

Council

Agenda

Date: Wednesday, 30th July, 2008
Time: 9.30 am
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**
2. **Minutes of Previous meeting** (Pages 1 - 8)

To consider the minutes of the meeting held on 13 May 2008
3. **Chairman's Announcements**

To receive such announcements as may be made by the Chairman of the Council
4. **Records of Decisions of the Cabinet and Minutes of other Committees**

To receive formally the following records of decisions of the Cabinet and Minutes of other Committees as follows: -

Staffing Committee	20 May 2008
Cabinet	21 May 2008
Staffing Committee	4 June 2008
Governance and Constitution Committee	9 June 2008
Cabinet	16 June 2008
Scrutiny Committee	3 July 2008

5. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

6. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 15 minutes is allocated for members of the public to address the Council on any matter relevant to the work of the Council.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

7. **Notices of Motion**

No Notices of Motion have been received in accordance with Procedure Rule 12

8. **Constitutional Issues: Changes to Portfolios** (Pages 9 - 16)

To consider the proposed allocation of Portfolio responsibilities to the Shadow Council's Cabinet Members

9. **Constitutional Matters: responsibilities of the Staffing Committee and provision of Indemnities** (Pages 17 - 28)

To consider:

1. increasing the responsibilities of the Staffing Committee ; and
2. agreeing that an indemnity be provided to those representing the Council on various bodies

10. **Civic and Ceremonial Issues** (Pages 29 - 32)

To be briefed on a number of Civic and Ceremonial Issues, and to identify any specific matters which are to be pursued for retention or adoption from April 2009.

11. **Members' Allowances Scheme** (Pages 33 - 50)

To consider the recommendations of the County Council's Independent Remuneration Panel concerning the Members' Allowances Scheme for the Shadow period.

12. **Questions**

In accordance with Procedure Rule 11, opportunity is provided for Members of the Shadow Council to ask the Chairman, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Shadow Council, the Cabinet or the Committee has powers, duties or responsibilities.

Questions must be sent in writing to the Interim Monitoring Officer at least 3 clear working days before the meeting.

13. **Exclusion of the Press and Public**

The reports relating to the remaining items on the agenda have been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matters may be determined with the press and public excluded.

The Council may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 3 and 4 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

(Paragraph 3 concerns information relating to the financial or business affairs of any particular person (including the authority holding that information) Paragraph 4 concerns information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.)

14. **Severance** (Pages 51 - 60)

To consider the arrangements in relation to severance provisions for non teaching employees in the new Council

15. **Appointment of Chief Executive**

To consider the appointment of the Chief Executive.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the Council
Held on Tuesday, 13th May, 2008 in the
Council Chamber, Municipal Buildings, Earle Street, Crewe

PRESENT

Councillor Mrs M Simon (Chairman)
Councillor G Baxendale (Vice Chairman)

Councillors

Mrs E Alcock, Miss C Andrew, A Arnold, M Asquith, Mrs R A Bailey,
Mrs R Bailey, A Barratt, G Barton, C Beard, T Beard, D Bebbington, D Beckford,
Mrs S Bentley, D Brickhill, S Broadhurst, D Brown, D Cannon, R Cartlidge,
S Conquest, J Crockatt, H Davenport, M Davies, R Domleo, B Dykes, P Edwards,
P Findlow, W Fitzgerald, R Fletcher, Mrs D Flude, Miss S Furlong, L Gilbert,
Mrs E Gilliland, J Goddard, B Grange, J Hammond, M Hardy, Mrs M Hollins,
D Hough, Mrs E Howell, Ms O Hunter, Mrs T Jackson, J Jones, Mrs S Jones,
F Keegan, A Knowles, A Kolker, W Livesley, J Macrae, A Martin, Mrs M Martin,
P Mason, S McGrory, A Moran, B Moran, H Murray, J Narraway, D Neilson, R Parker,
M Parsons, T Ranfield, A Richardson, B Silvester, Mrs L Smetham, D Stockton,
Mrs D Thompson, C Thorley, A Thwaite, Mrs C Tomlinson, D Topping, R Walker,
G Walton, Mrs J Weatherill, R West, R Westwood, P Whiteley, and J Wray.

Apologies

Councillors Mrs H Gaddum, R Menlove and Mrs G Merry

1 CHAIRMAN OF THE COUNCIL

It was moved and seconded that Councillor Margaret Simon be appointed
Chairman of the Cheshire East Shadow Council for the ensuing year.

RESOLVED

That Councillor Margaret Simon be appointed Chairman of the Cheshire East
Shadow Council for the year until April 2009.

2 VICE-CHAIRMAN OF THE COUNCIL

It was moved and seconded that Councillor Gordon Baxendale be appointed
Vice-Chairman of the Cheshire East Shadow Council for the ensuing year.

RESOLVED

That Councillor Gordon Baxendale be appointed Vice-Chairman of the Cheshire
East Shadow Council for the year until April 2009.

3 ADOPTION OF A MEMBER CODE OF CONDUCT

Consideration was given to the adoption of a Member Code of Conduct and to the General Principles of Conduct which, whilst not being part of the Code itself, were included in the Constitution.

RESOLVED

1. That the Code of Conduct, as contained in the Appendix to the report, be adopted as the Code of Conduct for Members of the Shadow Council, and be included in the Shadow Council's Constitution.
2. That the General Principles of Conduct be included in the Shadow Council's Constitution, but not as part of the Code of Conduct itself.

4 DECLARATIONS OF INTEREST

Julie Openshaw declared an interest in minute 7 by virtue of being recommended for designation as the Interim Monitoring Officer for the Shadow Council.

Lisa Quinn declared an interest in the same item by virtue of being recommended for designation as the Interim Chief Financial Officer for the Shadow Council.

They both left the meeting during consideration of this item.

5 ADOPTION OF CONSTITUTION

Consideration was given to a recommendation from the Joint Committee that the content of the Constitution be agreed. An amendment was, however, made to Rule 17.1 of the Shadow Councils Procedure Rules whereby appointments of the Chairmen and Vice-Chairman of the Committees would be made by the Committees themselves, not by the Shadow Council.

RESOLVED

1. That, with the exception of an amendment to Rule 17.1 of the Shadow Council's Procedure Rules, and elsewhere as necessary, to provide that appointments of the Chairman and Vice Chairmen of Committees shall be made by the Committees themselves, not the Shadow Council, the Shadow Council agrees the content of the Constitutional documents submitted and adopts them as its Constitution.
2. That the Shadow Councils Interim Monitoring Officer be authorised to make the amendments described at 2.1.1, and such other minor and consequential amendments to the drafting of the constitutional documents as she considers are necessary to facilitate the business of the Shadow Council.

6 COMMITTEE AND OTHER STRUCTURES

The agreement of the Shadow Council was sought to its proposed Committee and other structures and consideration was given to a report and appendices setting out that proposed structure and to the proposed terms of reference.

