

# Governance & Constitution Committee

## Agenda

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**Date:** Monday, 6th October, 2008  
**Time:** 2.00 pm  
**Venue:** Committee Suite 2&3, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ

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1. **Apologies for Absence**

2. **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

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

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

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.

4. **Minutes of Previous meeting** (Pages 1 - 6)

To approve the minutes of the meeting held on 8 September 2008.

5. **Local Authority School Governor Appointment Process** (Pages 7 - 18)

To approve the process for appointing Local Authority (LA) Governors to school governing bodies.

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Please contact Julie North on 01270 529728  
E-Mail: [julie.north@cheshireeast.gov.uk](mailto:julie.north@cheshireeast.gov.uk) with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

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6. **Appointments to Cheshire Police Authority** (Pages 19 - 22)

To consider the arrangements for the appointment of Members to the Cheshire Police Authority, initially with observer status.

7. **Progress Report on Development of a Work Programme and Recommendations to deal with Appointments to Outside Bodies** (Pages 23 - 30)

To receive a progress update on the work of the Task & Recommendation Group - Outside Organisations and to consider its proposals for developing criteria and procedures to form the basis of an appointment process which can be put into effect from 1 April 2009.

8. **Whistleblowing Protocol** (Pages 31 - 40)

To approve the new unitary Council's Whistleblowing Protocol.

9. **Petition for Borough Status** (Pages 41 - 46)

To receive an update on the proposed application for Borough status, as agreed in principle by Council on 30 July 2008.

10. **Cheshire East Work Plan** (Pages 47 - 50)

To approve an updated Work Plan.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Governance & Constitution Committee**  
held on Monday, 8th September, 2008 at the Tatton Room, Town Hall,  
Macclesfield, Cheshire SK10 1DP

**PRESENT**

Councillor A Ranfield (Chairman)  
Councillor D Topping (Vice-Chairman)

Councillors M Asquith, C Beard, Mrs S Bentley, D Cannon, R Cartlidge,  
Mrs S Jones, A Kolker, A Moran, R Parker, R Walker and P Whiteley

**Officers present**

Julie Openshaw – Interim Monitoring Officer  
Mike Flynn –Governance Lead Officer  
John Robinson – Auditor, Macclesfield Borough Council  
Carole Roberts – Democratic Services, Cheshire East

**17 APOLOGIES**

Apologies were received from Councillor G Merry.

**18 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**19 PUBLIC QUESTION TIME/OPEN SESSION**

There were no questions from the public.

**20 MINUTES**

The Minutes of the meeting held on 14 July 2008 were approved as a correct record.

**21 UNITARY COUNCIL CONSTITUTION: SUMMARY AND EXPLANATION**

The Interim Monitoring Officer introduced a report and appendix that set out the first of a series of constituent parts of the proposed Unitary Council's Constitution: the summary and explanation. She advised that it was intended to include hyperlinks to Members' and Officers' contact details in the final electronic version of the document.

The document considered at the meeting was a summary of how Cheshire East would operate and make decisions. There would be opportunity at a later date for all members to have input into the detail contained within the Constitution. Officers would make every effort to ensure the use of plain language in the Constitution so all those reading it can easily understand it. The Summary and explanation reflected this view. However it was noted that the legal content of some parts of the Constitution would make this a challenging aspiration. It was noted that it was implicit that the Council values its residents, businesses and visitors as set out in Page 4 of the summary in the section entitled "your Rights".

## RESOLVED

1. the draft Summary and Explanation of the emerging Constitution be agreed and the Shadow Council be recommended to agree the document for adoption by the unitary Council at its first meeting in April 2009.
2. the Interim Monitoring Officer be authorised to make consequential changes to the document as the unitary Council's decision-making and management structures emerge,

## 22 PART 2 OF THE CONSTITUTION

The Interim Monitoring Officer presented a report and appendix seeking endorsement of the draft Chapters comprising Part 2 of the emerging new unitary Council's Constitution. The appendix contained a draft of Part 2 that provides an overview of the way in which the Council operates. The Modular Constitution that had been adopted by most local authorities contained terminology and reference to local authority legislation and jargon that was not very user friendly. It was intended to use plain English and refer to the different sections of Part 2 as chapters rather than articles as in the modular version. However some of the legislation did make it difficult to express more positively the way in which the Council and Cabinet operate.

The Committee would receive further reports seeking endorsement of further information and substantive detail for the Constitution as they emerge for the new Unitary Authority. Members sought clarification on engagement with partners that would be involved in Area/Neighbourhood working and indicated that Development Control maybe an area suitable for Area working. The subsequent Cheshire East Councillor election cycle was also considered.

It was proposed that in Chapter 3 - Page 28: the second bullet point should clarify that local Councillors may be contacted at "reasonable times" and in the fourth bullet point, the first reference to meetings should be deleted so that the point reads "Attend all Council Meetings ...". Under Citizens responsibilities the end of the first line should read "... abusive or threatening to Councillors or officers...". In Chapter 13 - Page 53, it was noted that Paragraph 4.3 referred to a proposal for the definition of a key decision was that any expenditure or savings of £1m or more shall be significant for the purposes of that part of the definition.

## RESOLVED

To endorse the current draft content of Part 2 subject to the minor amendments set out above.

