Council's standard contract, but only after consultation with the Director of Governance and agreement of the relevant Director of Service.

E12.2 E12.1 does not apply to call-off contracts from frameworks. In addition, in appropriate circumstances, industry standards such as PSPC, NEC, JCT, JClI, ACE, RIBA & ICE may be used with the Council's additional standard clauses covering freedom of information and other local government specific issues. These additional clauses are available from Legal Services. Officers must ensure that the published RFQ/ITT includes the correct form of contract or refers to the correct industry standard.

E12.3 Letters of Intent will only be used in exceptional circumstances and with the consent of the Director of Governance.

- E12.4 Contracts with a value of less than £100,000 may be signed by two authorised officers in accordance with a Council Service Scheme of Financial Delegation. Contracts for £100,000 or more shall be sealed as a deed by the Director of Governance unless authority has been granted to the contrary by the Director of Governance.
- E12.5 A change to a contract, such as an extension of the contract period (in addition to any extension period included in the original contract), or a change to any of the terms or adding in scope to the supplies, services or works, is known as a variation to the contract. When drafting the specification for the ITT, it is good practice to provide for a variation in clear, precise and unequivocal words that state the scope of the variation(s) permitted and the conditions under which the variation(s) shall apply, provided that such variation(s) do not alter the overall nature of the contract. For example, the ITT may state additional supplies, services or works which may be included in the contract in the future, or an extension in time of the contract period.
- E12.6 In relation to above WTO GPA threshold procurements, variations to contracts shall only be permitted where the variation falls into one of the categories listed in Regulation 72 of the 2015 Regulations or as amended from time to time. Variations to such contracts shall be recorded in writing by Officer Decision Notice and shall be authorised by the Director of Service and Director of Governance. Procurement will ensure that appropriate notices are issued to comply with Regulation 72 requirements.
- E12.7 For procurements below the WTO GPA threshold, Officers shall not enter into variations which would extend the contract beyond the original scope or which would increase the contract price by more than an additional 20% of the original contract price, without the approval of the Director of Finance. Such approval shall be evidenced by ODN signed by the Director of Finance and the Director of Service. A business case will be required to obtain this approval. The Director of Finance will keep a record of such approvals. Any variation pursuant to this paragraph 12.7 shall comply with the principles in E12.5 above.
- E12.8 In all cases, any variation shall be agreed between the parties to the contract and as a minimum shall be recorded in writing and signed by the parties.
- E12.9 In no circumstances shall a variation be made to a contract which has ended or which has been terminated. If there is no provision within the contract terms for a variation of the type required, legal advice shall be sought.
- E12.10 Contracts must be effectively monitored throughout the period of the contract by the relevant Service and appropriate records kept until 7 years after the expiry of the contract.
- E12.11 Contracts shall not permit payment in advance except in respect of software licences, hardware or software support, HP leases, deposits, warranties or new or additional water, electricity and gas connections, instigated by a new build or refurbishment project, unless the Director of Service and Director of Finance agrees otherwise, such agreement to be recorded in writing. Part payments may be made during the contract period after the completion of a stage of work provided that the supplies, services, or works have been completed or delivered. The contract shall include a clear payment schedule which identifies milestones and payment dates

or shall identify the events and performance indicators which will trigger a part payment. No part payment shall be made unless the contract precisely sets out the payment schedule and the circumstances in which the part payment shall be made.

E12.12 Payments made under a contract shall be made in accordance with the relevant Service Scheme of Delegation.

### **E13 Bonds and Security**

E13.1 A performance bond or adequate security will be required where:

- (a) the nature and length of the contract is such that the risk of failure is sufficiently high; or
- (b) the estimated cost of re-establishing a service if the contract fails is relatively high; or
- (c) the financial and technical standing of the contractor is such that the risk of the failure is sufficiently high.

The decision as to whether a performance bond or other security is required shall be made by the Director of Service in consultation with the Director of Finance.

E13.2 The amount of the bond will be 10% of the total contract value unless otherwise agreed by the Director of Finance.

E13.3 Where the contractor is a limited company which is part of a larger group, the ultimate holding company may be required to provide a parent company indemnity in addition to or instead of a performance bond or other security.

### **E14 Compact for Cheshire West and Chester**

E14.1 The Compact for Cheshire West and Chester is a framework designed to build relationships between organisations in the public, voluntary, community and faith sectors.

E14.2 Where a procurement process may involve applicants from the voluntary, community and faith sectors, Officers shall comply with the requirements of the Compact for Cheshire West and Chester.

### **E15 Procurements of Supplies, Services or Works below the WTO GPA Threshold**

E15.1 Where the estimated costs of any Supplies, Services or works is less than the WTO GPA threshold, quotes shall be invited as outlined below

<b>Level</b>	<b>Value of Contract</b>	<b>Procurement Process</b>
<b>Low</b>	Less than <b>£5,000</b>	A minimum of <b>one</b> quotation be sought. Officers should seek to buy locally, to maximise the impact of the council's spending on the local economy.

<b>Intermediate</b>	<ul style="list-style-type: none"> <li>• <b>£5,000</b> to WTO GPA threshold for supplies and services</li> <li>• <b>£5,000</b> to WTO GPA threshold for Social and other specific services</li> <li>• <b>£5,000</b> to WTO GPA threshold for works</li> </ul>	A minimum of <b>three</b> electronic Request for Quotations ( <b>RFQ</b> ) to be sought from the market place, with a compulsory requirement to conduct the Risk Based Sourcing process ( <b>RBS</b> ) via the Procurement Team and use of The Chest; it is strongly recommended that more than three quotes are obtained to enhance competition; forward planning and engagement with the market place will help to ensure maximum competitiveness.
<b>High</b>	Greater than the WTO GPA threshold for supplies, services and works	A full <b>Tender</b> process must be undertaken via the Procurement Team in compliance with procurement legislation

E15.2 The WTO GPA threshold is reviewed biennially, and advice must be taken from Procurement as to the threshold at the time of planning a procurement.

E15.3 The procedure for under threshold procurements is explained in PPG2.

## **E16 Procurement of Supplies, Services or Works above the WTO GPA Threshold**

E16.1 The Public Contracts Regulations 2015 apply to above threshold contracts for the supply of supplies, services and works. There is a separate procedure, (known as the 'light touch regime'), for social care and health care contracts and other contracts specified in Schedule 3 of the Regulations as explained in PPG3.

E16.2 There are six types of procurement routes available for contracts exceeding the WTO GPA threshold:

- (a) Open Procedure;
- (b) Restricted Procedure (including through the use of a dynamic purchasing system);
- (c) Competitive Procedure with Negotiation;
- (d) Competitive Dialogue;
- (e) Innovation Partnerships and
- (f) Call Off from a Framework Agreement.

There is a separate procedure for some types of procurements, known as the light touch regime, which is explained in E16.1 and in PPG3.

E16.3 Advice shall be taken from Procurement as to the most appropriate type of procurement procedure. PPG4 is a general guide to the types of procurement procedures.

E16.4 The procedures to be followed for each type of procurement at E16.2 (a) to (f) above are set out in the 2015 regulations and cannot be varied under any circumstances. PPG5 explains the procedure for the Open Procedure. PPG6 explains the procedure for the Restricted Procedure. The types of procurement at (c), (d) and (e) are not to be used unless the appropriate procedures apply. There is a separate procedure for social care and health care procurements and other contracts specified in Schedule 3 of the Regulations, see E16.1 above. Call-offs under a framework agreement shall follow the procedure set down by the framework authority.

E16.5 Before commencing any above WTO GPA threshold procurement, advice must be taken from Procurement and if relevant, the Director of Governance.

## **E17 Remedies for breach of the Regulations**

E17.1 The consequences for breaches of the Regulations for over threshold procurement are significant and include

- (a) setting aside of contracts following a declaration of ineffectiveness;
- (b) financial penalties;
- (c) awards of damages and costs to successful challengers;
- (d) compensation to the contractor for repudiatory breach of contract;
- (e) costs of delays in provision of the required supplies/services/works or
- (f) costs of further procurement.

E17.2 Officer compliance with these Rules and the Regulations is therefore essential.

## **E18 Timescales**

E18.1 Procurements over threshold can take a minimum of 4 months and sometimes over 18 months to complete depending on complexity.

E18.2 An accelerated procedure may be available for use in urgent circumstances after consultation with the Director of Governance. The Director of Service shall certify the urgency making it impractical to comply with the stipulated timescales.

## **E19 Electronic Tendering**

E19.1 The Chest is the Council e-procurement software, which is used for competitive procurement activities of £5,000 and over.

E19.2 Officers must use The Chest for all procurement with a value of £5,000 and over unless the Director of Finance has provided written consent for the exception or unless the procurement is being conducted through a framework which has its own e-procurement software, when it is permissible to use the e-procurement facility provided by the framework provider.

## **E20 General Rules for Procurements Involving an Element of Competition**

- E20.1 For procurements of £5,000 and over, Officers must contact Procurement before the commencement of procurement activities to agree the appropriate process which will ensure value for money and adequate competition.
- E20.2 The Officer is responsible for drafting a clear and robust specification. The specification must set out exactly what the Council requires and timescales for delivery.
- E20.3 Where a variant is permitted, the Officer must set out the minimum requirement(s) of the variant. Lots must be considered where appropriate and Procurement will advise on the best use of lots.
- E20.4 The tender documentation must as a minimum include:
- (a) the time, date and internet address for submission of tenders;
  - (b) information the supplier must provide;
  - (c) timescales for the project;
  - (d) the criteria for award;
  - (e) the contract documents and
  - (f) method for dealing with queries during the tender period
- E20.5 The tender documentation must state that the Council is not bound to accept the lowest or any tender.
- E20.6 The tender documentation must set out how errors in tenders will be dealt with using one of the following two ways:
- (a) the tenderer shall be given details of the error(s) found during the evaluation and shall be given the opportunity to confirm without amendment or withdraw the tender; or
  - (b) amending the tender to correct genuine error(s) provided that in this case, apart from these genuine errors, no other adjustment, revision or qualification is permitted.
- E20.7 The ITT must state that by submitting a tender the tenderer agrees to the Council's contract terms. There shall be no discussion or negotiation about the contract terms prior to the tender close date. Once an award has been made, modifications may exceptionally be necessary, for example to address an error, where an issue with consistency with the specification is identified or exceptionally where a condition is at odds with the approach in that sector of the market. Legal advice shall always be obtained to ensure that any modification is appropriately drafted. Such modifications shall comply with the general principles listed below:
- (a) the modifications shall not render the contract materially different from the one forming part of the ITT;
  - (b) had the modifications been included originally with the ITT, the modification would not have allowed for the admission of bidders other than those

initially selected OR for the acceptance of a tender other than that originally accepted OR have attracted additional bidders;

(c) the modifications do not change the economic balance of the contract in favour of the contractor in a way which was not provided for in the original contract;

(d) The modification does not extend the scope of the contract considerably.

Any modifications which do not fall within at least one of the conditions listed in (a) to (d) above shall require approval by ODN from the Director of Governance. Advice shall always be taken from the Director of Governance before agreeing to any modifications of the Council's contract terms.

E20.8 Evaluation criteria are the basis on which scores are given to assess responses. Tender evaluation criteria are assessed on:

(a) price or quality only or

(b) MEAT (Most Economically Advantageous Tender) based on a consideration of quality and cost or

(c) Life cycle costing or

(d) Fixed price with quality criterion only.

Guidance on evaluation criteria is contained in PPG7.

E20.9 A record of all tenders received shall be kept on the Chest and shall include:

(a) service name;

(b) bidder's names;

(c) tender value;

(d) date;

(e) reasons for any disqualifications for late tenders and

(f) name of those who were invited but did not submit a tender

E20.10 Any request for an extension to a tender period must be made no later than the period stated in the ITT and in any event before the tender close date and shall be agreed by the Director of Finance. If an extended date is permitted all tenderers must be advised.

E20.11 Clear written records must be kept of the assessment process. For procurements above the WTO GPA threshold, a report must be written and retained until the expiry of the contract term. Procurement shall advise what must be recorded in the procurement report.

- E20.12 Negotiation or discussion is generally not permitted except for certain types of procedures which permit negotiation or where it clearly states in the ITT that negotiation or discussion is part of the tender process. If used, negotiations or discussions must be recorded either contemporaneously or as soon as possible after the negotiation or discussion has concluded.
- E20.13 A contract procured under the Regulations cannot be entered into or a framework agreement concluded until the end of the standstill period. The standstill period is 10 calendar days from issue of the unsuccessful letters and intention to award letter. The period will be extended to the next working day if the standstill period ends on a non-working day. The standstill period ends at midnight.
- E20.14 Where timescales allow, for contracts below the WTO GPA threshold, a voluntary standstill period of 10 days between decision to award the contract and actual contract award can be implemented, depending upon the time available and whether it is appropriate having regard to the subject matter of the contract and other relevant circumstances.

## **E21 Abandonment**

- E21.1 If less than three tenders are received, consideration should be given as to whether continuing with the process will achieve a competitive price, value for money and quality of services. A further advertisement may be required.
- E21.2 Before abandonment or recommencement of an above threshold procurement, there shall be consultation with the Director of Governance to ensure appropriate procedure and risk management.

## **E22 Contracts Finder**

- E22.1 All relevant procurement opportunities which involve an element of competition over £5,000 shall be advertised on “Contracts Finder”. An element of competition means where the procurement opportunity is put into the public domain for the attention of suppliers generally. It does not include situations where a tender or quote is sought from a limited number of suppliers such as a call-off from a framework agreement or seeking quotes/tenders from selected suppliers.
- E22.2 An award of a relevant contract shall be notified on “Contracts Finder”.
- E22.3 PPG8 explains when an opportunity or award has to be advertised on “Contracts Finder”.

## **E23 Signing/Sealing**

- E23.1 All contracts with a value of £100,000 or over will be sealed as a Deed by the Director of Governance, unless authority has been granted to the contrary by the Director of Governance. Contracts below £100,000 may be signed by two authorised signatories in accordance with the Service scheme of delegation.
- E23.2 Contracts must be sealed or signed before work is started to ensure incorporation of terms. Making payments before the contract is sealed or signed may be a breach of the Rules and may result in disciplinary action.

## **E24 Waiving the Rules**



E24.1 Where an Officer intends to seek an exemption to these Rules on the grounds set out in E24.3, the Officer shall arrange for consent to be obtained in writing by way of Officer Decision Notice after consultation with the Director of Governance and the Director of Finance.

E24.2 Summary Table: Officers authorised to approve waiving of the Contract Procedure Rules:

<b>£5,000 - £25,000</b>	<b>£25,000 to £100,000</b>	<b>£100,000 to WTO GPA Threshold</b>	<b>Above WTO GPA Threshold</b>
Approval of Procurement Officer	Approval of Procurement Manager	Approval of at least two of the following: Director of Finance and Director of Governance or authorised representatives of the above and must in addition be signed by the relevant Director of Service	Unable to waive unless exempt from the Regulations and Director of Governance and the Director of Finance provide prior approval

E24.3 Requests to waive these rules for under threshold contracts may be authorised in the following circumstances following a robust review:

- (a) supplies, services or execution of works are obtainable only from one source or contractor and there is no reasonably satisfactory alternative; or
- (b) compatibility issues such that procurement from another source would be uneconomic given the investment in previous infrastructure; or
- (c) a waiver of the Rules would be in the interests of the efficient management of the service; or
- (d) where there is a legal requirement to contract with a particular supplier.

E24.4 All such exemptions shall be evidenced by Officer Decision Notice signed by the signatories identified in E24.2. Other than in exceptional circumstances, there shall be no retrospective approval of an exemption. In the case of exemptions between £5,000 and £25,000 completion of an ODN will not be required, but a record of approval retained by the Procurement Team.

E24.5 Where it has not been possible to advertise in the FTS portal and publish a contract award notice, the Council may, under Regulation 99(3) of the Public Contracts Regulations 2015, publish a Voluntary Transparency Notice, justifying the decision to award without prior publication of a contract notice. Authority to publish a Voluntary Transparency Notice must be documented in an ODN signed by the Director of Governance, Director of Finance, Chief Executive Officer or the Director of Service, providing full justification for the publication and future procurement plans.

