

## CHESHIRE EAST COUNCIL

### Cabinet

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| <b>Date of meeting:</b> | 21 st April 2009                                      |
| <b>Report of:</b>       | Interim Manager for School Organisation & Development |
| <b>Title:</b>           | School Organisation Decision Making                   |

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#### 1. Purpose of Report

To consider the appropriate processes for making decisions on school organisation matters; specifically, the publication and determination of public statutory notices.

#### 2. Decision Required

To approve the decision making processes for school organisation matters as required by the Education and Inspections Act 2006 and other legislation, and in this respect:

- (1) Option 4 as set out in the report be approved; and
- (2) the procedure for considering school reorganisation proposals which attract objections, as set out in Appendix B, be adopted.

#### 3. Financial Implications 2009/10 and beyond

There are no significant capital or revenue implications as a result of adopting a decision making process.

#### 4. Legal Implications

There are statutory processes and guidance in relation to the different types of school organisation proposals. The decision required will ensure that the statutory requirements in relation to decision making are met and will curtail opportunities for legal challenge.

#### 5. Risk Assessment

The risk of breaching the statutory processes is significantly reduced if a clear process, one which complies with legislation, guidance and general administrative law, is selected and followed.

#### 6. Background and Options

The Local Authority is required by statute to make certain decisions relating to school organisation e.g. closing, opening and other specified alterations to schools. All local authorities have had to change their

procedures following the abolition of School Organisation Committees in 2007. Cheshire East Borough Council now needs to make specific provision for school organisation decision making in its constitution.

The Cabinet report item of 24 March 2009 regarding decision making arrangements resolved that the constitution be amended to empower individual Cabinet Members to make all executive decisions in respect of their portfolio areas, with five identified exceptions.

Statutory guidance states: "The Department does not prescribe the process by which a Local Authority carries out their decision making function (e.g. full Cabinet or delegation to Cabinet Member or officials). This is a matter for the Local Authority to determine but the requirement to have regard to statutory guidance applies equally to the body or individual that makes the decision."

Four possible options have been discussed with the Portfolio Holder, Councillor Paul Findlow. As the relevant Cabinet Member he will own and recommend any process on school organisation matters to other Members of the Cabinet. The options considered are as detailed below:

**Option 1:** Delegate decision-making authority to an officer, either Strategic Director of People or Head of Children and Families, who will sit with the Legal Adviser to take decisions: i.e. the process will be conducted *in camera*.

**Option 2:** Delegate decision making authority to the portfolio holder.

**Option 3:** Refer decision to the full Cabinet

**Option 4:** Establish a Cabinet Sub Committee which adopts the procedures set out in Appendix B to make decisions.

**It is recommended that:**

- (1) Option 4 is adopted to appoint a Cabinet Sub Committee.
- (2) The Sub Committee adopt the procedure set out in Appendix B of this report for considering statutory school organisation proposals and other non statutory education organisation proposals.

### **7. Overview of Day One, Year One and Term One Issues**

The Council will inherit work on various aspects of school organisation and could receive governing body or other proposals at any time.

## **8. Reasons for Recommendation**

The Sub Committee can hear advice from non-executive Members and relevant representatives of school governors and Diocesan authorities (who cannot exercise decision making powers themselves). This demonstrates that a wide range of opinion has been canvassed. The adoption of the procedure set out in Appendix B will provide a transparent forum giving proposers and objectors equal rights to present both orally and in writing their arguments to the Sub Committee, with opportunities for Sub Committee Members to ask proposers and objectors questions prior to moving to a final decision-making process. The Sub Committee in discharging its decision-making function, is required to have regard to statutory guidance setting out the factors to be taken into account in considering different kinds of proposals, and the Sub Committee is required to set out and publish in detail the reasons for its decisions.

A balanced decision making process has to be in existence in April 2009, in order to determine the inherited and future school organisation proposals. Notices have been published proposing the closure of Church Lawton and a decision maker must be identified in order for this process to proceed. Further details of this proposed school closure can be found at Appendix A.

### ***For further information:***

*Portfolio Holder: Cllr Paul Findlow*

*Officer: Peter Davies*

*Tel No: 01244 972081*

*Email: peter.davies@cheshireeast.gov.uk*

### ***Background Documents:***

*Statutory Guidance on School Organisation*

*Documents are available for inspection at:  
DCSF Website - School Organisation Unit*

## **CHESHIRE EAST BOROUGH COUNCIL PROCEDURES FOR CONSIDERING STATUTORY SCHOOL REORGANISATION PROPOSALS AND OTHER NON STATUTORY EDUCATION REORGANISATION PROPOSALS**

### **1. DECISIONS TO CONSULT AND PUBLISH STATUTORY NOTICES**

**Decisions to be taken by the Individual Portfolio holder for  
Children and Families**

### **2. PROCEDURE FOR CONSIDERING STATUTORY SCHOOL REORGANISATION PROPOSALS AND DECISIONS ON NON STATUTORY EDUCATION REORGANISATION PROPOSALS WHICH ATTRACT OBJECTIONS**

**Decisions to be taken by a Cabinet Sub Committee under the  
procedures set out below**

## **CHESHIRE EAST CABINET SCHOOL ORGANISATION SUB COMMITTEE PROCEDURE**

The Cabinet has adopted the following procedure when exercising its function as the relevant decision maker under Schedule 2 Education and Inspections Act 2006 to consider school reorganisation proposals which attract statutory objections. The Cabinet has also adopted this procedure for the determination of other non statutory education organisation proposals which have attracted objections.