RESOLVED

1. That the following bodies be appointed with the terms of reference and powers set out in Appendix B to the report, subject to any amendments which the Shadow Council may have agreed as part of the earlier report on Adoption of the Constitution:
 - Cabinet
 - Staffing Committee
 - Scrutiny Committee
 - Standards Committee
 - Governance and Constitution Committee
 - Joint Liaison Committee
 2. That a Member Learning and Development Panel be appointed to oversee and agree the Shadow Council's Member learning and development programme, and to develop the approach towards Member learning and development which may be adopted by the Cheshire East unitary authority.
 3. That three Cabinet advisory panels be appointed, each chaired by a portfolio holder, with a cross-party politically-proportional membership, having responsibility to provide advice to the Cabinet in the following areas of the implementation project:
 - People
 - Places
 - Performance and Capacity.
 4. That the size and composition of the committees and bodies referred to above be agreed as detailed in the later item (Minutes 12 refers).
 5. That, in respect of the Shadow Council's Standards Committee, and following on from the recommendations contained in paragraphs 6.1 and 6.2 of the report to the Political Structures Sub-Group, the Standards Committee shall comprise:
 - 5 Statutory Independent Members (including Chairman);
 - 3 parish/town Council representatives; and
 - 8 Elected Members.
 6. That two Sub-Committees of the Standards Committee be established to deal with the various roles, both chaired by Independent Members and drawn, from time to time, from the pool of 16 Members, and constituted in accordance with relevant legal requirements (e.g. with a Parish/Town Council Representative as necessary).
 7. That the recruitment process for Parish/Town Council representatives and Independent Members be taken forward by the Interim Monitoring Officer as soon as soon as possible.
 8. That the Shadow Council shall appoint a Leader, a Deputy and 8 other Cabinet Members, and that portfolios be allocated to them in due course by the Shadow Council.
- 7 DESIGNATION OF INTERIM MONITORING OFFICER AND INTERIM CHIEF FINANCE OFFICER

(Julie Openshaw and Lisa Quinn had declared an interest in this item and left the meeting during its consideration).

Consideration was given to a report asking for confirmation to be given to the designation of the Interim Monitoring Officer and the Interim Chief Financial Officer for the Shadow Council.

RESOLVED

1. That Macclesfield Borough Council's Monitoring Officer be designated as the Interim Monitoring Officer for the Shadow Council.
2. That Macclesfield Borough Council's Chief Finance Officer be designated as the Interim Chief Finance Officer for the Shadow Council.

8 PROPER OFFICERS

Consideration was given to the appointment of designated officers as Proper Officers under legislative requirements. An Appendix to the report listed the required appointments.

RESOLVED

That approval be given to the list of designated officers to the office of Proper Officer under each of the stated legislative provisions as listed.

9 LEADER OF THE COUNCIL

It was moved and seconded that Councillor Wesley Fitzgerald be appointed Leader of the Cheshire East Shadow Council for the ensuing year.

RESOLVED

That Councillor Wesley Fitzgerald be appointed as Leader of the Cheshire East Shadow Council for the ensuing year.

10 DEPUTY LEADER OF THE COUNCIL

It was moved and seconded that Councillor Roland Domleo be appointed Deputy Leader of the Cheshire East Shadow Council for the ensuing year.

RESOLVED

That Councillor Roland Domleo be appointed Deputy Leader of Cheshire East Shadow Council for the ensuing year.

11 LEADERS OF POLITICAL GROUPS

The Leaders and Deputy Leaders of the Political Groups were announced as follows:-

	Leader	Deputy Leader
Conservative Group	Wesley Fitzgerald	Roland Domleo
Liberal Democrat Group	Ainsley Arnold	Rod Fletcher
Labour Group	Dorothy Flude	Steven Conquest
Independent Group	Paul Edwards	Michael Parsons

RESOLVED

That the Leaders and Deputy Leaders of the Political Groups be noted.

12 POLITICAL PROPORTIONALITY AND APPOINTMENT OF CABINET/EXECUTIVE AND COMMITTEES

Consideration was given to a report on the political proportions of the Council, the size of Committees, and to the appointment of Members to the Cabinet and to Committees. A paper listing the proposed appointments was circulated at the meeting and it was recommended that the appointment of Chairman and Vice Chairman of the Committees be made at the first meeting of each of the Committees.

RESOLVED

1. That the size of each of the Committees be agreed as set out in the report.
2. That approval be given to the Shadow Council's allocation of seats to political groups.
3. That Members be appointed to the Cabinet as set out in the report circulated, and attached to these minutes.
4. That appointments be made to the Governance and Constitution Committee, Scrutiny Committee, Staffing Committee and Joint Liaison Committee in accordance with the political proportions allocated, and as set out in the report circulated and attached to these minutes.
5. That Members be appointed to the Standards Committee as set out in the report circulated and attached to these minutes.
6. That the Chairmen and Vice Chairman of each Committee be appointed at the first meeting of each Committee.

13 MEMBERS ALLOWANCES SCHEME

Consideration was given to a report advising on progress made regarding the adoption of the Members Allowances Scheme for the shadow period. With regard to the decisions requested Members were asked to defer making a decision on the payment of an interim basic allowance so as to allow Cheshire County Council's Independent Remuneration Panel to complete its review of the scheme and to report to the next meeting of the Council.

RESOLVED

1. That a decision on the interim basic allowance for the shadow period be deferred until the next meeting of the Council.
2. That approval be given to the application of the County Council's rates for travel and subsistence allowances.

14 CALENDAR OF MEETINGS AND VENUES FOR SHADOW COUNCIL MEETINGS

The calendar of meetings and venues where known was submitted. With regard to the meetings of the Shadow Council it was recommended that meetings in the months to the end of October start at 6.00 pm, and that they then move to 2.00 pm for the remainder of the winter.

RESOLVED

That the calendar of meetings, and times where known, be noted.

15 PAY, GRADINGS & CONDITIONS OF EMPLOYMENT

The Chairman confirmed that by reason of special circumstances, in order to allow the early development of Cheshire East Council's approach to pay and grading, in accordance with S1000B (4)(b) of the Local Government Act she was of the opinion that the item should be considered at this meeting as a matter of urgency.

The Appendix to this report however was not for publication as it contained exempt information as defined in Schedule 12A to the Local Government Act 1972 in relation to information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

RESOLVED

That approval be given to the consideration of this report as an exempt item and that the press and public therefore be excluded from the meeting.

16 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED

That in accordance with Section 100(A) (4) of the Local Government Act 1972 the public and press be excluded from the meeting for the following item of business on the grounds that it will involve the likely disclosure of exempt information in accordance with paragraph 4 of Part 1 of Schedule 12A of the Local Government Act 1972. (Paragraph 4 relates to information relating to any consultations of negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under the authority).

17 PAY, GRADINGS & CONDITIONS OF EMPLOYMENT - CONTINUED FROM
ITEM 15A (EXEMPT APPENDICES)

Consideration was given to a report on this subject.

RESOLVED

That approval be given to the recommendations set out in the Appendix to the report.

18 COMMITTEE PLACES 2008/2009 REPORT

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CHESHIRE EAST COUNCIL

COUNCIL

Date of meeting: 30 July 2008
Report of: Leader of the Council
Title: Constitutional issues: Changes to Portfolios

1.0 Purpose of Report

- 1.1 To report to Council upon the proposed allocation of Portfolio responsibilities to the Shadow Council's Cabinet Members.

2.0 Decision Required

- 2.1 That Portfolios of responsibility be allocated to the Shadow Council's Cabinet Members in accordance with the Appendix to this report and as follows:

Children and Family Services: Councillor Paul Findlow

Adult Services: Councillor Roland Domleo

Health and Wellbeing: Councillor Andrew Knowles

Environmental Services: Councillor David Brickhill

Prosperity: Councillor Jamie Macrae

Safer and Stronger Communities: Councillor Brian Silvester

Resources: Councillor Frank Keegan

Procurement, Assets and Shared Services: Councillor Peter Mason

Performance and Capacity: Councillor David Brown

- 2.2 That the Interim Monitoring Officer be authorised to make appropriate consequential changes to the Shadow Council's Constitution in order to reflect the allocation of Portfolio responsibilities.

3.0 Financial Implications for Transition Costs

- 3.1 There are no financial implications for transition costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 There are no financial implications 2009/10 and beyond.

5.0 Legal Implications

- 5.1 The allocation of Portfolio responsibilities to Cabinet Members necessitates a number of changes to the Shadow Council's Constitution which will need to be made by the Interim Monitoring Officer. This report seeks authority for those changes to be made.

6.0 Risk Assessment

- 6.1 No risks arise from the allocation of Portfolio responsibilities to Cabinet Members.