E24.6 All Officer Decision Notices signed pursuant to E24.4 shall be held by the Audit Manager and shall be available for inspection as required.

E24.7 The Audit Manager shall report to Audit and Governance Committee regularly on the number of decisions approved pursuant to E24.2 and E24.4 and the number of awards made pursuant to the value for money procedure set out in E15.1, E15.2.

E24.8 In circumstances where a direct award of a contract has been approved through the value for money procedure set out in E15.1 or E15.2, there is no requirement to obtain the authorisation as set out in E 24.2.

## **E25 Payment of Undisputed Invoices**

E25.1 The Council has a duty under the Public Contracts Regulations 2015 for every public contract (whether it is above or below the WTO GPA threshold) to pay undisputed invoices within 30 days. PPG9 explains the requirements for payment of undisputed invoices.

E25.2 E25.1 does not apply to contracts awarded by a contracting authority which is a maintained school or an Academy nor does it apply to contracts for the procurement of health care services for the purposes of the NHS within the meaning and scope of the NHS regulations.

## **E26 Public Services (Social Value) Act 2012**

E26.1 The Council must consider the social value of its approach to procurement and follow the guidance outlined in the Council's Social Value Policy.

E26.2 PPG10 explains the requirements for social value.

## **E27 Schools**

E27.1 The Scheme for Financing Schools (the "SFS") governs the management by each school of its delegated and devolved budget as determined in s.48 of the School's Standards and Framework Act 1998. Schools (other than foundation schools or academies) are expected to follow these rules but where there is conflict between the rules and the SFS, the SFS will take precedence.

E27.2 Contracts over £60,000 let by schools spending budgets delegated to them under the SFS must be sealed by the Council in addition to signature by the School's Governing Body. Schools should follow the purchasing, tendering and contracting requirements at Section 5 of the SFS.

## **E28 Additional Matters**

E28.1 PPG11 sets out additional matters which might be relevant to a procurement and Officers are advised to refer to PPG11 before commencing a procurement.

## (External Arrangements)

### In this Section:-

<b>Receiving Grants And External Funding</b>	
F1	Definition
F2	Authority to Submit and Accept Bids for External Funding
F3	Submitting Bids
F4	Accepting Grants
<b>Giving Grants Out</b>	
F5	Policy and Approval of Funding Intentions
F6	Written Agreements
F7	Funding Conditions
F8	Reporting
F9	Changing Existing Arrangements

### **Receiving Grants & External Funding**

#### **F1 Definition**

- F1.1 External funds can come from a variety of sources including Central Government Departments, European Union, National Lottery, private sector companies, charitable bodies, trusts, foundations or individuals.
- F1.2 For the purposes of this section “external funding activity” means any plans to seek external funding sources for projects or any funding bids being prepared or planned.
- F1.3 All external funding bids must be aligned with the Council’s priorities and have secured all resources necessary for successful delivery of the project.

#### **F2 Authority to Submit and Accept Bids for External Funding**

- F2.1 The approval process seeks to obtain approval to submit the bid, to accept the bid and to incur the expenditure (if successful) as a single approval process. This would mean that a separate supplementary revenue or capital estimate would not be required once the bid was accepted (provided that the grounds for accepting the bid are reasonable and not substantially different to the grounds upon which the bid was made).

F2.2 The relevant Director must consider the impact on wider Council resources required to compile and submit the bid.

F2.3 Roles and responsibilities

- (a) Directors must ensure any external funding activity has a Bid Lead Officer;
- (b) Bid Lead Officers must liaise with their Director to ensure that all necessary permissions are obtained;
- (c) Bid Lead Officers must work with their Director to undertake bid quality assurance and project risk assessments to identify budget implications, together with information on how the additional running costs/maintenance costs are to be funded. Bid Lead Officers must also consult the Departmental Finance Manager regarding the financial implications of the bid, including staffing resources;
- (d) Bid Lead Officers must provide their Director with the sources and amounts of match funding and the corporate priorities the proposed project meets;
- (e) The Director may decide to delegate these powers/responsibilities. Such delegations must be evidenced in writing but the delegator will remain ultimately responsible for ensuring compliance with these rules.

F2.4 The Director of Finance will maintain a register of all external funding commitments which will be reported annually to the Audit and Governance Committee.

**F3 Submitting External Funding Grant bids**

F3.1 Bid submissions must be authorised in line with table 1 prior to submission. Approvals limits are based on the total value of the grant plus any Council contribution required in order that the full cost implications of such proposals can be considered and approved.

**Table 1: Approvals for the submission and acceptance of all external funding grant bids**

<b>Approval Route</b>	<b>Authorisations Required</b>	<b>Consultation Required</b>	<b>Total Value where match funding required</b>	<b>Total Value where no match funding required</b>
ODN	Service Director	Departmental Finance Manager	Up to £100,000	Up to £100,000

ODN	Service Director Director of Finance	Relevant Cabinet Member	£100,001 - £250,000	£100,001 - £250,000
ODN	Service Director Director of Finance Director of Governance	Relevant Cabinet Member Cabinet Member for Legal and Finance	£250,001 - £1,000,000	£250,001 and over
Committee Paper	Cabinet		Over £1,000,000  <i>*This will be a key decision where the match funding is over £1,000,000</i>	

F3.2 Authority to submit/accept bids is based on the total value of the grant plus any Council contribution required over the lifetime of the project/bid:

- revenue expenditure (within existing budgets);
- capital expenditure (within approved programme);
- support in kind from existing resources (including staff time);
- additional costs funded from reserves.

In addition the following factors must be considered and reflected in the approval documentation:

- the opportunity cost of committing existing resources for the duration of the external funding;
- capacity to deliver the project for which the grant bid is being submitted;
- a clear assessment of the way in which the bid contributes to the priorities within the Council Plan;
- the risks to the Council in delivering the grant outcomes including delivery mechanisms, accountable body status and claw back provisions

For the purposes of this section the term “within existing resources” means that there must be money available (uncommitted funding) within existing service area budgets.

F3.3 Any bid requiring funding from general reserves (including the Capital Reserve) regardless of value, must be approved by Council.

F3.4 The Bid Lead Officer will be responsible for obtaining the necessary authority and producing a briefing note for bids over £100,000, circulated to all Members.

F3.5 Submitting Expressions of Interest

The submission of genuine expressions of interest in a future bidding process do not fall within the scope of this section F subject to all of the following conditions being satisfied;

- this is a genuine expression of interest in a future bidding opportunity
- there is no commitment to submit a formal bid for external funding
- if the expression of interest is successful any formal submission of a bid will follow the process set out in this section F
- any match funding indicated in the Expression of Interest is conditional on further approval in accordance with this section F and already within existing resources
- no grant terms and conditions are entered into on behalf of the Council
- approval of an expression of interest is approved by way of an ODN and authorised by the Director of Service and the Director of Finance in consultation with the relevant Cabinet Member.

#### **F4 Accepting Grants**

- F4.1 Approval to accept and utilise grant funding should be sought as part of the original bid process. Should the final offer be for a significantly different amount or reflect significantly different objectives to the original submitted bid, the Bid Lead Officer should seek advice from the relevant Departmental Finance Manager as to whether further approval is required.
- F4.2 Bid Lead Officers must consult the Director of Governance regarding grant agreements before the acceptance of any grants. Grant agreements must be signed by the relevant authority as set out below.
- F4.3 Where the grant received will fund the undertaking of an activity not originally identified in the approved budget, or the funding received reflects an overall increase in the cash income or expenditure of the Council, a supplementary revenue estimate or a virement will automatically be actioned following confirmation of acceptance of the grant. This will increase the approved budget in the relevant service area.

### **Allocation of Grants, Donations and Other Discretionary Contributions**

#### **F5 Approval of Funding Intentions**

- F5.1 The Cabinet will, on a periodic basis, agree the approach to be taken to the funding of, and investment in groups that further social, environmental or cultural objectives, such as voluntary and community organisations, faith groups and social

enterprises (including the allocation of grants, donations, and other discretionary contributions

F5.2 Funding intentions of this nature must be approved annually by the Cabinet or its nominated representative. As well as third sector funding, this should include discretionary payments to any type of organisation to sponsor or promote events that are outside the Council's normal activities.

F5.3 Further approval will be required for grants, donations or other discretionary contributions not originally included in the annual report to the Cabinet as follows:

<b>Approval level</b>	<b>Value of Contribution</b>
Directors	Up to £10,000
Directors in consultation with Director of Finance and Director of Governance (or their nominated deputy) and relevant Cabinet Member	£10,001 to £50,000
Cabinet Member Legal & Finance and relevant Cabinet Member	£50,001 to £500,000
Cabinet	Over £500,000

F5.4 A central register of all grants, donations or other discretionary payments will be maintained by the Head of Compliance & Assurance. Directors will be responsible for informing the Head of Compliance & Assurance of any grants, donations or other discretionary payments for this purpose.

## **F6 Written Agreements**

F6.1 All discretionary grants, donations or other discretionary financial contributions, whether contractual in nature or not, must be set out in a written agreement, the content and format of which must be approved by the Director of Governance. The written agreement templates will:

- a. Provide a set of standard conditions that apply to all grants, donations or other discretionary financial contributions;
- b. Allow officers to set out the funding purpose, duration, outputs, performance targets, monitoring and audit requirements, method and timescale for payment, and any specific conditions that need to be applied to the award.

F6.2 Before using any of the standard templates, advice should be sought from Legal Services where any of the following apply:

- a) The agreement has, or may have TUPE implications, in respect of the transferring of staff or services from one organisation to another (including the Council);

- b) The agreement has been brought about by a joint procurement or commissioning process involving parties external to the Council;
- c) The agreement includes arrangements for the leasing of premises from the Council other than by way of a standard full-market rent payment funded through the agreement;
- d) All or some of the funding has been sourced from finances external to the Council's own budget. i.e. is funded wholly or in part through external funding;
- e) The funding includes support for capital expenditure as defined by the Council's Financial Regulations at the time the support is awarded.

F6.3 Written agreements must be signed by the relevant authority as set out below:

<b>Value of the grant given out by the Council</b>	<b>Authorised Signatory</b>
Up to £100,000	Two authorised signatories as set out in the Service Scheme of Financial delegation
Over £100,000	Sealed as a deed by Legal Services

## **F7 Funding Conditions**

F7.1 Where funding for outside bodies is provided by third parties, for example Central Government, Officers must ensure that the funding is used in a way that complies with any conditions attached by the funding provider.

## **F8 Reporting**

F8.1 In accordance with the 2014 Local Government Transparency Code, the Council is required to externally publish actual payments to third sector organisations on an annual basis.

F8.2 Actual payments made will be published on the Council's website by the end of April following the financial year to which they relate and reported to Cabinet or its nominated representative.

## **F9 Changing Existing Arrangements**

F9.1 Before changing existing arrangements with the voluntary, community and faith sector, whether funded by grants or procured competitively, Officers shall ensure that:-



- a) an Equality Impact Assessment is carried out and the outcome taken into account in decision making;
- b) the Council's Compact for Cheshire West and Chester is complied with;
- c) a minimum 3 months written notice to withdraw funding is provided to the voluntary, community or faith sector organisation;
- d) consideration is given as to whether TUPE applies;
- e) any guidance issued by the Council on de-commissioning is followed.

### Collaborative Working and ASDVs

**In this Section:**

G1	General
G2	Written Agreement
G3	Accountable Body
G4	Collaborative Working Approval Process
G5	ASDV Background
G6	Approval to set up an ASDV
G7	Approval process once the ASDV is operational - Shareholder
G8	Approval process once the ASDV is operational – Customer/Supplier
G9	ASDV Reporting
G10	Directors of ASDVs

## **G1 General**

- G1.1 The term “collaborative working” covers a wide array of joint working arrangements. For the purposes of this section, the term “collaborative working” means working with one or more third parties collectively to achieve a shared objective.
- G1.2 The Council’s contribution to collaborative working may be capital, revenue or contributions in kind such as staff time, and contributions of any kind fall within this section.
- G1.3 This section does not cover public to public or public to private contractual arrangements. This is covered under section E of the Finance and Contract Procedure Rules.
- G1.4 In any circumstance where the Council undertakes procurement in respect of collaborative working, the Council’s Finance and Contract Procedure Rules shall apply.
- G1.5 The Council will maintain a register of significant partnerships in accordance with the Partnership Governance Framework and all significant partnerships will be subject to an annual review which will be reported to Audit and Governance Committee.
- G1.6 As a measure of best practice, all collaboration agreements should be subject to a complete review at least every 4 years.
- G1.7 Any collaboration which involves the creation of or participation in a separate legal entity (Alternative Service Delivery Vehicle (ASDV)), such as a limited company, trust or charity, must be set up and approved in accordance with the governance arrangements as set out in section G6.

## **G2 Written Agreement**

- G2.1 All collaborative working arrangements must be recorded in writing, the content and format of which must be approved by the Director of Governance. All arrangements which involve the commitment of significant Council resources (be they finance, staff, land, buildings or equipment), or where the Council acts as an accountable body, must have a formal agreement in place approved by the Director of Governance.

## **G3 Accountable Body**

- G3.1 Any collaborative working in which the Council is to act as Accountable/Responsible Body must be approved by the relevant Director and the Director of Finance.
- G3.2 Where the Council does act as the Accountable Body, the full cost of providing any services or functions must be charged to the collaborative working arrangement (including a fair share of corporate overheads or equivalent in kind contribution).

## **G4 Collaborative Working Approval Process**

- G4.1 The approval process for participation in a collaborative working arrangement is based on:
- a) Compliance with and contribution to corporate outcomes
  - b) The scale of the Council’s contribution (in financial and non-financial terms)
  - c) The scale of the expenditure for which the Council will become accountable.
- G4.2 Any Council’s financial contribution which is not already included in the approved

budget, will need approval in line with the limits set out in section G4A of the Finance and Contract Procedure Rules (sections A5-A8). The financial contribution of the Council should be assessed over the anticipated lifetime of the collaborative working arrangement.

- G4.3 Each Director is responsible for preparing regular reports for the Cabinet Member outlining the key outcome and achievements from each collaborative working arrangement. The report should also review the affordability and continued relevance of the arrangement to the Council's corporate objectives.

## **G5 Council Companies/ASDVs**

- G5.1 The term Council Company or Alternative Service Delivery Vehicle (ASDV) refers to a range of different organisations which:
- a) have been set up by the Council, either alone or with a partner
  - b) are legally separate from the Council
  - c) are operationally independent of the Council, but over which the Council has retained significant control of key strategic issues.
- G5.2 ASDVs can take a number of different legal forms. The main types include company limited by shares, company limited by guarantee, community interest companies and trusts.
- G5.3 Each ASDV will have its own governance arrangements, business plan and policies and procedures for managing its business, which may differ from those of the Council.
- G5.4 In some cases the Council will have several distinct relationships with the ASDV. Each of these relationships is subject to different rules and processes. Each relationship is defined by a relevant governance document setting out the requirements for each party:
- a) as shareholder/owner of the business – via a shareholder agreement
  - b) as a customer or supplier of goods or services – via service contracts
  - c) as a landlord providing premises – by formal lease documents
  - d) as funder/underwriter of risks – by loan/investment agreements
- G5.6 The effectiveness and ongoing value of these arrangements are subject to regular monitoring by officers, Cabinet and reporting to Cheshire West and Chester Scrutiny Committee.

## **G6 Approval to set up an ASDV**

- G6.1 The Council's overall Company Strategy sets out the common principles which should apply across all its ASDVs, and the strategic objectives they are expected to support. The contribution of any new ASDVs to this overarching strategy should be explicitly considered in any decision to create a new company. Material changes to this strategy must be approved by Cabinet.
- G6.2 Setting up a new ASDV is likely to be an expensive, complex and time consuming process requiring significant input from a number of Council services. To ensure consistency with corporate priorities and minimise the risk of abortive costs, the set up needs to be in 3 distinct stages:
- a) Approval of an initial expression of interest setting out the potential benefits and risks of creating a new ASDV. To be approved by Chief Officers in consultation with Director of Finance to develop a Business Case to establish a new ASDV
  - b) Production of a Strategic Outline Business Case (OBC) to demonstrate how the development of an ASDV would be beneficial to the Council. This

should consider issues such as operational outcomes, value, affordability, governance, capacity to deliver and risks, and compare these to alternative models.

c) Production of a Full Business Case (FBC) setting out the detailed case for introducing the ASDV and a proposed implementation plan.