Decisions will be taken by a Committee comprising of 3 or 5 Cabinet members sitting as a Cabinet Sub Committee who will elect one member as Chair.

Representatives from the Chester(CE) Diocesan Board of Education , the Diocese of Shrewsbury Catholic Education and nominated primary, secondary, special school, nursery and foundation school governors (where

appropriate) will be invited to attend and offer advice to the Sub Committee where the proposals impact on their sector of educational provision.

**Part 1 of meetings of the Sub Committee will be held in public.**

**Introduction**

- (1) There will be a brief introduction by the Principal Adviser to the Sub Committee to explain the business which is being brought before the Sub Committee, and how it will be considered.

**Presentation of the Proposal**

- (2) The Chair of the Sub Committee will ask the Proposers' representative(s) to present the proposal.

*(No more than three presentations and a maximum 15 minutes in total.)*

**Local Reaction to the Proposal**

- (3) The Principal Adviser will report briefly to the Sub Committee on the level and nature of responses received, together with any other responses, eg: expressions of support for the proposals.
- (4) The Chair will invite a spokesman or spokesmen representing the objectors to make an oral presentation of their objections.

*(No more than three presentations and a maximum 15 minutes in total.)*

*Objectors are, therefore, invited to work together to co-ordinate their representations and to nominate no more than three spokesmen.*

*Objectors are asked to notify the Democratic Services Officer to the Sub Committee of the name(s) of their spokesman or spokesmen in advance of the meeting.)*

- (5) Representatives for the Diocesan and Governing Bodies where appropriate may each ask questions of the Proposers and Objectors

**Information Seeking**

- (6) Sub Committee Members may ask the Proposers' representative(s) any questions about:

- The case for the proposals.
  - Proposers' comments on the objections received.
- (8) Sub Committee Members may ask the objectors' spokesman or spokesmen any questions about the objections received.

**Advice to the Sub Committee**

- (9) Governor representatives and representatives from the Chester (CE) Diocesan Board of Education and Diocese of Shrewsbury Education Service where appropriate will be invited to make comments to the Sub Committee.
- (10) Elected Members will be invited to make comments to the Sub Committee.

**Part 2 of the meeting will be held in private.**

*The Sub Committee will then meet in private and everyone else will be asked to leave the meeting at this point, save that elected members of the Borough Council may remain present, in accordance with the Council's Standing Orders relating to Council proceedings.*

**Review**

- (11) The Sub Committee, advised by the Principal Adviser, will consider whether the Sub Committee has sufficient information to come to a decision, or whether more information, not available at the meeting, is needed.

In exceptional circumstances where significant additional information is required which cannot immediately be provided, it may be necessary for the Sub Committee to adjourn whilst the necessary information is obtained.

- (12) When (either at the first meeting to consider the proposal or at a subsequent meeting if need be) the Sub Committee considers that it has sufficient information to reach a decision, the Sub Committee will consider the issues having regard to each element of the relevant statutory Decision Makers guidance which it is required to consider, before reaching its decision.

**Part 3 Announcement of the Decision in public session**

(13)The Sub Committee's decision will be made in public following the private review session. It will then be published on the Borough Council's Political Information Network within two working days and the Principal Adviser to the Sub Committee will then prepare and make public a written statement setting out the reasons for the Sub Committee's decision in relation to the relevant Statutory Decision Makers guidance.

Footnotes:

1. Where the Proposer is the Local Authority this will be officers representing the Director of Children & Families. Other Proposers may include the Church of England and Catholic Dioceses and school governing bodies.
2. Nominated school governor representatives shall be sought from the Cheshire Association of Governing Bodies (CAGB) from serving primary, secondary, special, nursery and foundation school governors of Cheshire East schools, save that no person who is a governor, parent of a pupil attending or member of the staff of any school which is the subject of any proposal being considered by the Sub Committee shall participate, but may nominate a substitute in his or her place.
3. Decisions by the Sub Committee remain subject to the Council's call- in procedures under the relevant Standing Order. In the event of such "call-in", the council's Standing Orders shall apply in relation to all subsequent decision-making and the foregoing procedure shall cease to apply.

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