7.0 Background

- 7.1 At its meeting on 13 May 2008, the Shadow Council agreed to appoint a Leader, a Deputy Leader and 8 other Cabinet Members. It was agreed that portfolios would be allocated to Cabinet Members at a later date by the Shadow Council.
- 7.2 It is now possible to bring a report before the Shadow Council which will enable the Shadow Council to allocate Portfolios of responsibility to individual Cabinet Members.
- 7.3 At this stage, the Shadow Council is not being asked to empower Cabinet Members to take executive decisions. Unless and until any further constitutional change takes place, such decisions will continue to be made collectively by the Cabinet.
- 7.4 The Appendix to this report provides details of the services for which the Cabinet Member is responsible, together with key dependencies where the lead is a different Portfolio Holder.
- 7.5 The Leader of the Shadow Council will not have specific Portfolio responsibilities.

8.0 Conclusion

- 8.1 This report provides the Shadow Council with further details of the proposed responsibilities of Cabinet Members and seeks Council authority to allocate those responsibilities.
- 8.2 The Shadow Council's Constitution will need to be changed in order to provide information to members of the public, Members and officers as to where those responsibilities lie.

For further information:

Portfolio Holder: Councillor Wesley Fitzgerald, Leader of the Council

Officer: Brian Reed

Tel No:01244 972205

Email:brian.reed@cheshire.gov.uk

Background Documents: Constitution

Documents are available for inspection at:

Cheshire East Shadow Council Support Office

Congleton Borough Council

Westfields

Middlewich Road

Sandbach

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Portfolio	Services	Key dependencies where lead is a different portfolio holder
Children and Family Services	<ul style="list-style-type: none"> • Early Years • Education • Children's social care and wellbeing • Joint use sports and community schemes at schools; • Youth Services • Lifelong Learning • Family Services • Conway Centre 	
Adult Services	<ul style="list-style-type: none"> • Reablement • Support to Informal Carers • Community Equipment • Occupational Therapy • Assistive Technology • Mobile Meals • Respite and Short Breaks • Family Based Care • Domiciliary Care • Residential Care • Nursing Home Care • Extracare housing • Supported Employment • Sensory Impairment Services • Safeguarding Adults • HIV/Aids • DAAT Services • Domestic Violence services 	
Health and Wellbeing	<ul style="list-style-type: none"> • Arts • Sport • Libraries • Museums • Archives • Parks and Recreation • Children's Play • Countryside service • Public Health promotion • Health improvement 	<ul style="list-style-type: none"> • Tatton Park • joint use sports

Environmental Services	<ul style="list-style-type: none"> • Streetscene • Highways Operational Management • Climate change • Waste collection • Waste disposal • Waste PFI • Parking • Markets • Bereavement services • Health and Safety Enforcement 	<ul style="list-style-type: none"> • Parks and other open space maintenance • Contaminated land • Public rights of way maintenance
Prosperity	<ul style="list-style-type: none"> • Strategic highways • Economic development • Development management • Housing strategy • Homelessness • Tourism • Tatton Park • Contaminated land 	<ul style="list-style-type: none"> • Extracare housing • Local Development Framework
Safer and Stronger Communities	<ul style="list-style-type: none"> • Civil protection/emergency planning • Third sector and community delivery • Youth offending team • Crime reduction including CDRP and police liaison • Anti social behaviour reduction including drug abuse and domestic violence • Community safety wardens • CCTV • Trading standards • Registration services • Licensing • Environmental Health • Food safety • Air Pollution control • Environmental enforcement • Contaminated land • Pest control • Dog wardens 	<ul style="list-style-type: none"> • Neighbourhood working implementation • Domestic Violence

Resources	<ul style="list-style-type: none"> • Finance • Revenues and benefits • HR Strategy • Transactional HR • Organisational Development • Employee training and development • Occupational Health • Corporate Health and safety • Legal and Democratic Services • ICT 	<ul style="list-style-type: none"> • Audit
Procurement, assets and shared services	<ul style="list-style-type: none"> • Property services including county farms • Cheshire Business Services • Pensions • Procurement including subregional hub • External funding • European Unit • Shared services and delivery models 	<ul style="list-style-type: none"> • PFI procurement • E-procurement
Performance and Capacity	<ul style="list-style-type: none"> • Performance Management and Transformation • Research and Intelligence • Customer Access/Services • Community Plan • Third sector and community development • Local Strategic partnership • Corporate Plan • Local Development Framework • Area and neighbourhood working • Communications • Consultation • Audit • Risk management and insurance • Equality and diversity 	<ul style="list-style-type: none"> • Organisational development

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CHESHIRE EAST COUNCIL

COUNCIL

Date of meeting: 30 July 2008
Report of: Interim Monitoring Officer
Title: Constitutional Matters: responsibilities of the Staffing Committee and provision of indemnities

1.0 Purpose of Report

- 1.1 To seek authority from the Shadow Council to:
- (a) increase the responsibilities of the Staffing Committee; and
 - (b) agree that an indemnity be provided to those representing the Council on various bodies.

2.0 Decision Required

- 2.1 Agreement that the following be added to the responsibilities of the Staffing Committee:
- “Making all non-executive decisions relating to staffing matters except where, in the opinion of the Chief Finance Officer, they could have a significant financial impact on the Council”.
- 2.2 That the Shadow Council’s Constitution be amended accordingly.
- 2.3 That, in determining whether decisions relating to staffing matters could have a significant financial impact on the Council, the Chief Finance Officer shall be guided by the contents of paragraph 7.5 of this report.
- 2.4 That those individuals acting in a representative capacity on behalf of the Authority be indemnified to the maximum extent permitted by the Local Authorities (Indemnities for Members and Officers) Order 2004.

3.0 Financial Implications for Transition Costs

- 3.1 In respect of Staffing Committee issue: there are no direct financial implications for Transition Costs, but the Staffing Committee would be able to make decisions with financial implications provided these are not considered significant.
- 3.2 In respect of the indemnities issue, the financial implications for Transition Costs are set out in the report considered by the Governance and Constitution Committee (see Appendix).

4.0 Financial Implications 2009/10 and beyond

- 4.1 In respect of the Staffing Committee issue there are no financial implications 2009/10 and beyond, but the Staffing Committee would be able to make decisions with financial implications provided these are not considered significant.
- 4.2 In respect of the indemnities issue, Members are referred to the relevant section of the Appendix.

5.0 Legal Implications

- 5.1 The Shadow Council may delegate powers to its committees and, therefore, the delegation of the proposed (non-executive) responsibility to the Staffing Committee has no adverse legal implications.
- 5.2 In relation to indemnities, the Governance and Constitution Committee has delegated authority to approve indemnities for Members and did so at their last meeting. In relation to officers, the Executive will approve the matter but, for non-Member representatives, the Council needs to agree the matter (as this is not a function delegated to the Governance and Constitution Committee), hence this report.

6.0 Risk Assessment

- 6.1 Whilst, as a result of the proposal, more powers would rest with the Staffing Committee, it would seem that there would be reduced risks in proceeding as proposed. The Staffing Committee will have specialist responsibilities for staffing and employment-related matters, in respect of which training has been provided to Members. Therefore, the Staffing Committee would appear to be the best decision making body to make the decisions in question.
- 6.2 In relation to indemnities, failure to grant indemnities will expose individuals to potential personal liability.

7.0 Background

- 7.1 At its first meeting in May, the Shadow Council agreed its constitution which gave responsibility to the Staffing Committee for a number of functions:

“Responsibility of the Staffing Committee

1. Undertaking the selection process for the appointment, and formulating recommendations to the Shadow Council in relation to:
 - the appointment and dismissal of the Head of the Paid Service;
 - the designation of an officer to act as Interim Monitoring Officer and Interim Chief Finance Officer;
 - the appointment/dismissal of Appointed Monitoring Officer and Appointed Chief Finance Officer;

in accordance with the Cheshire (Structural Changes) Order 2008
in accordance with the appropriate procedures set out in the Staff
Employment Procedure Rules;

2. Undertaking the selection, appointment and dismissal processes for any other staff in accordance with the appropriate procedures set out in the Staff Employment Procedure Rules;
3. Hearing and determining any appeals by staff under the Shadow Council's approved personnel policies and procedures including through any appointed Sub-Committee;
4. Hearing and dealing with disputes registered with the Shadow Council by recognised Trade Unions".