- G6.3 Cabinet approval to progress will be required at the end of both OBC and FBC stages.
- G6.4 Council direct support to an ASDV in return for the provision of services is subject to the same approval requirements as support to any other third party organisation.
- G6.5 The Council may also offer indirect support to an ASDV. The provision of such support typically involves the Council taking on risks and should be explicitly approved by Cabinet as part of the Final Business Case. Specific approvals would be required for area such as:
  - a) Council pension guarantees or other financial guarantees
  - b) Provision of working capital loans or facilities
- G6.6 Prior to the operational launch of a new ASDV the company will be required to produce an initial business plan covering at least the first year of its life. This will set out the ASDV's mobilisation plan, key priorities, performance targets, budgets, management structure, risk strategies etc.

## **G7 Decision Making once an ASDV becomes operational – Decisions as Shareholder**

- G7.1 While operational decision making for an ASDV will be undertaken by the appointed Company Board or management team, the Council will retain a range of strategic decision making powers as Reserved Matters. These give the Council the ability to control key aspects of the company's business strategy to ensure it remains aligned with the Council's priorities and principles.
- G7.2 The specific list of reserved matters will vary depending on the nature of the Council's ownership role but standard reserved matters would typically include:
  - a) Altering the Company's Articles of Association
  - b) Selling part of the business, forming a subsidiary, acquiring shares in any other company or merging with any other undertaking.
  - c) Changing the nature of the business.
  - d) Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the Business
  - e) Declaring or paying a dividend or amending any profit-sharing, share option, bonus or incentive scheme of any nature for directors or employees.
  - f) Appointment or removal of Directors or changes to remuneration packages
  - g) Making changes to pension arrangements for staff including any decision to close the pension fund to new recruits.
- G7.3 The Cabinet Member for Legal and Finance is responsible for making decisions that relate to the Council's role as shareholder or owner of the ASDV. This applies to

both those decisions that have been specifically reserved to the Council and others of a similar nature. These decisions must be recorded in line with standard procedures for decisions made by an individual Cabinet Member. For these purposes, expenditure by the ASDV is not to be regarded as expenditure by the Council.

- G7.2 Where shareholder decisions are reserved to the Council but are administrative in nature or would have been within the authority of officers had they related to a Council service; then approval can be given by the relevant Chief Officer. No officer can approve a decision on behalf of the shareholder if it also directly affects them or their services as a customer or supplier.
- G7.6 Each ASDV will have its own equivalent of the Councils FCPRs. Changes to these documents will generally not require any approval from the Council.
- G7.7 The ability of the Council to wind-up or liquidate an ASDV will be set out in the Shareholder Agreement or Articles of each ASDV. Putting an ASDV into liquidation is likely to be a significant step with major HR, legal, financial and service delivery implications. It is therefore likely that such a decision will require Cabinet approval.

## **G8 Decision Making once an ASDV becomes operational – Decisions as Customer/Supplier**

- G8.1 If the Council wishes to change the scope and/or range of services delivered by the ASDVs, this will generally require the agreement of both the Council and the company. Council approval to change the scope/range of services should initially be obtained from Chief Officers in consultation with Director of Finance. Further approval will depend on the size and nature of services covered by the proposed change and therefore advice should be obtained from the Director of Governance. Company approval will depend on each company's own governance processes.
- G8.2 If the ASDV supplies goods or services to the Council, then generally the standard FCPRs applicable to any 3rd party supplier should be applied to decisions affecting the ASDV in its role as a supplier. The primary exception is ASDVs which are Teckal exempt. In these cases, the Council can award contracts to the ASDV without a competitive procurement process. The award of a contract under a Teckal exemption should still be subject to a business case assessment demonstrating value for money is being achieved.
- G8.3 Where the Council is commissioning goods or services that could realistically be supplied by one of its ASDVs there is an expectation that they will be given fair consideration for that work. The commissioning service is required to carry out a Companies Test assessment to demonstrate that they have considered whether or not their needs could be met by an ASDV, and where that is a possibility that company have been given the opportunity to bid for that work.
- G8.4 The Companies Test does not presume that ASDVs are awarded work if they cannot offer value for money or meet the necessary specifications, it does however require that they are given the opportunity to bid for work where appropriate.

## **G9 Reporting**

- G9.1 Each ASDV will be required to provide regular shareholder financial and performance reports to the Council. The form and timing of reports will be defined by the Director of Finance and Director of Governance.
- G9.2 These reports will in the first instance be considered by a Shareholder Board. This Board comprises corporate and service officers who consider the company's performance against its approved business plan priorities, delivery of Council

objectives and financial performance and stability.

- G9.3 If the ASDV supplies services to the Council it will also have to provide performance reports in accordance with its contractual obligations. These contractual performance reports will be incorporated as part of the standard Officer/Member process used for all suppliers.
- G9.4 The key messages from these reports are reported to the Management Board and the Cabinet Member for Legal and Finance on a quarterly basis. The Scrutiny role in respect of the performance of ASDVs is provided by the Cheshire West and Chester Overview and Scrutiny Committee

## **G10 Directors of ASDVs**

- G10.1 The Council may be entitled to nominate Directors to sit on the Company Boards and represent the Councils views. This role would typically be carried out by Directors or Senior Managers. The role of Director includes some significant personal responsibilities and liabilities. It is therefore important that advice from the Director of Governance is sought before becoming a Director.
- G10.2 Each ASDV will also have a nominated lead Member from the Cabinet based on their portfolio responsibilities. This Member will have an open invite to participate in relevant strategic and Board meetings, but this would be in an advisory capacity and not a direct decision making role.

## **Glossary**

“Appropriation”	Amounts transferred between the Revenue account and revenue or capital reserves
Bad debt	A debt owed to the Council where the cash will not be collected and therefore the debt needs to be written off. See also provision for bad debts below.
Balances (Revenue Account)	The accumulated surplus of income over expenditure. Members may agree that Balances be used to reduce future Council Tax precepts although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate interest income to the Authority.
Blight	An individual’s property may be blighted if there is a proposal to build nearby and this will adversely affect the property. The Authority may be required to purchase the property under a Blight Notice.
Capital Approval	The capital programme provision as amended by any supplementary estimates or virements.
Capital Expenditure	Expenditure over £10,000 on the purchase, construction or replacement of capital (fixed) assets or expenditure which adds to the life or value of an existing fixed asset.
Capital Programme	The Authority’s plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees, and the acquisition of vehicles and major items of equipment.

Capital Project/Scheme	These terms mean the same thing and are used interchangeably within these Rules. A project/scheme may be separately identified in the capital programme or be an item within a themed allocation (for example ICT or building maintenance).
Capital Receipts	Income received from the sale of capital assets and available, subject to rules laid down by the Government, to finance new capital expenditure or to repay debt.
Carry Forward	An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All carry forwards (except for Schools) need the approval of the Cabinet upon the presentation of a business case.
Chief Officers	Chief officers are the Chief Executive or any Director of the Council to whom there has been specific delegation in writing by the Council or the Chief Executive.
Commitment	The value of any order or contract placed, prior to payment for goods / services having been made.
Contingencies	Sums set aside as part of the Councils budgets to meet either: (a) the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or (b) items which are difficult to predict in terms of financial impact or timing (contingency for uncertain items).
Council Fund	The Council's main revenue fund to which all revenue receipts are credited, and from which revenue liabilities are discharged. The movement on the fund in the year represents the excess of income over expenditure within the Consolidated Revenue Account. The level of balances held is based on the Council's assessment of the level of risk and uncertainty and the potential call on such reserves.
Debt Write-Off	Realising the cost of debt which is considered to be "bad" (unrecoverable) by writing it off against the revenue account or bad debt provision.
Earmarked Reserves	Reserves that can only be used for a specific use or purpose.
Financial Year	The Council's accounting period covers the 12 months from April 1 to March 31.
Key Decisions Plan	Defined in the Constitution.
Internal Control	A procedural system designed to manage risk to an acceptable level whereby different staff members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.
Key Decision	Defined in the Constitution.
Leases	Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases, Operating and Finance
Leases (operating)	A lease where the risks and rewards of ownership remain with the lessor.
Leases (finance)	A lease where most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance, etc. will fall to the Council)



Official Journal of the European Union (OJEU)	The daily publication of tender notices issued by the European Union.
Option Appraisal/Business Case	This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable, deliverable and in accordance with the corporate plan. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals it will also take into account the risk and impact on users.
Policy and Expenditure Planning	The Council's annual cycle of planning for the medium and short-term future, aimed at achieving optimal allocation of available resources.
Policy and Expenditure Proposals	Proposals, including new policies, which have resource implications and will be subject to appraisal by Members, the Corporate Management Team and external consultees before inclusion in the annual budget.
Procurement	The process of acquiring goods and services, which includes the choice of supplier, the specification of goods / services required and the initiation of a purchase order or contract agreement.
Provision	An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred. The main category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock). See also Capital Provision and Provision for Doubtful Debt.
Provision for Doubtful Debt	An allocation of funds set aside from Service revenue budgets to cover amounts which may not be recoverable from debtors.
Prudential Borrowing Limits	The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.
Quotation	An informal priced offer setting out the terms and conditions to supply requested goods or services.
Revenue Account	The Account which sets out the Council's income and expenditure for the year for non-capital spending.
Revenue Expenditure	Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.
Ring Fencing	Certain budgets agreed by the Director of Finance are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees and election expenses.
Schemes of Delegation	Schemes of Delegation are the documents that set out, for each Service, all authorisations and approval limits as delegated by the Directors of Service to Authorised Officers

	within their Service. Directors of Service are responsible for maintaining up to date and accurate Schemes of Delegation. (See also: Financial Schemes of Delegation)
Service Plan	A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.
Starts value"	Represents the full value of the Council's contribution to a Capital Scheme irrespective of the timing of the payments.
Supplementary Capital Estimate (SCE)	Additional resources approved by Members with funds either provided by a third-party (e.g. developer contributions, receipts, government grant), by the use of Council reserves or from the Revenue budget.
Supplementary Revenue Estimate (SRE)	An approved increase to a Service revenue budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions.
Tender	A formal priced offer in response to an invitation to supply goods or services against a specification.
Tenderer	Any person or organisation invited to submit a Tender.
Third Party Funds	Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.
Threshold	The financial level at which award of contract regimes under prevailing European Union Procurement Directives are applicable.
Underspend	An underspend results when the net costs of a budget holder are lower than the net budget for the year.
Virement	A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Directors of Service. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.
Voluntary Transparency Notice	A notice providing justification of the decision of the Council to award the contract without prior publication of a contract notice, in accordance with the requirements of Regulation 99(4) of the Public Contract Regulations 2015.

## **PART 4 – SECTION 1**

# **ACCESS TO INFORMATION PROTOCOL**

### **Scope**

1. This protocol applies to all formal meetings of the Council, Cabinet, Overview & Scrutiny committees, Regulatory committees, and any sub-committees, boards and joint committees (together called meetings).

### **Councillors Rights to Information**

2. Members are free to request from the Council such information as they may reasonably need in order to assist them in discharging their role as councillors, having regard to any special responsibility, e.g., as Cabinet Member or committee Chair. Such request should normally be directed to the relevant Director.
3. The legal rights of members to inspect council documents arise partly from statute and partly from the common law (judicial decisions).
4. In principle (and subject to certain exemptions described below), members have, in addition to the ordinary rights of access to information enjoyed by the public, the right to access any information held by the Council. This right of access may not extend to publishing or otherwise making public such information and, indeed, members may be asked to sign a confidentiality undertaking before being provided with certain information.

### **The Statutory Position**

5. Section 100F of the Local Government Act 1972 (as amended) (the Act) provides that any document that is in the possession or under the control of a principal council and contains material relating to any business to be transacted at a meeting of the Council or a committee or sub-committee of the Council, shall be open to inspection by any member of the Council.
6. This does not require the document to be disclosed if it appears to the Proper Officer that it contains exempt information under Schedule 12A of the Act. However, under the Local Government (Access to Information) (Variation) Order 2006, the document will still be open to inspection by members if it contains the following:
  - (a) Information relating to the financial or business affairs of any particular person (including the Council holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
  - (b) Information which reveals that the Council proposes:
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (ii) to make an order or direction under any enactment.

7. All agendas, reports and other documents and proceedings of committees and sub-committees shall be treated as confidential and shall not be disclosed unless and until they become public in the ordinary course of the Council's business.
8. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations) apply to local authorities in England that operate Executive arrangements under Part 1A Local Government Act 2000, as amended by s.21 and Schedule 2 of the Localism Act 2011. The Regulations:
  - (a) Clarify and extend the circumstances in which Executive decisions are public. There is a presumption that a meeting will be open to the public unless the nature of the business being transacted would result in confidential information being disclosed;
  - (b) Make provision for the publicity that must be given before a Key Decision is taken by the Executive and for the inclusion of prescribed information in a written statement of the Executive decision;
  - (c) Set out additional rights of members generally, and members of overview and scrutiny committees in particular, to access documents; and general provisions relating to information that is exempt from disclosure (including advice from a political adviser).

#### **All Members**

9. Regulation 16 contains rights for any member to access documents that:
  - (a) are in the possession or under the control of the executive; and
  - (b) contain material relating to any business to be transacted at a public meeting.
10. Any such document must be available for inspection for at least five clear days before the meeting, except that:
  - (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
  - (b) where an item is added to the agenda at shorter notice, a document that would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.
11. Any document which:
  - (a) is in the possession or under the control of the executive and
  - (b) contains material relating to:
    - (i) any business transacted at a private meeting;
    - (ii) any decision made by an individual member in accordance with executive arrangements; or
    - (iii) any decision made by an officer in accordance with executive

## arrangements

must be available for inspection by any member when the meeting concludes or, where an Executive decision is made by an individual member or an officer, immediately after the decision is made. Any such document must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made.

12. Neither of these provisions applies if it discloses Exempt information (see paragraph 41, below). However, the document will still be open to inspection if it contains information:
  - (a) information relating to the financial or business affairs of any person (including the Council holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract, or
  - (b) information which reveals that the authority proposes:
    - (i) to give a notice under which requirements are imposed on a person; or
    - (ii) to make an order or direction

## Overview and Scrutiny Members

13. Regulation 17 provides additional rights of access for members of Overview & Scrutiny committees, who are entitled to a copy of any document that:
  - (a) is in the possession or under the control of the Executive; and
  - (b) contains material relating to:
    - (i) any business that has been transacted at a meeting of a decision-making body of the authority;
    - (ii) any decision that has been made by an individual member of the Executive; or
    - (iii) any decision that has been made by an officer in accordance with Executive arrangements.
14. The Executive must provide that document as soon as reasonably practicable and, in any case, no later than 10 clear days after it receives the request.
15. No member of an Overview & Scrutiny committee is entitled to a copy:
  - (a) of any document or part of a document that contains Exempt or Confidential information, unless that information is relevant to:
    - (i) an action or decision that the member is reviewing or scrutinising; or
    - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
  - (b) of a document or part of a document containing advice provided by a

political adviser or assistant.

16. Where the Executive determines to refuse such a request it must provide the Overview & Scrutiny committee with a written statement setting out its reasons for that decision.

### **FOIA and EIR**

17. Councillors can, like a member of the general public, also request information from the Council under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). The Information Commissioner's Office publishes guidance on access rights and the exemptions that may be applicable under FOIA and EIR.

### **Local authority accounts**

18. The Local Audit and Accountability Act 2014, and the Accounts and Audit Regulations 2015 provide a right to inspect, question and make objections to the Council's auditor, take copies of statements of accounts and auditors' reports. These rights are explained fully in the National Audit Office guidance, but are restricted to prevent access to documents containing personal information about staff.
19. In addition, s.228(3) of the Act provides that: "The accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts".