- 7.2 However, as the process of appointment of staff proceeds, it has become clear that the Staffing Committee needs to have wider powers to decide other non-executive staffing matters. Decisions on staffing issues are increasingly becoming urgent and it is clear that delaying such decisions in order to await the next meeting of Full Council is unworkable.
- 7.3 By way of explanation, executive staffing matters, which would be for the Executive to decide, would include policy-related issues, such as employment policies affecting the workforce in general.
- 7.4 The recommendation of this report proposes that all non-executive staffing matters should become the responsibility of the Staffing Committee except where, in the opinion of the Chief Finance Officer, they could have a significant financial impact on the Council. In those circumstances, the decision would have to be taken by Full Council.
- 7.5 In coming to a view as to whether the financial impact would be significant, the Chief Finance Officer would need to take into account a range of factors and risks, including the scale and likelihood of any financial impact, the costs/risks of any alternative options, whether any impact is one-off or ongoing, whether it may set a wider precedent and the adequacy of current budget provision. For these reasons, it is not possible to set a fixed financial limit. A likely cost of over £1M would generally be considered significant but, depending on the other factors, the threshold in particular circumstances could be somewhat lower.
- 7.6 The delegation of further powers to the Committee will ensure that there is committee involvement in staffing decisions. The only other option, in cases of urgency where a decision could not await the next meeting of the Shadow Council, would be for the decision to be taken by an officer under the urgency procedure, following consultation with certain Members.
- 7.7 Any executive decision on staffing matters would remain the responsibility of the Shadow Council's Executive.

- 7.8 In relation to indemnities, as stated earlier, by way of background, the report considered by the Governance and Constitution Committee/Executive is appended to this report.

For further information:

Officer: Brian Reed

Tel No: 01244 72205

Email: brian.reed@cheshire.gov.uk

Background Documents: Shadow Council Constitution

Documents are available for inspection at:

Shadow Council Support office:
Congleton Borough Council
Westfields
Middlewich Road
Sandbach

CHESHIRE EAST

Governance and Constitution Committee

Date of meeting: 14 July 2008
Report of: Governance Group
Title: Indemnities for Members and Officers

1.0 Purpose of Report

- 1.1 This reports sets out the current powers available to local authorities in relation to the provision of indemnities to elected Members and Officers and proposes that the Shadow Council prior to Vesting Day, agree an indemnity.

2.0 Decision Required

- 2.1 The Committee agree that Members and those acting in a representative capacity on behalf of the Authority be indemnified to the maximum extent permitted by the Local Authorities (Indemnities for Members and Officers) Order 2004 and Section 111 of the Local Government Act 1972.

3.0 Financial Implications for Transition Costs

- 3.1 The provision of an indemnity is a contingent liability and so at this stage cannot be quantified, dependent upon whether events arise which would require the giving of such an indemnity at some stage in the future. Insurance provision has already been put in place for Members and Officers as part of the preparations for Vesting Day following a tendering exercise which has recently been completed.

4.0 Financial Implications 2009/10 and beyond

- 4.1 As stated above, the provision of an indemnity is a contingent liability which at this stage cannot be quantified either now or in future years depending on events. The premia required to be payable to sustain the policies of insurance for Members and Officers will continue to be payable and will need to be factored into the budget for the new Council.

5.0 Legal Implications

- 5.1 Power to give an indemnity arises by virtue of regulations made under sections 101 and 105 of the Local Government Act 2000, section 111 of the Local Government Act 1972, the Local Authorities (Indemnities for Members and Officers) Order 2004, and the Cheshire (Structural Changes) Order 2008.

6.0 Risk Assessment

- 6.1 The need for Members and Officers to be protected by indemnities is important, bearing in mind the range of activities that Members and Officers, both in the

run up to Vesting Day and after Vesting Day (once all of the Local Government functions are vested in the new Council) will be undertaking. Proper public administration dictates that Members and Officers should be so protected when they are acting on behalf of their Authority and properly and lawfully going about pursuing the business of the Authority.

7.0 Background and Options

- 7.1 The Local Authorities (Indemnities for Members and Officers) Order 2004 provides for circumstances in which a relevant authority in England (which includes the Shadow Council and the Council post Vesting Day) may provide an indemnity to any of their Members or Officers. The powers are in addition to any other existing powers that such authorities may have, such as powers under Section 111 of the Local Government Act 1972 – which is relevant in relation to ensuring that any indemnity is extended to those who are acting within the extent of their delegated authority on behalf of the authority (eg individuals who may not be Members or Officers but who have been appointed to act as a representative of the authority most commonly on any outside bodies with which the Shadow Authority or the Unitary Authority post Vesting Day have an involvement). It is proposed that any indemnity agreed include these individuals.
- 7.2 A copy of the text of the Order is reproduced in Appendix 1 to this report.
- 7.3 Article 4 of the Order makes it clear that an indemnity may be provided by means of the authority securing the provision of an insurance policy for the Member or Officer. As stated, insurance arrangements have already now been put in place in anticipation of a formal agreement that an indemnity be introduced.
- 7.4 Article 5 sets out the cases in which indemnities (including those provided by insurance) may be provided. This Article restricts the power to cases in which the Member or Officer is carrying on any function at the request of, with the approval of, or for the purposes of, the authority. However, it does also extend to cases when exercising the function in question, the Member or Officer does so in a capacity other than that of a Member or Officer of the authority. So, this would permit an indemnity, for example, to cover a case where a Member or Officer acts as a Director of a company at the request of the authority, and thus is acting in a capacity as a Director/Trustee. This is particularly relevant in the case of Members who are nominated to serve on outside bodies on behalf of the Council.
- 7.5 Article 6 prevents the provision of an indemnity (or securing of insurance) in relation to criminal acts, any other intentional wrong doing, fraud, recklessness, or in relation to the bringing of (but not the defence of) any action in defamation.
- 7.6 Article 7 gives a limited power to provide an indemnity (including any indemnity provided by insurance) where the action or inaction complained of is outside the powers of the authority itself or outside the powers of the Member or Officer who acts. It also covers cases in which a Member or Officer makes a statement that certain steps have been taken or requirements have been fulfilled but it later becomes clear that this is not the case. This power is, however, limited to cases in which the person indemnified:

- a. reasonably believes that the matter in question was not outside the powers in question, or
 - b. where a document has been issued containing an untrue statement as to the authority's powers, or as to the steps taken or requirements fulfilled, reasonably believed that the statement was true when it was issued or authorised.
- 7.7 Article 8 gives the authority freedom to negotiate such terms for any indemnity or policy of insurance as it thinks appropriate but requires that those terms include repayment for sums expended by the authority or the insurer in cases where a Member has been found to be in breach of the Code of Conduct applicable to him as a Member of the Authority (following proceedings instituted as a result of a complaint to the Standards Board/the authority) or if a Member or Officer has been convicted of a criminal offence (if the indemnity or insurance policy will otherwise cover the proceedings leading to that finding or conviction). Any sums recoverable by the Council may be recovered as a civil debt.
- 7.8 The Councils constitution has delegated the power to approve the details of arrangements for Members to be indemnified and insured in these circumstances to this Committee. It is suggested that this Committee agree that Members should be indemnified to the maximum extent permitted by the 2004 Order and that similar arrangements be extended to those individuals who act on behalf of the authority and represent the authority's interests (other than Officers or employees of the authority). In relation to Officers/employees, the Council's constitution requires the agreement of the Executive to the giving of such an indemnity and a report in similar terms to this report will be submitted to the Executive separately to seek their authorisation to provide a similar indemnity to Officers/employees.