### **The common law 'need to know'**

20. Under common law principles, all members have the right to access information held by their authority where it is reasonably necessary to enable them to properly perform their duties as a councillor.
21. However, if the member's motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go on a 'fishing expedition' through their council's documents.
22. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the Councillor would have to show good cause why sight of them is necessary to perform their duties.

### **Notice of Meetings**

23. The Council will give at least five clear days' notice of any meeting by posting details of the meeting at council offices and on its website. Where exceptionally this period of notice cannot be given, notice will be given as soon as the meeting is convened.

### **Key Decisions**

24. At least 28 clear days before a Key Decision is made, the Key Decisions Plan must contain the following information:
  - (a) that a Key Decision is to be made on behalf of the Council;
  - (b) the matter in respect of which the decision is to be made;

- (c) where the decision maker is an individual, that individual's name, position and, where the decision maker is a decision-making body, its name and list of members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents the decision-maker is likely to consider, including what other documents may be submitted to the decision-maker;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker;
  - (h) the procedure for requesting details of documents;
  - (i) whether the public are likely to be excluded from the meeting at which the matter is to be discussed, or whether papers relating to the matter may be excluded from publication.
25. Except in cases of urgency (see Part 2 Section 10), where the publication of the intention to make a Key Decision is impracticable, that decision may only be made:
- (a) where the clerk has informed the chair of the Cheshire West & Chester Overview & Scrutiny Committee or, in their absence, each member of the committee by notice in writing, of the matter about which the decision is to be made and setting out the reasons why publication is impracticable;
  - (b) where the clerk has made available for inspection and published on the website a copy of the notice given under (a); and
  - (c) after five clear days have elapsed following the day on which the clerk made available the notice referred to under (b).
26. If an Overview & Scrutiny committee considers that a decision taken should have been treated as a Key Decision but was not, it may require the Leader to report to Full Council within a specified reasonable time, giving details of the decision, the reasons for it, who made it and why it was not considered to be a Key Decision.
27. In accordance with Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Leader will submit a report to the next Ordinary Council containing particulars of all Key Decisions taken as urgent since the last meeting.

#### **Access to agendas and reports before meetings**

28. The Council will publish the agenda and reports (that are not exempt from publication) on its website at least five clear days before the meeting, or if a meeting is convened at less than five clear days' notice as soon as it is convened.
29. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.
30. Where reports are prepared after the summons has been sent out, the clerk shall make each such report available to the public as soon as the report is completed and

sent to councillors.

### **Background Papers**

31. The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
- (a) discloses any facts or matters on which the report or an important part of the report is based; and
  - (b) have been relied on to a material extent in preparing the report; and
  - (c) do not include:
    - (i) published works or
    - (ii) exempt or confidential information or
32. Background papers are published on the Council's website and available for public inspection at council offices.
33. The Council will make background papers available for public inspection for four years after the date of the meeting/decision.

### **Supply of copies**

34. The Council will supply copies of any agenda, reports and background papers that are open to public inspection to any person, electronically (wherever possible) or, on payment of a charge for copying and postage, in hard copy.

### **Access to minutes etc after meetings**

35. The Council will retain and make available copies of the following for six years after a meeting or the taking of a decision:
- (a) the minutes of the meeting and/or records of decision taken, together with the reasons, excluding any part of the minutes that discloses exempt or confidential information and also excluding, if appropriate in the opinion of the Director of Governance any part of the minutes of proceedings when the meeting was not open to the public;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.

### **Public Rights to Attend Meetings**

36. Members of the public may attend all meetings subject only to the exceptions in these rules.

### **Exclusion of the Public**



37. Where a meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified below for the meeting to go into private session.
38. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted that Confidential information would be disclosed.
39. Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.
40. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Exempt information would be disclosed.

### **Exempt Information**

41. Exempt information means information falling within the following categories, determined by reference to the description in Schedule 12A of the Local Government Act 1972:
  - (a) information relating to any individual;
  - (b) information which is likely to reveal the identity of an individual;
  - (c) information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies, Friendly Societies, Industrial and Provident Societies, Building Societies or Charities Acts;
  - (d) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations, matter arising between the authority of a Minister of the Crown and employees of, or office holders under, the authority;
  - (e) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
  - (f) information which reveals that the authority proposes:
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (ii) to make an order or direction under any enactment.
  - (g) information which is subject to any obligation of confidentiality;
  - (h) Information which relates in any way to matters concerning national security
42. Information not Exempt information if it:

- (a) is required to be registered under:
    - (i) the Companies Act 1985
    - (ii) the Friendly Societies Act 1974
    - (iii) the Friendly Societies Act 1992
    - (iv) the Industrial and Provident Societies Acts 1965 to 1978
    - (v) the Building Societies Act 1986
    - (vi) the Charities Act 1993
  - (b) relates to proposed development for which the Council as Local Planning Authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992 (as amended from time to time).
43. Information that falls within paragraph 41(a)-(g) above is Exempt information if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### **Public Interest Test**

44. There is no legal definition of 'public interest', but the following are relevant considerations in favour of disclosure:
- (a) The information would assist public understanding of an issue that is subject to current public debate.
  - (b) Proper debate cannot take place without wide availability of all the relevant information.
  - (c) The issue affects a wide range of individuals or companies.
  - (d) Facts and analysis behind major policy decisions.
  - (e) Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
  - (f) Accountability for proceeds of sale of assets in public ownership.
  - (g) Openness and accountability for tender processes and prices.
  - (h) Public interest in public bodies obtaining value for money.
  - (i) Public health or public safety.
  - (j) Damage to the environment.
  - (k) Contingency plans in an emergency.
  - (l) Promoting accountability and transparency for decisions taken by public authorities and the spending of public money.

45. A practice of applying "Exempt" status to a report without reasons being set out and consideration of the public interest is not acceptable.
46. Information is not Exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

#### **Private meetings**

47. At least 28 clear days before a private Cabinet meeting, e.g., where one or more of the reports on the agenda includes exempt or confidential information, a notice of the intention to hold part or all of the meeting in private must be included in the Key Decisions Plan published on the Council's website and be available for inspection.
48. The notice must state the reasons for the meeting to be held in private and advise that any representations about why the meeting should be open to the public must be received at least 10 clear days before the meeting (so these can be considered by the Director of Governance and responded to).
49. At least 5 clear days before any private meeting, a notice of the intention to hold part or all of the meeting in private must be included in the agenda published on the Council's website and be available for inspection.
50. The notice must:
  - (a) state the reasons for the meeting to be held in private;
  - (b) provide details of any representations received about why the meeting should be open to the public;
  - (c) include a statement of the Council's response to any such representations.
51. Where the whole or any part of a report for a public meeting or as part of a decision is not available for inspection by the public:
  - (a) every copy of the whole report or the part of the report, as the case may be, must be marked "not for publication"; and
  - (b) there must be stated on every copy of the whole or the part of the report:
    - (i) that it contains confidential or exempt information;
    - (ii) by reference to the categories in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision-making body discharging the function is likely to exclude the public during the item to which the report relates.

#### **Urgent decisions in private Cabinet meetings**

52. Where the date by which a private Cabinet meeting must be held makes compliance with the notice periods above impracticable, the meeting may only be held in private where agreement has been obtained in writing from the Chair of the Cheshire West & Chester Overview & Scrutiny Committee or, in their absence, the Chair of the Council or, in their absence, the Deputy Chair of the Council, that the meeting is urgent and cannot reasonably be deferred.

53. As soon as reasonably practicable after such agreement has been obtained, a further notice must be published on the agenda on the website and be available for inspection, setting out the reasons why the meeting is urgent and cannot reasonably be deferred.
54. If the matter is Confidential or Exempt from publication, then the item will not be made available to the public. However, the clerk will be required to ensure that a separate public report and minute is produced containing all information that is not confidential or exempt from publication.
55. If an item is later added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the report author shall make each such report available to the public as soon as the report is completed.
56. In the case of items or reports that fail to meet the deadline of five clear days, the report will only be included on the agenda where the Director of Governance is satisfied that:
  - (a) the item/report is genuinely urgent and cannot wait until a later meeting; and
  - (b) the report author will be responsible for including those reasons in the report.

## PART 4 – SECTION 2

### OFFICER EMPLOYMENT PROCEDURE RULES

#### 1. Definitions

In these Rules:

“The 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“The 2001 Regulations” means the Local Authorities (Standing Orders) Regulations 2001 (as amended);

“Head of Paid Service”, “Chief Finance Officer”, “Monitoring Officer” and “disciplinary action” have the same meanings as set out in regulation 2 of the 2001 Regulations;

“Member of staff” means a person appointed to or holding paid office or employment to the Council;

“Independent Person” means a person appointed by the Council under section 28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate;

“Independent Persons Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers in accordance with Schedule 3 of the 2001 Regulations, including or comprising at least two Independent Persons who have accepted an invitation to be considered for appointment to the Panel and who have been appointed to it in accordance with the following priority order:

- (a) an independent person who has been appointed by the Council and who is a local government elector in the Council’s area;
- (b) any other independent person who has been appointed by the Council;
- (c) an independent person who has been appointed by another council or councils.

“Statutory Chief Officer” has the same meaning as set out in section 2(6) of the 1989 Act and for this council will be the Chief Operating Officer (the Chief Finance Officer/Section 151 Officer, the Director of Governance (the Monitoring Officer), the Director of Public Health, the Executive Director of Children’s Services and the Executive Director of Adult Services;

“Non-Statutory Chief Officer” means a person who reports or who is directly accountable to the Head of Paid Service, to the Council, or any committee or sub-

committee of the Council as set out in section 2(7) of the 1989 Act (other than persons whose duties are solely secretarial or clerical or are otherwise in the nature of support services) and for this council will be any other Executive Director appointed by the Council who are not Statutory Chief Officers;

“Deputy Chief Officer” means a person who for most or all of their duties is required to report direct, or is directly accountable, to a Statutory or Non- Statutory Chief Officer as set out in section 2(8) of the 1989 Act and for this council will be its Directors (apart from those who are Statutory or Non-Statutory Chief Officers).

## **2. Responsibility for Appointing, Dismissing and Disciplining Employees**

- 2.1 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole council and not by parts of the organisation or individuals.
- 2.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.
- 2.3 Subject to clauses 2.4 and 2.5 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged on behalf of the Council by the Head of Paid Service or by an officer nominated by them.
- 2.4 The provisions of clause 2.3 shall not apply to the appointment or dismissal of or disciplinary action against:
  - (a) the officer designated as the Head of Paid Service;
  - (b) a Statutory Chief Officer;
  - (c) a Non-Statutory Chief Officer;
  - (d) a Deputy Chief Officer.
- 2.5 The Staffing Committee is responsible for the appointment and dismissal of the officers set out above in (a)-(c) apart from the Chief Operating Officer (the Chief Finance Officer/Section 151 Officer) or the Director of Governance (the Monitoring Officer) and for this purpose the Staffing Committee must include at least one member of the Cabinet.
- 2.6 The Chief Executive shall be responsible for the appointment of the Chief Operating Officer and the Director of Governance and the appropriate Chief Officer (statutory or non-statutory) shall be responsible for the appointment of a Deputy Chief Officer. The procedures for such appointments and dismissals are set out in paragraphs 3 to 6 of these Rules. It should be noted that the designation of statutory officers such as the section 151 Officer and the Monitoring Officer must also be authorised by full Council before the offer of employment is made.
- 2.7 The Staffing Committee is responsible for the function of taking disciplinary action other than dismissal in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.

- 2.8 With regard to recruitment, the Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew, niece of an existing councillor or officer of the Council, or the partner of such persons. A candidate who deliberately fails to disclose such a relationship shall be disqualified from appointment and if appointed shall be liable to dismissal.
- 2.9 The Head of Organisational Development and Human Resources shall ensure that the provisions contained in Clause 2.8 are reflected in application forms or in any accompanying detailed procedures for any post advertised.
- 2.10 The Head of Organisational Development and Human Resources in consultation with the Leader shall be responsible for the suspension of the Head of Paid Service. The Head of Paid Service shall be responsible for the suspension of any Chief Officer. The appropriate Chief Officer (statutory or non-statutory) shall be responsible for the suspension of any Deputy Chief Officer.

### **3. Appointment of the Head of Paid Service**

- 3.1 Where the Council proposes to appoint the Head of Paid Service, the Staffing Committee will oversee the arrangements for filling the vacancy.
- 3.2 The Staffing Committee shall:
- (a) draw up a statement specifying the duties and salary of the post of the Head of Paid Service and any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
  - (d) select from the applications a short list of qualified candidates and interview those included in the short list.
- 3.3 Following the interview of candidates, the committee will come to a view as to the most suitable person for the position.
- 3.4 The committee must advise the Head of Organisational Development and Human Resources of:
- (a) the name of the person in question:
  - (b) any other particulars that the committee consider are relevant to the appointment.
- 3.5. Within five clear working days of receiving the notification in 3.4 above, the Head of Organisational Development and Human Resources will notify each member of the Cabinet of:

- (a) the information notified in paragraph 3.4 above;
- (b) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Head of Organisational Development and Human Resources; such period shall not exceed five clear working days.

3.6. An offer of appointment must wait until:

- (a) the Leader has, within the period of the notice under paragraph 3.5 above, notified the committee through the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the making of the offer;
- (b) the Head of Organisational Development and Human Resources has notified the committee that no objections have been received by them within the period of notice under 3.5 above;
- (c) the committee is satisfied that any objection received from the Leader within the notice period is not well founded. In this regard, where necessary the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.

3.7. Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the committee will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If Full Council approves the recommendation, then a formal appointment can be made.

3.8. Where following interviews the committee is of the view that there is no suitable candidate, it will re-advertise the post.

3.9. Where Full Council does not approve the recommendation of the committee, it shall indicate how it wishes to proceed.

#### 4. **Appointment of Chief Officers (Statutory or Non-Statutory) and Deputy Chief Officers**

4.1. Where the Council proposes to appoint a Chief Officer (statutory or non-statutory) or a Deputy Chief Officer, then:

- (a) the Staffing Committee shall oversee the arrangements for filling the vacancy of a Chief Officer apart from the Chief Operating Officer (the Chief Finance Officer/Section 151 Officer) or the Director of Governance (the Monitoring Officer);
- (b) the Chief Executive shall be responsible for the appointment of the Chief Operating Officer and the Director of Governance; and
- (c) the appropriate Chief Officer (statutory or non-statutory) shall be responsible for the appointment of a Deputy



Chief Officer.

- 4.2 The Staffing Committee, the Chief Executive or the Chief Officer shall:
- (a) draw up a statement specifying the duties and salary of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (c) make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request;
  - (d) select from the applications a short list of qualified candidates and interview those included in the short list.
- 4.3 Following the interview of candidates, the Staffing Committee, the Chief Executive or the Chief Officer will come to a view as to the most suitable person or the position.
- 4.4 The Staffing Committee, the Chief Executive or the Chief Officer must advise the Head of Organisational Development and Human Resources of:
- (a) the name of the person in question;
  - (b) any other particulars that the committee, the Chief Executive or Chief Officer consider are relevant to the appointment.
- 4.5 Within five clear working days of receiving notification in 4.4 above, the Head of Organisational Development and Human Resources will notify each member of the Cabinet of:
- (a) the information notified under paragraph 4.4 above;
  - (b) the period in which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Head of Organisational Development and Human Resources; such period not to exceed five clear working days.
- 4.6 An offer of appointment must wait until:
- (a) the Leader has within the period of notice under paragraph 4.5 above, notified the Staffing Committee, the Chief Executive or the Chief Officer through the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the making of the offer; or
  - (b) the Head of Organisational Development and Human Resources has notified the Staffing Committee, the Chief Executive or the Chief Officer that no objections have been received by them within the period of notice set out in 4.5 above; or

- (c) the Staffing Committee, the Chief Executive or the Chief Officer is satisfied that any objection received from the Leader within the notice period is not material or not well founded. In this regard, where necessary, the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought; or
  - (d) In respect of the Section 151 Officer and the Monitoring Officer, until Full Council has approved the statutory designation in accordance with Part 2 paragraph 4(o) of the Constitution.
- 4.7 Once the conditions in 4.6 above have been satisfied a formal offer of appointment may be made to the successful candidate.
- 4.8 Where following interviews the Staffing Committee, the Chief Executive or the Chief Officer is of the view that there is no suitable candidate the post must be re- advertised.
- 5. Dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer**
- 5.1 The Staffing Committee is designated as the committee discharging, on behalf of the Council, the function of dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer. Full Council must, however, approve that dismissal before notice of dismissal is given to them.
- 5.3 Notice of dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer must not be given until:
  - (a) the Staffing Committee has notified the Head of Organisational Development and Human Resources that it wishes to dismiss the officer and any other particulars that the Staffing Committee considers are relevant to the dismissal;
  - (b) the Head of Organisational Development and Human Resources has notified every member of the Cabinet of:
    - (i) the fact that it wishes to dismiss the officer;
    - (ii) any other particulars relevant to the dismissal which the Staffing Committee has notified to the Head of Organisational Development and Human Resources;
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Organisational Development and Human Resources; and
  - (c) either:
    - (i) the Leader has within the period specified in the notice under subparagraph (b)(iii), notified the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the dismissal;
    - (ii) the Head of Organisational Development and Human Resources has notified the Staffing Committee that no objection

was received by them within that period from the Leader on behalf of the Cabinet;

(iii) the Staffing Committee is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.

5.4 Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Staffing Committee will:

- (a) follow the procedure set out in paragraph 5.5; and
- (b) recommend the dismissal to a meeting of Full Council

5.5 (a) This procedure applies if the Staffing Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.

(b) Where this procedure applies, the Staffing Committee will provide the Independent Persons Panel with the matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Staffing Committee considers appropriate or that the Panel may reasonably require.

(c) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to Full Council.

(d) The Council may pay such remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate but the payment must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of their role as an independent person under the Localism Act 2011.

(e) Full Council will not meet to consider whether or not to approve the proposal of the Staffing Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.

(f) Before Full Council takes a vote at a meeting on whether or not to approve such a dismissal, they must take into account, in particular:

- (i) any advice, views or recommendations of the Independent Persons Panel;
- (ii) the conclusions of any investigation into the proposed dismissal; and
- (iii) any representations from the officer.

5.6 If Full Council approves the recommendation of the Staffing Committee, then notice of dismissal can be issued. Where Full Council does not approve the recommendation, it shall indicate how it wishes to proceed.

## **6. Dismissal of Chief Officers (Statutory and Non-Statutory) and Deputy Chief Officers**

- 6.1 Subject to the rules relating to the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the Staffing Committee is designated as the committee discharging, on behalf of the Council, the function of dismissal of Chief Officers (statutory and non-statutory) and the appropriate Chief Officer (statutory and non-statutory) is responsible for the dismissal of a Deputy Chief Officer.
- 6.2. Notice of dismissal of any such Chief Officer or Deputy Chief Officer must not be given until:
- (a) the Staffing Committee or Chief Officer has notified the Head of Organisational Development and Human Resources of the name of the person they wish to dismiss;
  - (b) any other particulars which the Staffing Committee or Chief Officer considers are relevant to the dismissal;
  - (c) The Head of Organisational Development and Human Resources has notified every member of the Cabinet of:
    - (i) the name of the person the Staffing Committee or Chief Officer wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the Staffing Committee or Chief Officer has notified to the Head of Organisational Development and Human Resources;
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Organisational Development and Human Resources; and
  - (d) either:
    - (i) the Leader has within the period specified in the notice under subparagraph (b)(iii), notified the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the dismissal;
    - (ii) the Head of Organisational Development and Human Resources has notified the Staffing Committee or Chief Officer that no objection was received by them within that period from the Leader on behalf of the Cabinet;
    - (iii) the Staffing Committee or Chief Officer is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.
- 6.3. Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Staffing Committee or Chief Officer may issue the notice of dismissal.

## 7. **Saving Regarding the Hearing of Appeals**

- 7.1 Nothing in these rules shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

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## **PART 4 – SECTION 3**

### **OFFICER CODE OF CONDUCT**

#### **CORE PRINCIPLES**

The following core principles underpin the concept of public service and apply to all employees of the Council regardless of the nature of the job they do.

#### **Selflessness**

Employees should take decisions solely in the terms of the public interest. They must not do so nor use their position in order to gain financial or other material benefits for themselves, their family or their friends.

#### **Integrity**

Employees should not place themselves under any financial or other obligations to outside individuals or organisations that might influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, employees must make decisions on merit.

#### **Accountability**

Employees are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Employees should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

#### **Honesty**

Employees have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **Respect for Others**

Employees must treat other people with respect and not discriminate unlawfully or unfairly against any person. They must treat councillors and other co-opted members of the authority professionally.

#### **Trust**

Employees must, at all times, act in accordance with the trust that the public is entitled to place on them. Employees must use any public money or service users' money entrusted to or handled by them, in a responsible and lawful manner and not make personal use of the Council resources unless properly authorised to do so.

### **Leadership**

Employees should promote and support these principles by leadership and example.

### **CORE STANDARDS**

Our customers, the general public, are entitled to expect the highest standards of conduct from us. The aim of this code is to tell you about the standards which are expected and to help you avoid any misunderstanding or criticism.

Departments or services may issue local codes to cover specific service issues and where this is the case, the local codes will form part of your terms and conditions.

You should also be aware of and abide by service specific standards or regulations, especially when working with vulnerable adults and children or working in a school. This code should be read in conjunction with the other standards of conduct that exist within the Council.

Staff who belong to professional associations are expected to apply the standards of their associations no less vigorously than those of this Code.

### **Gifts and Hospitality**

- 1.1. If we accept gifts from people who are or may be dealing with the Council, the Council and its employees could be open to criticism. If you are declining hospitality, please do so courteously and explain that the Council's rules do not allow you to accept.
- 1.2. You must refuse offers of hospitality where a suggestion of improper influence is possible. Employees must be sensitive to the timing of any decisions being made between the Council and third party.
- 1.3. You should only accept hospitality where it is on a scale appropriate to the circumstances, and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality. Hospitality is usually acceptable when the invitation is corporate not personal.
- 1.4. It is a criminal offence to receive or give any gift, loan, fee, reward or advantage for doing or not doing something or showing favour or disfavour to any person in their official capacity. If such an allegation is made it is for the employee to demonstrate that any alleged rewards have not been corruptly obtained or provided.
- 1.5. Whatever gift or hospitality is provided to you (unless it is under the limit of £25 and still in line with the standards of the code) you should report the circumstances and the type to your Director.

**! If you are presented with a gift or offer of hospitality you must seek authorisation in advance, where possible, from your Director, who will record every offer on the relevant form. Consider the decision checklist in section 4 of the Guidance Notes.**



### **Sponsorship – Giving and Receiving**

- 2.1. If an organisation wants to sponsor a council activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 2.2. If the Council sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. Similarly, if the Council, gives financial support in the community, please ensure that impartial advice is given and that you have no conflict of interest.

**! You must inform your Director of any personal interest you may have and complete a declaration of interest form.**

### **Use of Financial Resources**

- 3.1. You must ensure that you use public funds entrusted to you in a responsible and lawful manner. You must try to ensure value for money to the local community and avoid the risk of legal challenge to the Council.

**! Employees must follow Standing Orders, Finance and Contract Procedure Rules and operating procedures and are generally encouraged to advise management where they consider changes can be made to increase value for money projects.**

### **Use of Council Facilities**

- 4.1. At work you have access to facilities which include office equipment, computers, stores, transport etc. These facilities are provided purely for work and you must not use them for your own purposes.
- 4.2. There are certain minor exceptions to these rules:
- 4.3. Private telephone calls should not be made or received. In practice, you may need to make or receive essential calls but these should be kept to a minimum.
  - 4.3.1. If necessary, personal fax messages may be despatched to locations within Great Britain and photocopying personal documents may be allowed in limited circumstances.
  - 4.3.2. Employees may use ICT facilities e.g. email, Internet etc for limited personal use but in accordance with the Council's ICT security policy and ICT code of practice.

**! If in any doubt permission should be sought from your Line Manager before using equipment for personal use.**

### **Intellectual Property**

- 5.1. Intellectual property means products of the mind, for example, inventions, designs, trademarks, writings, programs and drawings (referred to as 'inventions'). Ownership of all 'inventions' and the copyright of all written material created during work will belong to the Council.

**! This is a complex area, further guidance must always be sought from the Legal Services in any particular case.**

### **Political Neutrality**

- 6.1. Employees work for the Council as a whole. You must therefore work for all the Councillors and not just those of any controlling group or particular political party.
- 6.2. You must follow every lawful policy of the Council and must not allow your own personal or political opinions to interfere with your work.
- 6.3. Certain employees hold politically restricted posts (PoRPs). These are normally specified posts or sensitive posts. If your job is politically restricted, you will be notified in writing. You are disqualified from membership of any Council other than a parish or community council or from being an MP or MEP and you should not be active in any political party.
- 6.4. Equipment belonging to the Council should not be used for party political purposes.

**! Employees who are politically restricted must observe the restrictions imposed. A register of PoRPs is maintained by HR.**

### **Other Employment and External Activities**

- 7.1. You must not undertake any type of private work which conflicts with the Council's interests or prevents you from fulfilling the terms of your employment contract.
- 7.2. You must obtain the consent of your Director before you undertake any private work.
- 7.3. If you are granted permission to do private work you must not;
  - Do private work during working hours nor on the Council premises nor use council equipment.
  - Undertake any private work which prevents you from carrying out your duties with the Council or including any requirements to do contractual overtime.
  - Undertake private work for any person, firm or company if it will involve the Council.
  - Prepare or assist with any applications, for example, planning or building, in any private capacity if you normally deal with these.
  - Access council services, unless you declare your employment in writing with your application and submit this via your line manager, for example, if you want to make a planning application personally.
  - Undertake private work that needs approval or consent from the Council.
  - Undertake private work for any person, firm or company who have a

contractual relationship with or who are commissioned by the Council for any type of work.

- Undertake private work for another employee responsible for supervising you or whom you supervise, or for an elected member of the Council.
- 7.4. Employees must ensure they understand and can comply with both Working Time and Health and Safety regulations before considering other employment.

**! Employees must seek consent from their Line Manager before undertaking other work. All employees must declare an interest where a conflict may arise.**

### **Financial and Non-Financial Interests**

- 8.1. The Local Government Act 1972, section 117, requires you to disclose any direct or indirect financial interest in any contract involving the Council. Failure to declare the interest may be a criminal offence.
- 8.2. If you have any direct or indirect interest in an organisation or company that is doing business with the Council, which you think conflicts with your job role, then you should inform your Director.
- 8.3. You may have a conflict of interest even if you have no financial interest. For instance, relationships might be seen to influence judgements and give the impression of a personal motive, e.g. a council employee who is an honorary officer of an association and who is involved in dealing with an application for a grant by the association. In such a case you should inform your Director.
- 8.4. Employees are able to act as a member of another council, a school governor, or member of a community organisation but will still be required to declare their interest.
- 8.5. Membership of organisations with secrecy about rules, membership or conduct may be incompatible with your work. If, in connection with your employment with the Council, you use such membership for either your own, or someone else's personal or business gain, you will be in breach of the Code.
- 8.6. Employees who are members of other associations or bodies that have dealings with the Council should declare their interest, if there is any potential conflict.
- 8.7. Employees who during the course of attending a meeting believe they that may be in conflict with an item on the agenda should advise the Chair and leave the meeting for all or part of the meeting as appropriate.

**! Declare an interest on the Declaration form.**

### **Relationships**

#### **9.1. Councillors**

Mutual respect between employees and councillors is essential. Close personal familiarity between employees and individual councillors can damage this relationship. You must be professional at all times and not allow your work and

private interests to conflict.

## 9.2. The Local Community and Service Users

You should always remember your responsibilities to the community and give efficient and impartial service to all groups and individuals within that community as defined by the policies of the Council.

## 9.3. Contractors

If you have a business or private relationship with external contractors or potential contractors, you should tell your manager. Orders and contracts must be awarded on merit, by fair competition against other tenders and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

If you engage or supervise contractors or work with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to the appropriate manager.

**! Declare an interest on the Declaration form.**

### **Appointments and other Employment Matters**

10.1. If you are involved in the recruitment and selection of employees, appointments should be made on the basis of merit and in accordance with our Recruitment and Selection Policy and Procedures obtainable from HR. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with them.

10.2. Similarly, you must not be involved in decisions about discipline, promotion or pay adjustments for any employee who is a relative, partner etc.

**! Declare an interest on the Declaration form.**

### **Tendering and Contracts**

11.1. During the tendering process, if you are involved in the 'in-house' bid (except for the Chief Officers and, apart from when their own service is tendered, legal, financial and professional advisers) you must not at the same time be involved in certain client tasks e.g. selecting tenderers. You should seek guidance from your Director as to how the tender process is to be conducted and how the 'in-house contractor' and client responsibilities are to be discharged.

11.2. Employees working for 'in-house' contractors or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

11.3. If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised party or organisation.

11.4. If you are responsible for selecting contractors to tender or supply quotations, you should ensure that you are not also responsible for the receipt and

opening of the tender or quotation except where the sums involved are minor.

**! Refer to the appropriate Corporate Procurement rules and guidance**

**Private Use of Services of Firms Dealing with the Council**

- 12.1. You should be cautious when using the services of firms you know have dealings with the Council. You should ensure that the goods or services bought from such firms are at a price readily available to the general public. As this is a difficult and sensitive area you must try to avoid offending anyone and, if necessary, explain the Council's policy.
- 12.2. If you think that any offer of preferential terms is designed to promote a firm's interest, within the Council, then you should not deal with the firm.
- 12.3. You should not use your position with the Council to obtain a discount for goods or services. However, you may purchase goods at discount terms under a scheme or arrangement which applies, for example, to your trade union.

**! If you require further guidance please refer to the Corporate Procurement Team.**

**Disclosure of Information**

13.1. You must not:

- Use information about work which is confidential, for personal gain or benefit or knowingly pass it on to others who might use it in this way.
- Give information to the media unless you are authorised to do so by the Council.
- Disclose confidential information to someone else, unless it is a request from an approved source, e.g. HMRC, Department of Work and Pensions, where authorised, from bank managers or building societies. It is normal practice to ask the person requiring the information to put their request in writing
- Use advance knowledge of a Council decision, particularly about investment decisions or proposed developments to benefit yourself or someone else.
- Data Protection Act (Disclosing information)
- You must use personal data held on computer in accordance with the Data Protection Act. For example, the data must be held only for specified and lawful purposes and must not be used or disclosed for any other purposes.

**! If you are unsure, please seek guidance from the Data Protection Officer or Communications Team depending on the nature of the request.**

**Compliance with the Code**

- 14.1. It is important that employees are exemplary in their conduct at work. It is your responsibility to apply these requirements on every relevant occasion and if you are unclear, advice should be sought from your line manager or Human Resources. Non-compliance with this Code (or Service Code) may be dealt with in accordance with our Disciplinary Code and may be treated as gross misconduct. Legal action may also be taken.
- 14.2. Employees who consider other employees to be guilty of misconduct must report this to their Line Manager.
- 14.3. Employees must not treat colleagues who report (or who intend to report or are suspected of reporting) potential misconduct issues any less favourably than other employees.
- 14.4. If in some instances, the employee cannot make use of the existing procedures, for any reason, then they should raise complaints or genuine matters of concern with the relevant person through the Whistle-Blowing Protocol.

The code will be jointly reviewed in consultation with the trade unions, if any changes need to be made.

**! Employees should familiarise themselves with other Codes and Standards, some of which are outlined in section 5.**

#### **Associated Forms and Referral Points**

The forms can be found on the HR website under the Code of Conduct.