8.0 Overview of Day 1, Year 1, and Term 1 Issues

- 8.1 It is not considered that this is relevant.

9.0 Reasons for Recommendation

- 9.1 So as to ensure that an appropriate arrangement is made to indemnify Members and those acting on behalf of the authority in a representative capacity.

For further information:

Officer: Gerry Budd, Governance Group
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Background Documents:

None.

2004 No.3082

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Indemnities for Members and Officers) Order 2004

Made

22nd November 2004

Coming into force

23rd November 2004

The First Secretary of State, in exercise of the powers conferred upon him by sections 101 and 105 of the Local Government Act 2000^[1] and having consulted representatives of relevant authorities, representatives of employees of relevant authorities and such other persons as he considered appropriate hereby makes the following Order, of which a draft has been laid before, and approved by, resolution of, each House of Parliament:

Citation, commencement and interpretation

1. - (1) This Order may be cited as the Local Authorities (Indemnities for Members and Officers) Order 2004.

(2) It shall come into force on the day after that on which it is made.

(3) In this Order -

"Part 3 proceeding" means any investigation, report, reference, adjudication or any other proceeding pursuant to Part 3 of the Local Government Act 2000; and

"secure", in relation to any indemnity provided by means of insurance, includes arranging for, and paying for, that insurance and related expressions shall be construed accordingly.

Application

2. This Order applies to relevant authorities in England^[2] and to police authorities in Wales^[3].

Indemnities

3. The authorities to whom this Order applies may, in the cases mentioned in article 5 below, provide indemnities to any of their members^[4] or officers.

Insurance

4. In place of, or in addition to, themselves providing an indemnity under article 3 above, any authority to whom this Order applies may, in the cases mentioned in article 5 below, provide an indemnity by securing the insurance of any of its members or officers.

Cases in which an indemnity may be provided

5. Subject to article 6 below, an indemnity may be provided in relation to any action of, or failure to act by, the member or officer in question, which -

(a) is authorised by the authority; or

(b) forms part of, or arises from, any powers conferred, or duties placed, upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function he does so in his capacity as a member or officer of the authority) -

(i) at the request of, or with the approval of the authority, or

(ii) for the purposes of the authority.

Restrictions on indemnities

6. - (1) No indemnity may be provided under this Order in relation to any action by, or failure to act by, any member or officer which -

(a) constitutes a criminal offence; or

(b) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that member or officer.

(2) Notwithstanding paragraph (1)(a), an indemnity may be provided in relation to -

(a) subject to article 8 below, the defence of any criminal proceedings brought against the officer or member; and

(b) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(3) No indemnity may be provided under this Order in

relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against him.

Matters that exceed the powers of the authority or member or officer

7. - (1) Notwithstanding any limitation on the powers of the authority which grants an indemnity, the authority may provide an indemnity to the extent that the member or officer in question -

(a) believed that the action, or failure to act, in question was within the powers of the authority, or

(b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the authority, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that member or officer to hold that belief at the time when he acted or failed to act.

(2) An indemnity may be provided in relation to an act or omission which is subsequently found to be beyond the powers of the member or officer in question but only to the extent that the member or officer reasonably believed that the act or omission in question was within his powers at the time at which he acted.

Terms of indemnity or insurance

8. - (1) Subject to paragraphs (2) and (3) below, the terms of any indemnity given (including any insurance secured), under this Order may be such as the authority in question shall agree.

(2) Paragraph (3) applies where any indemnity given to any member or officer (including any insurance secured for that member or officer) has effect in relation to the defence of -

(a) any criminal proceedings; or

(b) any Part 3 proceedings.

(3) Where this paragraph applies, the indemnity shall be

provided, and any insurance secured, on the terms that -

(a) in the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, and

(b) in the case of Part 3 proceedings -

(i) if a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following any appeal, or

(ii) if the member admits that he has failed to comply with the Code of Conduct,

that member or officer shall reimburse the authority or the insurer (as the case may be) for any sums expended by the authority or insurer in relation to those proceedings pursuant to the indemnity or insurance.

(4) Where a member or officer is obliged to reimburse an authority or insurer pursuant to the terms mentioned in paragraph (3) above, those sums shall be recoverable by the authority or insurer (as the case may be) as a civil debt.

Signed by authority of the First Secretary of State.

Nick Raynsford

Minister of State in the Office of the Deputy Prime Minister

22nd November 2004

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from Local Government Legislation Division, Office of the Deputy Prime Minister, Zone 5/D1, Eland House, Bressenden Place, London, SW1E 5DU (telephone 020 7944 4148; [e-mail lgl@odpm.gsi.gov.uk](mailto:lgl@odpm.gsi.gov.uk)).

Notes:

[1] 2000 c. 22.[back](#)

[2] For the meaning of "relevant authority", see section 49(6) of the Local Government Act 2000.[back](#)

[3] For powers in relation to relevant authorities in Wales, see section 105(2) of the Local Government Act 2000.[back](#)

[4] For the meaning of "member", see sections 49(6) and 101(5) of the Local Government Act 2000 and, in relation to elected mayors, the Local Authorities (Elected Mayors) (England) Regulations 2004 (S.I. 2004/1815).[back](#)

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2004

Prepared 26 November 2004

CHESHIRE EAST COUNCIL

COUNCIL

Date of meeting: 30 July 2008
Report of: Governance Lead (East)
Title: Civic and Ceremonial Issues

1.0 Purpose of Report

- 1.1 To brief the Shadow Council on a number of Civic and Ceremonial Issues, and to identify any specific matters which are to be pursued for retention or adoption from April 2009.

2.0 Decision Required

- 2.1 The Council is invited to consider and, if appropriate, to decide in principle whether to –

1. submit a Petition for the conferment of Borough Status for the Unitary Council and the designation of a Mayor rather than a Chairman of the Council
2. apply for the adoption of an appropriate Coat of Arms
3. request the 4 current authorities to identify as soon as possible any proposals for the continuation of their existing rights and privileges

and to note the position concerning Honorary Aldermen and the Cheshire Lieutenancy at this stage.

3.0 Financial Implications for Transition Costs

- 3.1 There are no direct financial implications at this stage.

4.0 Financial Implications 2009/10 and beyond

- 4.1 This is dependent on the outcome of any proposals which may be made and approved for the continuation of current rights and privileges.

5.0 Legal Implications

- 5.1 The requirements for Parliamentary Orders and Regulations, and the responsibility for deciding any applications are described in detail below.

6.0 Risk Assessment

- 6.1 The requirements for the creation and preservation of civic and ceremonial rights and privileges need to be considered in principle at this stage to ensure the necessary steps can be taken for their continuation if desired post April 2009.

7.0 Background and Options

- 7.1 It will be possible for existing civic and ceremonial rights and privileges to be preserved and transferred to the Unitary Authorities or other appropriate bodies from 1 April 2009. Various consents may be required, including the Privy Council, the Ministry of Justice and the Department for Community and Local Government (DCLG) depending on the right or privilege concerned. In some cases it will be necessary to make Statutory Orders or Regulations, whilst other aspects may be pursued under current legislation. Officer level discussions are ongoing with DCLG to identify the best means of preserving these traditions where required, and the Cabinet has been briefed on these arrangements.
- 7.2 DCLG have indicated that they would like to receive formal proposals ideally by 8 August. If this is not possible, a clear indication of what may be required locally is requested. DCLG's preference would be for proposals to be made primarily through the Shadow Council, but supported by the current District and County Councils wherever possible.
- 7.3 The Shadow Council is therefore asked at this stage to consider in principle which of these ceremonial issues it would wish to pursue, so that DCLG can be advised and the detailed discussions on the implementation process can continue.