<b>Name</b>	<b>Action taken by</b>	<b>Held By/Refer to</b>
Declaration of interest form – General Disclosures	Employee to Director	Intranet – I-West
Gifts and Hospitality Form	Employee to Director	Intranet – I West
Register of Politically Restricted Posts	N/A	HR
Whistle Blowing Protocol	N/A	Constitution on Intranet

#### **Checklist for Assessing Potential Conflict – Gifts and Hospitality**

Employees should consider the following Checklist:

- (a) Have you obtained the prior approval of your Chief Officer?
- (b) Is the donor, or the event, significant in the community or in the Council's area?
- (c) Are you expected to attend because of your position in the Council?
- (d) Will the event be attended by others in the Council or in other councils?

- (e) Have you considered the motivation behind the invitation?
- (f) Would the acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving this council?
- (g) Could you justify the decision to the Council, press and public?
- (h) Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
- (i) How will you respond to the hospitality?

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## **PART 4 – SECTION 4**

### **OFFICER/MEMBER RELATIONS PROTOCOL**

#### **1. Introduction Scope and Purpose**

- 1.1. The purpose of this protocol is to provide guidance to members and officers about how they should interact with each other and to outline some of the appropriate conventions in place within the Council. This protocol cannot cover every eventuality and is not intended to be prescriptive. Its intention is to offer guidance on some of the issues which commonly arise.
- 1.2. This protocol needs to be considered alongside the codes of conduct for members and officers.

#### **Key Points**

- 1.3. The following key points underpin the member/officer working relationship:
  - a) Working relations between members and officers must be based on mutual trust and respect.
  - b) Officers must remain politically neutral at all times and must not offer advice of a political nature.
  - c) Officers have a duty to support all members and provide them with the level of information they need to carry out their roles.
  - d) Officers will keep discussion with political groups and individual members confidential unless the group or member gives permission to discuss the matter with others.
  - e) Ward members should be kept informed of relevant matters within their ward and should normally be invited to attend public meetings organised by the Council in their ward.
  - f) Members have a right to access the information which they “need to know” in order to carry out their duties and responsibilities as a member.
  - g) Members must understand and respect the competing pressures and workloads on officers’ time.
  - h) Any request for officers to advise party group meetings must be made to the Chief Executive, Executive Director, Chief Operating Officer or, in their absence, the appropriate Director.

#### **2. Definition of the Role of Members and Officers Introduction**

- 2.1. This protocol seeks to reflect the principles underlying the codes of conduct that apply to members and officers. The aim of those codes is to enhance and maintain the integrity of local government and they demand very high standards of personal conduct.
- 2.2. Members and officers are servants of the public. Members are responsible to the electorate and serve only so long as their term of office lasts.

- 2.3. For the effective conduct of council business, there should be mutual respect and courtesy in all meetings and contacts (both formal and informal) between members and officers. It is important that behaviour which could be viewed as conferring an advantage or disadvantage is avoided, as should close personal familiarity between members and officers, which could undermine public confidence in the Council.

## Members

- 2.4. Members are accountable to the electorate who determine, every four years, the people they wish to represent them on the Council. Therefore, this protocol recognises that members are elected to serve the people of Cheshire West & Chester.
- 2.5. Members, as politicians, may express the values and aspirations of their party political groups but they must recognise that in their role as members they have a duty to always act in the public interest.
- 2.6. Members may have a number of roles within the Council and on external bodies or organisations and need to be alert to the possible conflicts of interest that may arise. Members should be aware at all times that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.7. Members are mainly responsible for:
- a) the political direction and leadership of the Council
  - b) determining policies, plans and strategies
  - c) implementing those policies, plans and strategies
  - d) discharging the Council's regulatory functions
  - e) monitoring and reviewing, primarily through the Cabinet and Scrutiny functions, the Council's performance in implementing its policies, plans and strategies and delivering its services
  - f) participating in partnership working
  - g) representing the Council on national regional and local bodies and organisations
  - h) representing the views of their communities and individual constituents
- 2.8. Some members will have additional responsibilities relating to their membership (and/or chairing) of the Cabinet, Overview & Scrutiny Committees/Panels or other committees and subcommittees. These roles may require different relationships with certain officers.
- 2.9. Officers can expect members:
- a) to act within the policies, practices, processes and conventions established by the Council
  - b) to work constructively in partnership with officers acknowledging their separate and distinct roles and responsibilities
  - c) to understand and support the respective roles and responsibilities of officers and their workloads, pressures, scope of powers and management structures
  - d) to give political leadership and direction and to seek to further the Council's agreed policies and objectives with the understanding that, subject to the Scheme of Delegation to officers and the Council's core objective in decision making, members have the right to take the final decision on issues, based on advice
  - e) to treat them fairly and with respect, dignity and courtesy
  - f) to act with integrity, to give support and to respect appropriate confidentiality

- g) to recognise that officers work to the instructions of their senior officers and not to individual members
- h) not to subject them to intimidation, harassment, or put them under undue pressure
- i) have regard to the seniority of officers in determining what are reasonable requests, taking in to account the relationship between the member and officer, and the potential vulnerability of officers, particularly at junior levels
- j) not to knowingly request them to exercise discretion which involves acting outside the Council's policies and procedures
- k) not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a member without proper and lawful authority
- l) not to use their position or relationship with officers to advance their personal interest or those of others or to influence decisions improperly
- m) to comply at all times with the members' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council

### **Officers**

- 2.10. Officers are employed by and are responsible to the Council. Their job is to give advice to members and the Council and to carry out the Council's work under the direction and control of the Council, its Cabinet, committees and sub-committees.
- 2.11. The primary role of officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council
- 2.12. Officers are responsible for day to day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 2.13. In performing their role officers will act professionally, impartially and with political neutrality. Whilst officers will report a member's view on an issue, the officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.
- 2.14. Officers should:
  - a) work in partnership with members in an impartial and professional manner
  - b) implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Constitution, and are duly recorded
  - c) assist and advise all parts of the Council. officers must always act to the best of their abilities in the best interests of the Council as expressed in the Council's formal decisions
  - d) respond to enquiries and complaints in accordance with the Council's standards
  - e) be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public
  - f) act with integrity, honesty, respect, dignity and courtesy at all times
  - g) provide support and learning and development opportunities for members to help them in performing their various roles
  - h) not use their relationship with members to advance their personal interests or to influence decisions improperly

- i) comply, at all times, with the Officer Code of Conduct, and such other policies or procedures approved by the Council
- 2.15. Officers do not have to support members in any role other than that of member, and should not engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

### **3. Officer Advice to Party Groups**

- 3.1. Officers cannot be instructed to attend party political group meetings, or write reports for such meetings. Any requests for advice or attendance shall be directed through the Group Leaders or Chairs/Spokespersons for the relevant committee or the Cabinet Member concerned.
- 3.2. The request shall be made to the Chief Executive, Executive Director, Chief Operating Officer or, in their absence, to the next appropriate officer. An officer accepting an invitation to one group or individual shall not decline an invitation to advise another group or individual on the same subject. Any request received and advice given shall be the subject of strict confidentiality, unless agreed otherwise.

### **4. Briefings for Cabinet and Committees**

- 4.1. The principles outlined above do not obviate the necessity for regular contact on matters affecting the Council between senior officers and the leaders of political groups, or on matters affecting Cabinet Members' responsibilities or those of committee Chairs/Spokespersons.
- 4.2. It is recognised that groups may wish to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant decision-making body. Political groups may at their own discretion decide to engage jointly in such deliberations. Officers may properly be called upon to support and contribute to such deliberations, provided they maintain a stance of political neutrality.
- 4.3. Support includes briefings for the Cabinet and committees, and briefings for members related to their individual role, e.g. Cabinet Member or Scrutiny Chair. Officers should be asked to give advice on council business only, and not on matters which are of a party political nature. Support and advice on Council business is available to all political groups.
- 4.4. Usually, only the Executive Director, Chief Operating Officer, Directors or Tier 4 officers may be asked to provide the support outlined in paragraphs 3 and 4. Requests for attendance should be made in sufficient time to allow proper preparation.
- 4.5. Due consideration shall be given to the timing of meetings to avoid onerous demands being made on officers. The time spent advising a group or individual shall be reasonable, given the demands on the time of all concerned.

### **5. Support Services for Members**

- 5.1. The role of officers is only to assist members in discharging their role as members of the Council. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. member services, stationery, photocopying) may only be used for council business or where such use is conducive or incidental to that role.

### **6. Members' Access to Information**

- 6.1. All political groups are equally entitled to request copies of background information underpinning decisions including essential financial information. All such requests and the replies shall remain confidential to that group, although groups may at their discretion choose to share that information between political groups.
- 6.2. Members are reminded of the need to consider whether such information is likely to fall within the categories of Exempt information (as defined in this Constitution) and to treat it accordingly. Release of information to members will be subject to the laws on confidentiality and disclosure of information.
- 6.3. The common law right of members is based on the principle that any member has, on the face of it, a right to inspect council documents so far as their access to the documents is reasonably necessary to enable them to properly perform their duties as a member of the Council. This is referred to as the “need to know” principle.
- 6.4. The exercise of this common law right depends upon the member’s ability to demonstrate that they have the necessary “need to know”. A member has no right to a “roving commission” to go and examine documents of the Council, and what the law terms “mere curiosity” is not sufficient.
- 6.5. The question must initially be determined by the particular Chief Officer whose department holds the documents in question, with advice from governance. If the Chief Officer refuses to supply the information requested by the member, the member may refer the matter to the Director of Governance who will review the decision.
- 6.6. In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee), a member’s need to know will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties), a member will normally be expected to justify the request in specific terms, and may be required to do so in writing.
- 6.7. Draft Cabinet reports and working papers will be considered as work in progress and as such may not be requested under these rules.

## 7. **Reports**

- 7.1. The Executive Director, Chief Operating Officer and Directors may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed.
- 7.2. Where such a report affects another service, the appropriate Executive Director, Chief Operating Officer and/or Director must be consulted. The appropriate Cabinet Member shall be consulted prior to the publication of a Cabinet report which concerns their portfolio. Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the final decision on the contents of the report will be that of the officer in whose name the report is presented.
- 7.3. In exceptional circumstances, the Cabinet Member may submit their own report for consideration alongside that of the officer.

## 8. **Overview & Scrutiny Committee**

- 8.1. Overview & Scrutiny committees may require officers and members to attend and provide any information required to answer questions (other than those which they would be entitled to refuse to answer in a court of law). Detailed provisions are contained within the Procedure Rules (see Part 3 Section 4).

## 9. **Ward Members**

- 9.1. Ward members (and, where appropriate, neighbouring Ward members) should be kept informed and consulted on relevant matters affecting their Ward. In the case of public meetings in a particular locality, Ward members will normally be invited to attend and can expect to be consulted on any form of consultation exercise on local issues.
- 9.2. So far as decision making is concerned, members remain accountable to the whole electorate of the Borough and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole. Including those members of the public who did not vote for them.

## 10. **Correspondence**

- 10.1. Where an officer copies correspondence addressed from one member to another, it should be made clear to the originator and should not be sent to any member of another group without the originator's consent.
- 10.2. Members' correspondence with Chief Officers should not be copied to Cabinet Members or Overview & Scrutiny committee Chairs unless the originating member consents.
- 10.3. Official letters from the Council should normally be sent out in the name of the appropriate officer, rather than a member. It may be appropriate in certain circumstances (e.g. representations to a government minister) to address correspondence in the name of the member, but this is the exception rather than the rule. Letters which create obligations or give instructions should not be sent out in the name of a member.
- 10.4. Any members who receive correspondence in their capacity as Cabinet Members shall respond to the correspondence in their official capacity only. Such correspondence shall be copied to the Leader except when doing so would constitute a breach of professional confidence.

## 11. **Press Releases**

- 11.1. Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibits local councils from publishing any material which appears to be designed to reflect support for a political party.
- 11.2. Council publicity should not be used as a means to publicise individual members, except where they are acting to represent the Council as a whole.
- 11.3. Council resources cannot be used to publish any material of a party political nature.

## 12. **Ceremonial Events**

- 12.1. Ceremonial events would normally be attended by the Chair or Deputy Chair of the Council, unless they relate specifically to initiatives led by the Cabinet or in particular committee, in which case the Cabinet Member, Chair or Deputy Chair of that committee would attend.
- 12.2. In addition, local members should be informed and, where possible and appropriate, invited to participate.

13. **Complaints**

- 13.1. Where a member's conduct is considered inappropriate, contact should be made in the first instance with the Chief Executive or Director of Governance.
- 13.2. If it is a matter of party discipline, then the matter will be investigated by the party itself, otherwise such matters will be investigated by the Chief Executive or Director of Governance or a person duly authorised by them. In serious cases, or case where it appears that a member may have breached the Code of Conduct, a written complaint may be made to the Director of Governance (as Monitoring Officer).
- 13.3. Matters relating to Officer conduct are to be dealt with solely by the Chief Executive and or their nominated officer.

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## **PART 4 – SECTION 5**

# **MEMBER PLANNING PROTOCOL**

### **Introduction**

- 1.1. The role of an elected member on the Planning Committee is a dual one. It involves balancing representing the needs and interests of individuals and the community with the need to maintain an ethos of impartial decision making on what can often be highly controversial proposals. This section of the Constitution sets out guidance for members of the Council in dealing with planning applications.
- 1.2. It should be noted that there is a distinction between committee members and visiting members. It is the role of committee members (including substitute members at individual meetings) to determine planning applications. They must be careful not to pre-determine proposals, or give the appearance of doing so, before the meeting at which the decision is to be taken. Visiting members, on the other hand, are not called upon to determine applications. They are free to make up their minds on proposals in advance of the meeting and address the committee either for or against applications.

### **Conflicts of Interests**

- 1.3. Councillors who have substantial property interests or other interests, which would prevent them from voting on a regular basis, should avoid serving as members of the Planning Committee.
- 1.4. Councillors who are themselves, or are acting as agents for people pursuing a planning matter, should play no part in the decision-making process for that proposal. The identification of such proposals is important.
- 1.5. Members should not lobby on behalf of paying clients and/or provide advice to influence the Council's decision.
- 1.6. The councillor concerned should make any such interest clear to the Planning Service when submitting the planning application. Proposals will always be reported to the Planning Committee and not dealt with under delegated powers.

### **Discussions with Applicants**

- 1.7. If councillors are involved in any type of discussions with applicants, either before or after a planning application is submitted or any other type of meeting, to discuss development proposals or other contact with applicants or their agents, it should always be made clear that the discussions will not bind the Council to make a particular decision and that any views expressed are personal and provisional.
- 1.8. Members of the Planning Committee should be especially careful in attending such meetings and avoid expressing support or opposition. Also, whilst members may receive information from applicants and give information to applicants and members of the public, to safeguard their impartiality they should maintain a clear distinction between receiving/passing on information and more detailed involvement which could be mistaken for supporting or advocating a particular view or outcome.

- 1.9. Any developer presentations to councillors, outside the normal committee cycle, should be the subject of a formal request to the Head of Planning. Councillors will be limited to asking questions to clarify points of detail. There will be no discussion of the merits or demerits of the proposal.
- 1.10. All meetings between councillors and applicants relating to major project applications should be recorded in writing and should be attended by an officer.

### **The Representational Role**

- 1.11. It is accepted that a key element of the councillor's role and duties is representing the views of the electorate on matters of local importance. Members of the committee are not in principle precluded from determining applications in their own wards, but they must be careful to avoid predetermination of the matter or the appearance of having made up their mind before the committee meeting. It is in this area that there can be the potential for conflict between this local representational role and the need for the Councillor to be part of the decision making process of the Council.
- 1.12. It is inevitable that councillors will be lobbied on planning proposals and asked to represent the views of the community. Lobbyists should be advised to make their representations directly to the Head of Planning to enable the content to be considered and, if appropriate, included in a committee report.
- 1.13. It is considered that councillors who are also parish council members should be allowed to give their views on particular proposals at Planning Committee meetings. In some cases a member of the Planning Committee may also be a member of a parish council that has commented on an application. The parish council's view on the application does not in principle prevent that member taking part in the Planning Committee's decision making process, but it must be clear that they have kept an open mind on the application and have not pre-determined it. When considering the application at parish level, the councillor should point out that, in the event of the matter being referred to the Council's Planning Committee, they would consider the matter afresh and with an open mind.
- 1.14. It is unwise for a member to express a final personal view on a planning application before the committee meeting at which the application is to be determined if they wish to participate fully in the meeting at which the decision is made (i.e. vote). Additional information is often received and further representations made up until the point of the committee meeting. A councillor should not give the impression that when voting on an application they would not be influenced by any new information that may be put before them. To act in this way may give the appearance that a councillor has predetermined the matter by making up their mind before they have had regard to all of the relevant information and matters arising during the debate. That a councillor had (or had given the appearance of having) pre-determined an application can form the basis of a legal challenge seeking to overturn the committee's decision.
- 1.15. A decision on a committee application cannot be made before the Planning Committee meeting. Therefore, no political group meetings or other meetings will take place prior to the committee meeting with the specific purpose of instructing councillors how to vote or for councillors agreeing how to vote.
- 1.16. Councillors should also not put undue pressure on officers to put forward a particular recommendation.

- 1.17. Visiting members will be restricted to a period of five minutes speaking per item, with any extension to the time limit being at the sole discretion of the Chair.
- 1.18. If a Councillor calls in an application, they should not take part in the decisionmaking process for that application.

### **Chair's Pre-Meeting Briefing**

- 1.19. Briefing meetings with the Chair and all other party Spokespersons may be held as they can be helpful to explain the background to the proposals on the Planning Committee agenda and provide an opportunity for councillors to ask officers to provide further clarification of any issues at the committee meeting. These briefings may be held remotely.

### **Site Visits and Virtual Site Visits**

- 1.20. Site visits, whether 'virtual' or 'in person', organised and guided by planning officers, are to ensure that members of the Planning Committee have a clear understanding of the issues relevant to a planning application. For that reason, councillors who are unable to commit to attending the regular organised site visits before Planning Committee's meetings should not sit on Planning Committee.
- 1.21. Planning Committee site visits will be held virtually in the 7-day period before the meeting, usually the day before the Planning Committee meeting and using appropriate technology. Members will often have existing local knowledge of a site and may also visit the site surroundings themselves on an individual basis if they so wish, without entering the site or engaging with any third party or the applicant. In exceptional circumstances, e.g. for some major applications, it may be necessary to arrange an in-person group site visit to a particular site, where Councillors will be accompanied by a planning officer.
- 1.22. Members should not participate in the debate or vote on an item at Planning Committee unless they have previously attended the site visit for that item. Members' substitution arrangements must be made in good time so that proposed substitute Members can attend the Planning Committee site visits. The Chair of the Committee shall, but only in exceptional circumstances, be entitled to allow councillors to participate at Planning Committee notwithstanding that the councillor concerned has not attended the organised site visit.
- 1.23. Site visits are carefully organised to ensure that the purpose, format and conduct are clearly established and adhered to. Planning officers will attend all organised site visits to draw Councillors' attention to relevant planning matters and to ensure that their questions can be answered.
- 1.24. Site visits will normally take place the day before the Planning Committee meeting when the application is due to be considered. They will be organised and conducted by officers and not by individual councillors on their own.
- 1.25. Site visits constitute a part of the formal committee process and standing orders and provisions of the Member Code of Conduct, especially in relation to Members' interests, apply.
- 1.26. The purpose of site visits is for councillors as a group to have facts pointed out by officers and questions responded to, not for there to be a debate about issues, nor for any decision to be made on the application. Debate must only take place at the committee meeting.

- 1.27. In the event of an exceptional in-person site visit, unless required to permit or regulate access to the site (e.g. for safety reasons) the site owner, applicant, agent or other third parties will not normally be invited to attend. In all cases, interaction with third parties should be minimised and avoided entirely where possible. If it is necessary to seek information from any third party on site this will be done by an officer. In the case of virtual site visits, only Councillors and officers will be invited to attend.
- 1.28. A note of those councillors attending each site visit will be kept. This will be confirmed at the Planning Committee meeting and recorded in the minutes.

### **Public Speaking at Committee**

- 1.29. Members of the Planning Committee should not allow members of the public or visiting members to communicate with them during the committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

### **Declarations of Interest**

- 1.30. Members are reminded of the need to have very close and careful regard to the rules on interests and pre-determination when discharging Planning Committee duties. Councillors should familiarise themselves with the Member Code of Conduct and the Lawyers in Local Government /Local Government Association Model Planning Code or Protocol from time to time in force. Any queries or concerns should be raised with the Director of Governance at the earliest opportunity.

### **Decisions Contrary to Officer Recommendations**

- 1.31. If the Planning Committee makes a decision contrary to the officer recommendation (whether for approval or refusal), the committee must state its reasons. Where the decision is to approve, it must give an outline of conditions and the reasons. These will be minuted and a copy placed on the application file. The officer should be given the chance to explain the background to the officer recommendation and the implications of the contrary decision.
- 1.32. Councillors should make sure that, if they are supporting a decision contrary to the officer recommendation or the Local Plan, they identify and understand the planning reasons leading to this conclusion/decision. Individual councillors who are proposing or seconding a decision contrary to the officer recommendation must give the reasons prior to the vote being taken and these must be recorded. Councillors should be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge.

### **Planning Conditions**

- 1.33. If councillors wish to add or amend planning conditions, the Planning Committee should delegate the drafting of such conditions to the Head of Planning but must explain why they consider the change is required.
- 1.34. In sensitive cases, the drafting of conditions and/or planning obligations may be subject to further consideration at a subsequent meeting of the committee.
- 1.35. Minor amendments to planning conditions should be delegated to the Head of Planning.

## Planning Obligations

- 1.36. Members of a Planning Committee should, when considering the merits of an individual planning application, consider any relevant planning obligation which has been offered by the applicant or agent.
- 1.37. Councillors should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits which may be offered to the Council or benefits which the Council itself wishes to obtain.
- 1.38. Where possible and prior to Planning Committee Meetings, heads of terms of s.106 agreements should be drawn up in full, so that members are fully informed of all matters covered.
- 1.39. Following the Committee's resolution, if there are significant amendments<sup>1</sup> to s.106 agreements (which were referred to the Planning Committee) prior to their signing/sealing, these should be referred back to Planning Committee Chair and Ward Members and, if appropriate, to Planning Committee. Minor amendments<sup>2</sup> to planning obligations before the signing of the s.106 agreements are delegated to the Head of Planning.
- 1.40. After the signing/sealing of a s.106 agreement that has been referred to the Planning Committee, if a variation is sought which involves important policy areas or is likely to have a material impact on local communities, this should be referred to the Planning Committee Chair and the Ward Members and, if appropriate, referred back to Planning Committee.

## Training

- 1.41. Councillors should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 1.42. Members of Planning Committee should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out their role properly and effectively.
- 1.43. Members of Planning Committee should participate in a periodic review of a sample of planning decisions to ensure that their judgments are based on proper planning considerations. The review should include examples from a broad range of categories, such as:
  - a) major and minor development proposals
  - b) permitted departures to the development plan
  - c) significant allowed appeals
  - d) major listed building works
  - e) associated infrastructure

## Planning Protocol and Member Code of Conduct

- 1.44. Any breach of the Planning Protocol will be treated as a breach of the Member Code of Conduct.

## PART 4 – SECTION 6

# MEMBER CODE OF CONDUCT

### Introduction

- 1.1. Cheshire West & Chester Borough Council has adopted this Member Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members.
- 1.2. The Code has been adopted under section 27 of the Localism Act 2011 and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.
- 1.3. The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 1.4. As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.5. Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.
- 1.6. This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

### Definitions

- 1.7. For the purposes of this Code of Conduct, a 'councillor' means a member or co-opted member of a local authority or a directly elected mayor. A 'co-opted member' is defined in section 27(4) of the Localism Act 2011 as "a person who is not a member of the authority but who:
  - a) is a member of any committee or sub-committee of the authority; or
  - b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

## Purpose of the Code of Conduct

- 1.8. The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

- 1.9. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.
- 1.10. Building on these principles, the following general principles have been developed specifically for the role of councillor.
- 1.11. In accordance with the public trust placed in me, on all occasions:
- I act with integrity and honesty
  - I act lawfully
  - I treat all persons fairly and with respect; and
  - I lead by example and act in a way that secures public confidence in the role of councillor.
- 1.12. In undertaking my role:
- I impartially exercise my responsibilities in the interests of the local community
  - I do not improperly seek to confer an advantage, or disadvantage, on any person;
  - I avoid conflicts of interest;
  - I exercise reasonable care and diligence; and
  - I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## Application of the Code of Conduct

- 1.13. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.
- 1.14. This Code of Conduct applies to you when you are acting in your capacity as a councillor, which may include when:



- you misuse your position as a councillor
  - your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor
- 1.15. The Code applies to all forms of communication and interaction, including:
- at face-to-face meetings
  - at online or telephone meetings
  - in written communication
  - in oral communication
  - in non-verbal communication
  - in electronic and social media communication, posts, statements and comments.
- 1.16. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.
- 1.17. The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of councillor conduct**

- 1.18. This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.
- 1.19. Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

- 1.1. I treat other councillors and members of the public with respect.**
- 1.2. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member-Officer Protocol.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1. I do not bully any person.**

**2.2. I do not harass any person.**

**2.3. I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the council**

**As a councillor:**

**3.1. I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless

they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to information**

**As a councillor:**

##### **4.1. I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
  - i. I have received the consent of a person authorised to give it;
  - ii. I am required by law to do so;
  - iii. The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    1. reasonable and in the public interest; and
    2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    3. I have consulted the Monitoring Officer prior to its release.

**4.2. I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3. I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **5. Disrepute**

**As a councillor:**

### **5.1. I do not bring my role or local authority into disrepute.**

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1. I do not misuse council resources.**

### **7.2. I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:

- office support
- stationery
- equipment such as phones and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a councillor:**

- 8.1. I undertake Code of Conduct training provided by my local authority.**
- 8.2. I cooperate with any Code of Conduct investigations and/or determination.**
- 8.3. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with the Monitoring Officer.

## **9. Interests**

### **As a councillor:**

- 9.1. I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact the Monitoring Officer for guidance.

## Appendix A – The Seven Principles of Public Life

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B – Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office, you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)**, which are as described in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

**“Sensitive interests”** are interests which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation.

Where a member considers that disclosure of the details of a registrable interest could lead to them, or a person connected with them, being subject to violence or intimidation, and the Monitoring Officer agrees, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that the member has an interest, the details of which are withheld.

It may include a member's sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create serious risk of violence or intimidation against them or someone who lives with them. The member should provide this information to the Monitoring Officer and explain their concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that they or a person who lives with them will be subjected to violence or intimidation.

If the Monitoring Officer agrees, then the member does not need to include this information in their register of interests, but they need to disclose at meetings the fact that they have an interest in the matter concerned.

### Non-participation in case of disclosable pecuniary interest

1. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### Individual Member Decision Making

2. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any



steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

3. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

4. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
5. Where a matter arises at a meeting which **affects**:
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or well-being of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest, the following test should be applied.

6. Where a matter (referred to in paragraph 5 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

then you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Individual Member Decision Making

7. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in

exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director <sup>1</sup> or a body that such person has a beneficial interest in the securities <sup>2</sup> of) and the council:  (a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge):  (a) the landlord is the council; and  (b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director of or has a beneficial interest in the securities of.
<b>Securities</b>	Any beneficial interest in securities of a body where:

<sup>1</sup> "Director" includes a member of the committee of management of an industrial and provident society.

<sup>2</sup> "Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

	<p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or</p> <p>(iii) civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class</p>
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**Table 2: Other Registerable Interests**

You must register as an Other Registerable Interest:

- a) any unpaid directorships
  - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
  - c) any body
    - (i) exercising functions of a public nature
    - (ii) directed to charitable purposes or
    - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management.

## Appendix C – The Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straight-forward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit,

vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

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Cheshire West  
and Chester

**MEMBERS' ALLOWANCES SCHEME**  
**2023 - 2027**

Approved version taking effect from 9 May 2023

**CHESHIRE WEST AND CHESTER MEMBERS' ALLOWANCES SCHEME  
2023 - 2027**

**Basic Allowance**

**£14,453**

**Special Responsibility Allowances\***

	<b>SRA's £</b>
<b>Council Appointments</b>	
Council Leader	33,194
Deputy Leader	24,895
Cabinet Member/Portfolio Holder (x9)	14,453
Chairman of Council	7,054
Planning Committee Chairman	9,508
Licensing Committee Chairman	8,367
Audit and Governance Committee Chairman	8,177
Staffing Committee Chairman	6,366
Appeals Committee Chairman	6,366
Cheshire West Overview and Scrutiny Committee Chairman	9,318
People Overview and Scrutiny Committee Chairman	8,748
Places Overview and Scrutiny Committee Chairman	8,748
Health Overview and Scrutiny Committee	8,748
Community Governance Committee	6,366
Health and Wellbeing Board	3,653
Adoption/Fostering Panel Representative	6,366
Leaders' Champions (x3)	3,000
Member Champion – Armed Forces	1,020
<b>Group Appointments</b>	
Main Opposition Group Leader	9,508
Main Opposition Group Deputy Leader	7,054
Other Group Leader (subject to a minimum of 5 members)	4,356
Majority Party Group Whip	6,600
Majority Party Assistant Group Whip	3,300
Main Opposition Party Group Whip (subject to a minimum of 30% of membership)	4,300
Main Opposition Party Assistant Group Whip (subject to a minimum of 30% of membership)	2,150
Co-opted members and Independent Person on Standards issues etc (allowance per meeting plus expenses)	30.00

Subject to no Member claiming more than one SRA irrespective of the number of positions held.

**Civic Allowances**

These Allowances are not recommended by the Independent Remuneration Panel as those are above, but are set by the Charter Trustees or Council as required.



# TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES/REIMBURSEMENTS

## 1. Dependants' Carers' Allowance

A Member who has to pay for a carer to look after dependants to enable them to attend approved duties may claim Dependants' Carer's Allowance (DCA). The hourly rates are set as follows:

- Babysitting/childminding duties – Cheshire West and Chester Local Living Wage (£9.90 ph – as at November 2022)
- Other dependants - the current Council rate for Adult Social Care

The maximum total amount payable to an individual member each year is set at £5,780 and is subject to production of receipts as per the existing scheme.

The Allowance will not be paid in respect of other family members who cover the Member's caring duties.

In appropriate circumstances, the Director of Corporate Services may authorise additional payments as seems reasonable to members who incur additional expenditure due to specialist care being required for dependants.

This element of the allowances scheme is seen as an important factor in enabling Members to fulfill their duties as well as being able to care for dependents (children and adults in their care).

## 2. Travelling Reimbursement

No mileage limit to apply to individual journey for car, motorcycle or moped allowance on any approved duty.

2.1 Car Rate per Mile – all authorised mileage to be reimbursed at the prevailing HMRC rate, (45 pence per mile as at May 2011).

2.2 Motor cycle or moped allowance

**Motorcycle/ Moped** 24p per mile

**Non motorised** transport e.g. bicycle 20p per mile

Additional rate for each passenger, not exceeding 4, to whom a Travelling Allowance would otherwise be payable: 5p per mile

Expenditure on tolls, ferry or car parking: Actual Amount with receipt

Overnight garaging supplement, where the Member is absent overnight: Actual Amount with receipt

### 3. Subsistence Reimbursements

Breakfast Allowance for a duty of more than 4 hours concluding before 12 noon - £9

Lunch Allowance for a duty of more than 4 hours concluding after 12 noon- £11

Dinner Allowance for a duty of more than 4 hours concluding after 6 p.m. - £17

Dinner Allowance (London and abroad) for a duty of more than 4 hours concluding after 6 p.m. - £36

Overnight outside London: - £120 (to include breakfast)

Overnight in London - £150 (to include breakfast).

The limitations on reimbursement are:

- (i) Absence of more than 4 but less than 8 hours, the cost of 1 main meal.
- (ii) Absence of 8 hours or more but less than 12 hours, the cost of 2 main meals.
- (iii) Absence of 12 hours or more, the cost of 3 main meals.

(Receipts should be submitted with such claims and submitted within three months of instance).

### 4. Members Surgeries

Up to a maximum of £40 for room hire in connection with the conduct of a Member's Surgery, subject to a maximum of twelve such claims per annum and the submission of necessary receipts.