Borough Status

- 7.4 Cheshire East will be a district Unitary Authority with a Chairman. However the Shadow Authority may petition for Borough Status, which would involve the Grant of a Charter by Her Majesty The Queen, the election of a Mayor rather than a Chairman, and the right to appoint Honorary Freemen of the Borough. The petition can be submitted under the Local Government Act 1972 to the Privy Council Office in a prescribed form. DCLG have indicated that it would be helpful if any such request were supported by the current local authorities, and that the petition should be submitted as soon as possible and certainly before the end of this calendar year, to allow Borough status to be granted for 1 April 2009.

Coat of Arms

- 7.5 The Shadow Council may also apply to the Privy Council Office and the College of Arms for a Cheshire East Coat of Arms, either a new design or the transfer of an existing Coat of Arms. Again, this may be done under existing powers, and

if the Council is minded to do so, a further more detailed report on what is involved will be prepared.

Honorary Aldermen

- 7.6 Regulations will provide for the transfer of Honorary Aldermen previously appointed by the County Council and the District Councils to the Cheshire East Unitary Council from April 2009.
- 7.7 In addition, the Regulations will enable the current Councils to appoint Honorary Aldermen from amongst their existing Councillors, who will then transfer as Aldermen to the Unitary Council when they retire from office on 1 April 2009.
- 7.8 It does not seem to be possible however for the Regulations to permit the appointment of new Honorary Aldermen from current Councillors who are also elected Members of the Shadow Authority, but DCLG are seeking further legal advice on the position.
- 7.9 The Council is asked to note these provisions concerning the appointment of Honorary Aldermen.

Preservation of Current Mayors

- 7.10 Any Town Council which currently has a Mayor will be unaffected by these changes and will continue as previously. In addition, should there be a wish to create new parishes and Town Councils this can be done under existing legislation. DCLG have indicated that the Transitional Regulations which will come into force in the Autumn will transfer responsibility for the creation of new Parish/Town Councils to the Shadow Authority.
- 7.11 It will also be open to the outgoing Borough Councils to apply to DCLG for the retention of their Mayoralty after April 2009. There are two ways in which this can be achieved – either through an appropriate existing Town or Parish Council(s) taking on this responsibility, or through the creation of Charter Trustees.
- 7.12 Charter Trustees consist of the Councillors for the Wards within the area for which the Mayoralty and associated traditions are to be preserved. The Mayor is elected from amongst these Councillors. They are created by Parliamentary Order, requiring debate in both Houses, and cannot be constituted retrospectively. DCLG intend that any such Orders will be made in December, to come into force in April 2009, so any applications would need to be submitted without delay.
- 7.13 The cost of supporting the Mayoralty and associated traditions either through existing Parishes or Charter Trustees is funded through a precept which bears solely on the area concerned. Any application would need to include an estimate of the precept for the first year.

- 7.14 It is understood that Crewe and Nantwich Borough Council are considering the possible retention of the Mayoralty for their area, and that this will be addressed at their Council Meeting on 10 September.

Lord Lieutenant

- 7.15 Regulations will be made to preserve the historic area of Cheshire for the purposes of the Lieutenancy (ie Cheshire East, Cheshire West and Chester, Warrington and Halton). The Lord Lieutenant will need to consider and consult on the designation of the Clerk to the Lieutenancy, and the future arrangements for the provision of his support. One model would be for one of the Unitary Councils in the area to provide the support, with the costs being shared appropriately across all four authorities. Discussions on these issues are underway and a further report will be made in due course.

8.0 Reasons for Recommendation

- 8.1 To identify any rights and privileges which are to be sought or preserved, in compliance with the timetable set by DCLG.

For further information:

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Tel No: 01244 972260
Email: mike.flynn@cheshire.gov.uk

Background Documents:

None

Documents are available for inspection at:

Cheshire East Shadow Council Support Office
Congleton Borough Council
Westfields
Middlewich Road
Sandbach

CHESHIRE EAST COUNCIL

COUNCIL

Date of meeting: 30 July 2008
Report of: Governance and Constitution Committee
Title: Members' Allowances Scheme

1.0 Purpose of Report

- 1.1 To advise the Shadow Council on the recommendations of the County Council's Independent Remuneration Panel concerning the Members' Allowances Scheme for the Shadow period.

2.0 Decision Required

- 2.1 To receive the report and recommendations of the Independent Remuneration Panel and to consider the Governance and Constitution Committee's recommendations concerning the appropriate rates and application of allowances for payment from 2 May 2008.

3.0 Financial Implications for Transition Costs

- 3.1 The impact on transition costs cannot be finalised until the Shadow Council has considered and, as appropriate, approved the recommendations, noting that the adopted scheme can be applied retrospectively to the beginning of the Shadow Council period. The estimated cost of the Scheme based on the Committee's recommendation is £650K for the Shadow period.

4.0 Financial Implications 2009/10 and beyond

- 4.1 There are no financial implications associated with this report for 2009/10 and beyond, as these recommendations cover the Shadow period only. The Council will need to constitute a permanent Independent Remuneration Panel to consider and advise on an allowances scheme for 2009/10 and succeeding years.

5.0 Legal Implications

- 5.1 This report and the recommendations of the Independent Remuneration Panel have been produced under the provisions of the Cheshire (Structural Changes) Order 2008 and the Members' Allowances Regulations. Formal adoption of the Shadow Scheme by the Council is required in order to authorise the payment of allowances to Members as set out in the report.

6.0 Risk Assessment

- 6.1 No risks arise from the adoption of an Allowances Scheme for Members, as this is provided for in the Implementation Order and the financial implications have been estimated as far as possible.

7.0 Background and Options

- 7.1 The Cheshire (Structural Changes) Order 2008 applies Cheshire County Council's member allowances scheme to the Shadow Councils for the duration of the Shadow period. The Order in addition confirms that the powers to amend or revoke a Scheme under the Members' Allowances Regulations also apply.
- 7.2 Both the Cheshire East and the Cheshire West and Chester Joint Committees had requested the County Council's Independent Remuneration Panel to review the Scheme and make recommendations for its application and the allowances arrangements for the Shadow period.
- 7.3 The Remuneration Panel met on four occasions and consulted Members of the Joint Committees on the considerations to apply to the Scheme as an aid to producing their report. The Panel completed its work at the meeting on 5 June, and their report and recommendations for the application of the County Scheme as attached were considered by the Governance and Constitution Committee on 9 June and 14 July.
- 7.4 It is open to the Shadow Council to adopt in full or in part the Independent Panel's recommendations, which may result in further amendments to the County Council's scheme. Under the allowances regulations, the scheme in its final form may be applied retrospectively to the beginning of the financial year. Accordingly, it is possible for the adopted scheme to be backdated to cover the interim period (May-July), and for any necessary adjustments to be made to Members' remuneration.
- 7.5 The Governance and Constitution Committee's recommendations are as follows:-
- “1. That the report and recommendations of the Independent Remuneration Panel be received and the Panel be thanked for their work.
2. The Shadow Council be recommended to adopt the County Council's Allowances Scheme, as set out in the Independent Panel's report, subject to:
- a. A proportion of the County Council's Basic and Special Responsibility Allowances being applied to the Shadow Council in the following sums:

	£ (per annum)
Basic Allowance	£4,800
Council Chairman	£4,000
Vice Chairman	£1,500
Council Leader	£15,000
Deputy Leader	£10,000
Cabinet Member	£7,500
<i>Committees (excluding Joint Liaison Committee)</i>	
Chair	£4,000
Vice Chair	£1,500
Spokesperson	No SRA to apply at present but it be noted that this role will develop with time
<i>Panels (Cabinet Advisory and other Panels)</i>	
Chair	£2,000
Vice Chair	£1,000
Spokesperson	No SRA to apply at present but it be noted that this role will develop with time
Opposition Group Leaders	£4,000
Deputy Leaders	Nil
Administration Group Whip	£3,000
Deputy Administration Group Whip	£1,500
Opposition Group Whip	£1,500
Opposition Group Deputy Whip	Nil

- b. The number of Special Responsibility Allowances which may be claimed by any individual Member of the Shadow Council be limited to one.
- c. Travelling and Subsistence Reimbursement Allowances and Dependents' Carers' Allowances be paid in accordance with the County Council's arrangements at the rates and in respect of the duties as indicated in the Scheme.
- d. The County Council's Nominated Member Duties allowances provisions should form part of the Shadow Council's Allowances Scheme, so as to enable the Chairman and Vice Chairman, Party Group Leaders and Deputy Leaders and Party Group Whips to claim travel and subsistence allowances for attendance, as required, at the Headquarters buildings of Cheshire County Council, Macclesfield Borough Council, Congleton Borough Council and Crewe and Nantwich Borough Council.