You may, by notice in writing to the Director of Governance, elect to forgo **any part** of the above allowances. You are also quite entitled to claim less than the maximum rates.

## Approved Duties:

**Members may claim travel, subsistence and other allowances for approved duties detailed below:**

- Attendance at meetings (by invitation via responsible officers) of the Council or any of its Cabinet, Committees, Sub-Committees, Panels, Working Groups, Community Forums, Working/Task Groups/Spotlight Scrutiny meetings.
- Attendance at visits of inspection of sites and buildings arranged by any of the bodies listed above
- Attendance at meetings of bodies on which the Council is invited to be represented and Outside Body Meetings to which the Audit and Governance Committee make appointments but excluding School Governing Bodies
- Performing anything as Chairman or Deputy-Chairman of an outside body on which the member is representing the Council
- Authorised briefings for Committees/Panels/Cabinet meetings including all meetings which are called by officers of the Council e.g. Pre Agenda meetings
- Officer briefings for Chairman of Committees and Sub-Committees and Cabinet Members
- Authorised attendance at Conferences/Seminars
- Duties undertaken by a Chairman/Cabinet Member in connection with his/her role
- Courtesy Visits & Civic duties by the Chairman and Deputy-Chairman of the Council  
Service duties and official visits undertaken by the Chairman/Deputy Chairman of Committees and Sub-Committees and by Cabinet Members.

For Members where required by, or nominated to represent the Council in an official capacity to attend at official openings, open days, events, presentations, meetings with VIPs, receptions etc which take place outside the Ward.

- Governors of FE/HE Colleges, Residential Special Schools and Independent Schools
- Attendance at Parish Council Meetings within the Ward
- Member Learning and Development Events
- For Parent Governor Co-opted Members – travel expenses to the Cheshire West Governance Association meetings (CWGA) (Maximum 12 meetings p.a.)

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## APPENDIX 1

### CABINET MEMBERS & PORTFOLIOS

Cabinet Member	Portfolio Responsibilities
<p>Councillor Louise Gittins</p> <p>Leader of the Council</p>	<p><b>Council Change Programme and External Relationships</b></p> <ul style="list-style-type: none"> <li>• Devolution</li> <li>• Local Health Economy and Cheshire and Merseyside Health and Care Partnership (Marmot Region)</li> <li>• Sub-Regional/North West Economic Partnerships</li> <li>• Town and Parish Council partnerships</li> <li>• Insight and Intelligence</li> </ul> <p><b>Climate &amp; Nature Emergency</b></p> <ul style="list-style-type: none"> <li>• Domestic Energy &amp; Energy Infrastructure</li> <li>• Carbon Reduction</li> <li>• Climate Emergency Response Plan</li> <li>• Net Zero North West</li> <li>• Biodiversity</li> </ul> <p><b>Archives</b></p> <p><b>Eat Well Be Active</b></p>
<p>Councillor Karen Shore</p> <p>Deputy Leader of the Council</p> <p>Cabinet Member for Environment, Transport &amp; Highways</p>	<p><b>Environment Services</b></p> <ul style="list-style-type: none"> <li>• Cemeteries and Crematoria Maintenance &amp; Management</li> <li>• Public Conveniences</li> <li>• Streetscene: strategy, asset management &amp; enforcement</li> <li>• Parks</li> <li>• Waste: strategy, collection, disposal and education</li> </ul> <p><b>Highways &amp; Transport</b></p> <ul style="list-style-type: none"> <li>• Transport Infrastructure – Planning, Policy &amp; Development</li> <li>• Bridges &amp; Structures</li> <li>• Highways – Strategy Design &amp; Maintenance; Development Control</li> <li>• Urban Traffic Control &amp; Traffic Management</li> <li>• Public Transport</li> <li>• Park &amp; Ride</li> <li>• Sustainable &amp; Active Travel</li> <li>• Car Park Management</li> </ul> <p><b>Flood Risk &amp; Flood Management</b></p>

	<p><b>Countryside, Green Spaces &amp; Mersey Forest</b></p> <ul style="list-style-type: none"> <li>• Public Rights of Way</li> <li>• Ranger Service</li> <li>• Wildflower &amp; Biodiversity Strategy</li> <li>• Tree Planting &amp; Maintenance</li> </ul> <p>Climate Emergency</p>
<p>Councillor Lisa Denson</p> <p>Cabinet Member for A Fairer Future (Poverty &amp; Mental Health)</p>	<p><b>Poverty Emergency</b></p> <ul style="list-style-type: none"> <li>• Health Inequalities/Marmot</li> <li>• Sustainable Food Place and Welcome Network</li> </ul> <p><b>Early Help &amp; Prevention (working with Cabinet Member for Children and Young People)</b></p> <ul style="list-style-type: none"> <li>• Starting Well Service</li> <li>• Early Help Prevention Contracts</li> <li>• Troubled Families</li> <li>• Young Carers</li> </ul> <p><b>Public Health</b></p> <ul style="list-style-type: none"> <li>• Drug &amp; Alcohol Service</li> <li>• Smoking Cessation</li> <li>• Sexual Health</li> <li>• Dental Provision</li> </ul> <p><b>Adult &amp; Children’s Mental Health</b></p> <ul style="list-style-type: none"> <li>• Suicide Prevention</li> <li>• Libraries, Arts &amp; Culture (including museums)</li> </ul> <p>Climate Emergency</p>
<p>Councillor Paul Donovan</p> <p>Cabinet Member for Democracy, Workforce and Communities</p>	<p><b>Democratic Services</b></p> <ul style="list-style-type: none"> <li>• Democratic, Electoral &amp; Civic Services</li> <li>• Member Support &amp; Development</li> <li>• Scrutiny Function</li> </ul> <p><b>Human Resources &amp; Workforce Development</b></p> <ul style="list-style-type: none"> <li>• Workforce Training &amp; Development (in liaison with Cabinet Members)</li> <li>• Human Resources Strategy &amp; Services</li> <li>• Health &amp; Safety</li> <li>• Trade Union Liaison</li> </ul> <p><b>Emergency Planning</b></p> <p><b>Armed Forces Liaison with Armed Forces Champion</b></p> <p><b>Equality, Diversity &amp; Accessible Spaces Communities</b></p> <ul style="list-style-type: none"> <li>• Neighbourhood Locality Teams</li> <li>• Locality Working</li> <li>• Community Groups, Volunteering &amp; Friends Groups</li> </ul>

	<ul style="list-style-type: none"> <li>• Development &amp; Implementation of the Compact</li> <li>• Community Assets</li> <li>• Participatory Democracy</li> <li>• Social Value Strategy</li> <li>• Member Budgets</li> <li>• Crowd Funding</li> <li>• Fairtrade</li> </ul> <p>Climate Emergency</p>
<p>Councillor Carol Gahan</p> <p>Cabinet Member for Finance and Legal</p>	<p><b>Capital Delivery &amp; Property</b></p> <ul style="list-style-type: none"> <li>• Project Delivery</li> <li>• Property Investments &amp; Developments</li> <li>• Farms</li> </ul> <p><b>Finance</b></p> <ul style="list-style-type: none"> <li>• Financial Management &amp; Transactional Services</li> <li>• Revenue &amp; Benefits</li> <li>• Audit &amp; Fraud</li> <li>• Pension Fund</li> </ul> <p><b>Procurement</b></p> <ul style="list-style-type: none"> <li>• Ensuring Social Value Procurement of goods and services</li> <li>• Business Support</li> </ul> <p><b>Legal Services</b></p> <p><b>Shareholder Representative for Council Companies</b></p> <p>Climate Emergency</p>
<p>Councillor Adam Langan</p> <p>Cabinet Member for Children and Young People</p>	<p><b>Achievement</b></p> <ul style="list-style-type: none"> <li>• Statutory Duties</li> <li>• School Improvement &amp; School Planning</li> <li>• Early Years Services</li> <li>• Special Educational Needs</li> <li>• Quality Learning Partners (Traded School Services)</li> </ul> <p><b>Early Help &amp; Prevention (working with Cabinet Member for A Fairer Future (Poverty &amp; Mental Health))</b></p> <ul style="list-style-type: none"> <li>• Starting Well Service</li> <li>• Early Help Prevention Contracts</li> <li>• Troubled Families</li> <li>• Young Carers</li> <li>• Youth Work</li> </ul> <p><b>Strategy &amp; Commissioning</b></p> <p><b>Safeguarding</b></p> <ul style="list-style-type: none"> <li>• Integrated Access &amp; Referral Team (i-art)/Emergency Duty Team</li> <li>• Assessment &amp; Care</li> <li>• Child Protection &amp; Children in Need</li> </ul>

	<ul style="list-style-type: none"> <li>• Looked After Children – Fostering &amp; Adoption</li> <li>• Strategic Support Services/School Support</li> <li><b>Play (Sports &amp; Recreation)</b></li> <li>• Brio Leisure Services</li> <li>• Playing Pitch Strategy</li> <li>• Play Strategy</li> <li>Climate Emergency</li> </ul>
<p>Councillor Sheila Little</p> <p>Cabinet Member for Adult Social Care</p>	<p><b>Adult Social Care</b></p> <ul style="list-style-type: none"> <li>• Community Care</li> <li>• Social Care &amp; Social Care Reform</li> <li>• Safeguarding &amp; Complex Needs</li> <li>• Market Development</li> <li>• Contract Management</li> <li>• Quality &amp; Performance</li> <li>• Local Health Care Partnerships</li> <li>• Care Communities</li> <li>• Strategic Commissioning (Learning Development &amp; Adult Learning)</li> <li>• Age Friendly Communities</li> <li>• Workforce Development</li> <li>• Adults with Learning Disabilities</li> <li>• Carers</li> <li>Climate Emergency</li> </ul>
<p>Councillor Nathan Pardoe</p> <p>Cabinet Member for Inclusive Economy, Regeneration and Digital Inclusion</p>	<p><b>Economic Development</b></p> <ul style="list-style-type: none"> <li>• Business Growth &amp; Investment</li> <li>• Tourism</li> <li>• Broadband Infrastructure</li> <li>• Skills (including Green Skills) and Employment</li> <li>• Inclusive Growth Strategy</li> <li>• Community Wealth Building</li> </ul> <p><b>Regeneration Programmes</b></p> <ul style="list-style-type: none"> <li>• High Streets</li> <li>• Markets</li> <li>• Town Centre Development and Growth Boards</li> <li>• Chester Regeneration Projects (working with Leader’s Champion for the One City Plan)</li> <li>• Ellesmere Port Regeneration Programme</li> <li>• Northwich Regeneration Projects</li> <li>• Winsford Regeneration Projects</li> <li>• Rural Regeneration Projects</li> </ul> <p><b>Digital Transformation &amp; Inclusion</b></p> <ul style="list-style-type: none"> <li>• Information Security &amp; Management</li> <li>• Shared Services</li> <li>• Digital Inclusion Strategy</li> <li>• Broadband &amp; Digital Connectivity</li> <li>• Communications</li> </ul>



	Climate Emergency
<p>Councillor Christine Warner</p> <p>Cabinet Member for Homes, Planning and Safer Communities</p>	<p><b>Planning</b></p> <ul style="list-style-type: none"> <li>• Local Plan, Planning Policy &amp; Planning Enforcement</li> <li>• Planning Heritage, Conservation &amp; Archaeology</li> <li>• Land Use Action Plan</li> </ul> <p><b>Housing</b></p> <ul style="list-style-type: none"> <li>• Housing Strategy, Policies &amp; Solutions</li> <li>• Private Sector Housing</li> <li>• Tenant Liaison &amp; Engagement</li> <li>• Management of Council Owned Contracts (including garages)</li> <li>• Housing Allocations (including choice based lettings)</li> <li>• New Build &amp; Empty Homes</li> <li>• Homelessness &amp; Support Services</li> </ul> <p><b>Regulatory Services</b></p> <ul style="list-style-type: none"> <li>• Animal Health &amp; Welfare</li> <li>• Environmental Health &amp; Protection</li> <li>• Trading Standards &amp; Licensing</li> <li>• Air Pollution – Clean Air</li> </ul> <p><b>Safer Communities</b></p> <ul style="list-style-type: none"> <li>• Community Safety – CCTV, Wardens</li> <li>• Safer Stronger Partnerships</li> </ul> <p>Climate Emergency</p>

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# Senior Officer Structure

Summer 2024



**Delyth Curtis**

Chief Executive and NHS Cheshire & Merseyside Place Director



**Kathy McArdle**

Executive Director of Place and Growth



**Simon Riley**

Chief Operating Officer



**Helen Brackenbury**

Executive Director of Children and Families



**Charlotte Walton**

Executive Director of Adult Services



**Natalie Abraham**

Assistant Chief Executive - Director of Transformation and Strategy



**Helen Bromley**

Director of Public Health

● Reports directly to Simon Riley

● Reports directly to Helen Brackenbury

● Reports directly to Charlotte Walton

● Reports directly to Kathy McArdle

● Reports directly to Natalie Abraham

● Reports directly to Helen Bromley

## Public Health ●

**Jo McCullagh**  
Consultant in Public Health - Health Improvement

**Donald Read**  
Consultant in Public Health - Health Protection

**Paul Hickson**  
Health and Wellbeing

## Transformation and Strategy ●

**Elena Lloyd**  
Communications and Engagement

**Roger Davies**  
Digital, Data and Technology

**Bev Wilson**  
Insight and Intelligence

## Adult Social Care and Health ●

**Stella Higgin**  
Adult Social Care Operations

**Matthew Emerson**  
Strategic Commissioning and Market Management

**Gavin Butler**  
Principal Social Worker

**Alistair Jeffs**  
Vivo Care Choices

## Transport and Highways



**Rose McArthur**  
Director ●

**Jayne Black**  
Highways

**Chris Hardwick**  
Strategic Transport

**Will Pearson**  
Climate Emergency Response

## Economy and Housing



**Gemma Davies**  
Director ●

**Appointment pending**  
Housing

**Rob Charnley**  
Planning

**Hayley Owen**  
Economic Growth

**Paul Nolan**  
Mersey Forest

**Siobhan Bird**  
Capital Projects

## Children and Families



**Gemma Gerrish**  
Acting Director ●

**Philippa Rees**  
Children's Social Care

**Zara Woodcock** ●  
Early Help and Prevention

**Debbie Edwards** ●  
Education and Inclusion

**Louise Irving**  
Principal Social Worker

**Paul Jenkins**  
Safeguarding



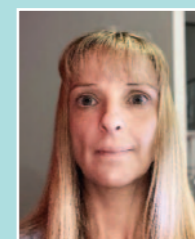
**Cheshire and Merseyside (Cheshire West Place Team)**



**Alex Mitchell** ●  
Finance & Performance



**Paula Wedd** ●  
Quality, Safety & Improvement



**Laura Marsh** ●  
Transformation & Partnership



**Andy McAlavey** ●  
Clinical Director - Place

## Finance



**Debbie Hall**  
Director ●

**Melanie Fitzpatrick**  
Transactional Services

**Anna Jones**  
Financial Management

**Paul Jackson**  
Capital and Strategic Finance

**Appointment pending** ●  
Cheshire Pension Fund

**Rachel Ridgway**  
Health & Wellbeing Finance

**Ian Savigar**  
Revenues and Assessments

## Governance



**Vanessa Whiting**  
Director ●

**Anne Greenwood**  
Legal Services

**Stewart McKie**  
Companies, Compliance and Assurance

**Penny Housley**  
Democratic Services

## Environment and Communities



**Maria Byrne**  
Director ●

**Mark Brazil**  
Environmental Services

**Rachel Foster**  
Communities, Culture and Libraries

**Vanessa Griffiths**  
Public Protection

**Claire Darbyshire-Came**  
Commercial Management (acting)

**Liz Chadwick** ●  
Human Resources and Organisational Development

**Tim Dodd** ●  
Property

## Our Partner Companies



**Paul Knight**  
Head of Avenue Services



**Matt Parker**  
Managing Director



**Andy Edwards**  
Managing Director



**Ian McGrady**  
Managing Director



**Ben Cummins**  
Managing Director



**Philip Cox**  
Chief Executive

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