- e. Payment of all of the above allowances be applied retrospectively as appropriate from May 2008.”

8.0 Conclusion

- 8.1 The Council is invited to consider and, as appropriate, adopt the recommendations of the Governance and Constitution Committee for the Members’ Allowances Scheme for the Shadow period.

For further information:

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Email: mike.flynn@cheshire.gov.uk

Background Documents:

- ***The Cheshire (Structural Changes Order) 2008***
- ***The Local Authorities (Members’ Allowances) (England) Regulations 2003***

Documents are available for inspection at:
Shadow Council Support Office
Town Hall
Macclesfield
SK10 1DX

**Report of Cheshire County Council's
Independent Remuneration Panel**

**Shadow Unitary Councils' Allowances Scheme
June 2008**

Introduction

1 The Implementation Order for Unitary Local Government in Cheshire applied Cheshire County Council's Scheme of Member Allowances to the Shadow Unitary Councils for the period May 2008 - March 2009 inclusive. The County Scheme was adopted on 18 May 2006 and has subsequently been uprated for annual inflation (summary details are attached). Once the two Unitary Councils become fully functional from 1 April 2009, a new Scheme will need to be brought forward by a newly constituted Independent Panel, whose work would be separate from the interim scheme for the Shadow period.

2 Both Cheshire East and Cheshire West and Chester Implementation Joint Committees invited this Panel to review the County Council's Scheme and to advise on it's application to the Unitary Councils in the Shadow period only.

3 The Panel consists of the following Members:-

Helen Carey (Chair)
Rev. Christopher Burkett
Simon Cussons
Basil Jeuda
Ron Lewis
David Routs

4 The Panel met on 4 occasions (18 April, 6 & 9 May, and 5 June) and this report sets out the Panel's recommendations for consideration by the Shadow Unitary Councils.

The Panel's Approach

5 The Panel was very conscious of the exceptional nature of the task, bearing in mind the short and clearly defined period which the Shadow arrangements would cover. The Panel sought to achieve a balance in considering the allowances which should apply between the major developmental task facing the new Councillors, and the fact that the Unitary Councils would not be fully functionally during the shadow period. The Panel therefore decided to focus on the following broad issues:-

(a) the exceptional circumstances of Shadow Authorities operating for a period of only eleven months and progressively developing their structures including the political management arrangements

(b) the fact that the Shadows would not be “functional” Councils delivering services during this period

(c) the nature of the roles and responsibilities which Members would undertake during this period eg:

(i) the significant responsibilities of Executive Members and Committee Chairs in leading on and developing the new Councils, including the Corporate Plan and budget for 2009/10

(ii) the role of Scrutiny in Shadow mode

(iii) the “constituency” role of local members in Shadow mode, bearing in mind there are three Members per Ward

(iv) the prime responsibility placed on all Members to participate fully in Induction and the personal development required to take on challenging new areas of responsibility by April 2009

(v) the fact that some Shadow Councillors may be serving on two or three Councils during the Shadow period, whilst others will be entirely new Members.

6 The Panel was particularly keen to seek the views of Councillors from both Joint Committees on these issues, and any other relevant considerations which Members felt should apply. Accordingly discussions took place with representative groups of Members from the Joint Committees, and written comments were also submitted and taken into account.

7 In addition, further information and evidence was received which helped the Panel to reach their conclusions, including:-

- (a) the expectations of the Government for the new Unitary Councils, (as set out in a letter from John Healey MP)
- (b) comparative information on the allowances currently paid to Members in similar Unitary Councils.
- (c) the likely development of the political management structure during the Shadow period, and the roles to be progressively undertaken by Members.

Conclusions

8 The Panel was of the view that as the Implementation Order applied the County Council’s Scheme in full, any recommendations should only focus on those aspects which the Panel felt were clearly in need of variation. However, the Panel was mindful in relation to Special Responsibility Allowances (SRA’s) that the County Council had not implemented the Panel’s original recommendations in full for 2008-9. Accordingly the Panel based their advice for SRA’s in the Shadow Councils on the higher amounts proposed in

the Panel's original report of March 2006, rather than the County Council's actual SRA's for 2008-9.

9 The Panel's approach on SRA's has been to recommend the appropriate level of allowance to all relevant posts in the structure, leaving it to the Councils to decide which posts should receive these allowances.

10 The SRA's as proposed for Committees and Panels can be applied to any new such bodies as may be constituted by the Councils in future.

11 The Panel recognises that in recommending SRA's, it would be possible for individual Members to receive more than one SRA. The Panel has left it to the Councils to determine their policy on whether SRA's should be limited to one per Member or otherwise. The Panel would, however, advise the Shadow Councils to have regard to the public perception of Members receiving multiple SRA's, particularly where they are already in receipt of such allowance from other local authorities.

12 The Panel would also advise the Shadow Councils to recognise the importance of providing adequate support to the minority groups on the authority, including support through the allowance arrangements.

13 Given that it was not possible to produce this report until after the Shadow elections and the initial meetings of the Unitary Councils, the Panel recommends that the allowances scheme, as approved, should be applied retrospectively.

14 Bearing in mind the exceptional nature of the arrangements required for the Shadow period, the Panel recognises that a newly-constituted Remuneration Panel in considering the arrangements to apply for 2009-10 and beyond may reach different conclusions on any aspect of the future Allowances Scheme.

Recommendations

15 Summary details of the County Council's Members' Allowances Scheme for 2008-09 are attached. The Remuneration Panel recommends the adoption of the allowances arrangements as set out in the County Scheme, subject to the following amendments concerning Basic Allowance and SRA's:

	£ (per annum)
Basic Allowance	4,800
Council Chairman	3,000
Vice Chairman	1,500
Council Leader	15,000
Deputy Leader	10,000
Cabinet Member	7,500
<i>Committees (excluding Joint Liaison Committee)</i>	

Chair	4,000
Vice Chair	1,500
Spokesperson	1,500
<i>Panels (Cabinet Advisory and other Panels)</i>	
Chair	2,000
Vice Chair	1,000
Spokesperson	1,000
Opposition Group Leaders	4,000
Deputy Leaders	Nil
Administration Group Whip	3,000
Deputy Administration Group Whip	1,500
Opposition Group Whip	1,500
Opposition Group Deputy Whip	Nil

Helen Carey
Chair
Independent Remuneration Panel

Mike Flynn
County Secretary
(Secretary to the Panel)

MEMBERS' ALLOWANCES SCHEME

2008/09

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MEMBERS' ALLOWANCES

Introduction

The Local Government Act 1989 (as amended) makes provision covering the allocation and payment of basic, special responsibility and dependants' carers' allowances for Members of local authorities.

In the Local Government Act 2000 the Secretary of State was allowed to make provision in relation to the payment of travel and subsistence allowances for Members of local authorities. Previously, these allowances were set by the Government whereas the Secretary of State could now agree to them being determined locally by Councils.

The Secretary of State gave effect to these provisions in the Local Authorities (Members' Allowances) (England) Regulations 2003. These regulations allow each Council to decide its scheme and the amounts to be paid under each allowance.

Schemes must include a basic allowance payable to all Members of the Council. Payment of Special Responsibility Allowances and Dependants' Carers' Allowance may be provided for. Travel and subsistence allowances are also discretionary and must be included in the scheme, if paid. Schemes may also provide for Members, who are eligible, to join the Local Government Pension Scheme if they wish to do so.

Basic and Special Responsibility Allowances

Basic

Each elected Member must be paid a basic allowance which has to be the same for each Member. This allowance recognises the time commitment of all Councillors including attending meetings, attending member learning and development events, dealing with constituency matters, representing the Council on external bodies, and the use of their homes. The rate of Basic Allowance for 2008/09 is £9,349 for each Member.

Special Responsibility (SRA)

This is payable to those Councillors who have significant responsibilities and can cover for example:

- Leader/Deputy Leader of a political group
- Executive membership
- Chairman and Vice-Chairman of Committees/Sub-Committees
- Membership of a Committee/Sub-Committee which meets with exceptional frequency or for long periods
- Representing the Shadow Council on another body
- Political Group Spokesperson on a Committee/Sub-Committee

For the County Council, SRAs are currently paid across all Groups. The SRA's in 2008/09 range from £935 to £22,746. Full details of these Allowances are set out in Appendix 3.

Dependants' Carers' Allowance

The Council's Scheme provides for the payment of such an allowance to Councillors who incur expenditure for the care of their children or dependants whilst undertaking their duties as Councillors. A claim here must be related to specific duties such as attendance at prescribed meetings or for particular duties.

The Council will reimburse the actual cost of expenses on the production of a receipt up to £5,722 per Member in any financial year. The carer must not be a member of the claimant's household. This allowance is seen as an incentive to encourage people to enter local government as Councillors and to assist them in the performance of their duties.

Travel and Subsistence

Provision has been made in its scheme for reimbursing Members for the cost of travel and subsistence in performing their duties including where non-motorised transport is used. The allowances can only be claimed in respect of meetings and duties as prescribed in the Scheme.

For car travel, payment is based on the rate per mile depending on engine size. The rates reduce considerably over 8,500 miles of travel in any one financial year. It is unlikely that any Member will reach this threshold. There is a motorcycle and bicycle allowance which is again based on a rate per mile.

For rail travel the reimbursement is based on the open standard class fare unless exceptional circumstances apply. A Member may travel first class if there is a business case to do so as outlined in the Scheme.

Taxi and bus fares are reimbursed on an actual basis on production of a receipt (if £5.00 or over).

Subsistence payments range from up to £8.05 for a breakfast to £33.57(London only) for dinner subject to certain bandwidths and the duty must last more than four hours.

Receipts are required for all claims of £5 and above.

For hotel accommodation, including breakfast, reimbursement up to £138.17 in London and up to £115.15 out of London is available subject to the production of receipts.

Reimbursement of telephone/email/fax rental costs is provided for subject to limitations.

‘Nominated Member’ Duties

The Chairman and Vice-Chairman of the Council, Party Group Leaders, and Deputy Leaders and Party Group Whips are able to claim travel and subsistence allowances for attendances at the Headquarters building (County Hall) in order to carry out their particular responsibilities.

Members’ Pensions

Elected Members can become members of the Local Government Pension Scheme if they wish to do so. It is not a compulsory requirement. As it is a contributory scheme, any Member joining must contribute 6% of their basic allowance and any special responsibility allowance they receive. Details of the benefits can be supplied.

Members Surgeries

Members may claim up to a maximum of £32 for room hire in connection with the conduct of a Member’s Surgery, subject to a maximum of twelve claims per annum.

Review of the Scheme

Consideration will be given as to any need to keep the Members Allowance Scheme under review and to make changes/ alterations in response to amendments to the Regulations or changes to its political structure and local circumstances.

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Appendix 2

CURRENT ALLOWANCES / REIMBURSEMENTS (as at 1/4/08)

1. Basic Allowance £9,349

2. Special Responsibility Allowances

See Appendix 3 attached

3. Travelling Reimbursement

(1) Car Rate per Mile

Miles per Annum	451 – 999 cc	1000 – 1199 cc	1200 cc+
per mile first 8,500	42.9p	46.9p	58.7p
per mile after 8,500	32.3p	13.6p	15.8p

(2) Motor cycle or moped allowance

Rate per mile

Rate per mile

Motorcycle

For the first 1,500 per annum

126-250cc
27p

251-500cc
35.5p

500cc+
39.2p

Moped

For the first 1,500 per annum

Up to 50cc
12.4p

Up to 125cc
18.8p

Non motorised transport e.g. bicycle

11 pence per mile

(3) Additional rate for each passenger, not exceeding 4, to whom a Travelling Allowance would otherwise be payable:

1.0 pence per mile

(4) Expenditure on tolls, ferry or car parking:

Actual Amount

(5) Overnight garaging supplement, where the Member is absent overnight:

Actual Amount

3. Subsistence Reimbursements

Breakfast Allowance for a duty of more than 4 hours concluding before 12 noon £8.05

Lunch Allowance for a duty of more than 4 hours concluding after 12 noon
£10.33

Dinner Allowance for a duty of more than 4 hours concluding after 6 p.m.
£16.21

Dinner Allowance (London and abroad) for a duty of more than 4 hours
concluding after 6 p.m. £33.57.

Overnight outside London: £115.15 (to include breakfast)

Overnight in London - £138.
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)

4. Telephone/E-mail/Fax Allowance

Telephone line:	Reimbursement of quarterly standard rental (excluding any upgrades)
Telephone calls	Nil
Fax / Email Line	Reimbursement of quarterly standard rental (excluding any upgrades)
Fax calls	Nil
Emails / On Line calls	Reimbursement (before VAT) of all calls up to a maximum of £100 per quarter upon production of a fully itemised invoice.
ISDN	Where ISDN lines have been installed in Members' homes with the prior approval of the Authority, reimbursement of the full monthly charges will be made upon production of an invoice.
Broadband Connection	Where Broadband connection has been installed in Members' homes with prior approval of the Authority reimbursement of the full monthly charges will be made upon production of a receipt.

APPENDIX 3

<u>Members Allowances from 2008 - 2009</u>	2008/09 SRA with RPI
	£
Basic Allowance	9,349
Chairman (Civic)	12,723
Deputy Chairman (Civic)	6,363
Carers Allowance	5,722
Council Leader	22,746
Deputy Council Leader	14,551
Executive	11,130
P&O - Chair	7,880
P&O - Vice Chair	3,081
P&O - Spokes	2,053
Scrutiny Select-Committee - Chair	6,534
Scrutiny Select-Committee - Vice Chair	2,723
Scrutiny Select-Committee - Spokesperson	1,813
Scrutiny Review Panel - Chair	6,534
Regulatory Committee - Chair	6,148
Regulatory Committee - Vice Chair	2,370
Regulatory Committee - Spokesperson	2,370
Organisation Committee - Chair	6,148
Organisation Committee - Vice Chair	2,370
Organisation Committee - Spokesperson	2,370
Governance Committee - Chair	6,148
Governance Committee - Vice Chair	2,370
Governance Committee - Spokesperson	2,370
Special Committees - Chair	6,148
Special Committees - Vice Chair	2,370
Special Committees - Spokesperson	2,370
Standards Committee - Chair	6,148
Standards Committee - Vice Chair	2,370
Standards Committee - Spokesperson	2,370
CCC/Wirral Jt Scrutiny Committee - Chair	1,869
CCC/Wirral Jt Scrutiny Committee - Vice Chair	935
Policy Development Panels - Chair	2,805
Policy Development Panels - Spokesperson	1,402
Opposition Leader	10,517
Opposition Deputy Leader	5,611
Whips	3,507
Deputy Whips	2,104

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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