## 23 SHADOW COUNCIL'S CONSTITUTION: POTENTIAL CHANGES

The Interim Monitoring Officer reported on potential changes to the Shadow Council's Constitution. During debate on the draft Constitution at the final meeting of the Joint Committee, a number of issues had been raised which it was agreed would be given further thought at a later date. The Committee had requested a report at its last meeting on these issues. A list of the issues raised, together with comment by Officers was then considered as follows: -

- Officer Code of Conduct: Due to the small number of employees and limited period of employment, the preparation of an Officer Code of Conduct to cover the shadow period was not considered to be best use of resources;

- Key decisions - Use of a financial threshold: There would be very few operational decisions made by the Shadow Cabinet during the Shadow period and the definition in the paper was accepted as adequate. It was noted that from April 2009, £1m was the sum that would be considered as significant for the definition in (a);
- Number of Members required to call a Special meeting of Council: It was confirmed that at least 8 members should be required to request a special meeting of the Council be called;
- Time Limit on members speaking at meetings: The existing 5 minute time limit was considered adequate;
- Council Seating Plan: Members were happy with the seating plan used at Crewe for the Council meeting on 30 July but considered the responsibility should remain with this Committee;
- Confirmation of minutes etc at Council meetings: The issue of members being allowed to question or comment on the records of decisions of Cabinet and minutes of other Committees to be put to any cabinet member, Chairman or Vice Chairman of the Committee as appropriate was considered together with a draft Constitutional provision. Members agreed the draft provision subject to the deletion of the reference to the word "comment" so that it reads as follows:

" A member may ask a Cabinet member or a Committee Chairman (or in his/her absence the Vice Chairman) a question on any Record of Decision or Minute. The Cabinet Member or the Chairman or in his/her absence the Vice Chairman will respond using their reasonable endeavours to provide a response which addresses the matters raised in reply to the question as put by the Member. The provisions in Procedure Rule 11.4 in relation to replies shall also apply here. There will be no debate on any question, or response under this procedure and no further motions can be moved.

Where a Member wishes to ask a question on any Part 2 matter before the Council, the question must be given, in writing, to the Council's Monitoring Officer at least one hour before the start of the Council meeting."

**RESOLVED** - to recommend to Council that the proposed change concerning Members rights to ask questions on Executive and Committee proceedings be adopted, subject to review in six months time.

## 24 **DELEGATION OF FUNCTIONS TO PORTFOLIO HOLDERS, DECISION MAKING BODIES AND OFFICERS**

The Interim Monitoring Officer informed the Committee of work to be carried out to ensure decision-making powers are properly delegated to the relevant decision-making individual or body of the new Unitary Council. It was noted that bodies would need to be established with responsibilities in the following areas of the unitary Council's non-executive business:

- Development Control
- Building Control
- Licensing
- Environmental Health
- Housing
- Staffing
- Education Appeals
- Highways and Transportation
- Rights of Way
- Governance/Audit

- Standards

All Local authorities relied on arrangements by which some decisions, within specific limits, were delegated to officers, whilst others are delegated to committees and sub committees. Individual Portfolio Holders, subject to certain limitations, could take executive decisions. Delegation was an important issue to resolve as it would dictate the amount of work for each Portfolio Holder (where appropriate) and each committee and sub-committee.

There were still a number of key questions to be answered to provide direction to officers and to progress constitutional work. It was noted that the detail of these issues would best be addressed through informal Member working arrangements (with the Chairman, Vice Chairman and Party Whips), and reports would be brought back to this Committee at an appropriate time.

**RESOLVED** – to note the content of the report and the detailed arrangements for the proposed decision making structure of the unitary Council should be given initial consideration via informal Member working arrangements.

## 25 CODE OF CORPORATE GOVERNANCE

The Governance Group reported on requirements for the new authority to develop a local code of corporate governance and proposed actions to implement a local code. Members considered and discussed in detail, a document tabled at the meeting setting out specific supporting principles, and specific requirements for the six core principles of good governance that should be reflected in authorities' local codes

Members were advised that the annual governance statement (AGS) was the formal statement that records and publishes an authority's governance arrangements. It was noted that with effect from 2007/08 the production of the AGS had replaced the requirement for a specific statement of internal control. The system of internal control was one of the key lines of enquiry for the use of resources assessment under CPA and would be retained under Comprehensive Area Assessment (CAA). To achieve a high rating under CAA, it was vital that a local code of corporate governance was in place to form the basis of the system of internal control.

The report set out and recommended a process to implement a local code and suggested areas of best practice should be identified not just across the Cheshire authorities, but nationally and be reflected in the code wherever possible, as follows:

1. Use the self-assessment schedule produced within the Framework, to identify the requirements which make up the code, together with the processes and documentation that provide evidence of compliance;
2. Identify the individuals or project teams which are responsible for the various elements within the code and obtain a position statement from them;
3. Identify issues that have not been addressed adequately and considering how they should be addressed;
4. Identifying the individuals who should be responsible for undertaking actions required and plan accordingly.

Officers were actively pursuing opportunities to meet with the Audit Commission to work with them to gain their views on best practice. It was also noted that a local code of corporate governance would need to be in place by 1 April 2009. The AGS (including the system of internal control) should be included with the statement of accounts, which must be published by 30 June 2010.

Members referred to best practice in existing Cheshire Councils and the importance of good communication at all levels, including member level. Training needs in this area should be given priority and Corporate Governance should be included on the Member Training Programme that was currently being developed.

### **RESOLVED**

1. To endorse the approach set out in the report.
2. To call for a report back on progress in due course with a view to adopting the local code before 31 March 2009.

## **26 APPOINTMENTS TO CHESHIRE FIRE AUTHORITY**

The Governance Lead Officer reported on the appointment of members to the Cheshire Fire Authority was a legal requirement. The early appointment of members as observers would also enable them to become familiar with their role and facilitate any necessary training.

It was noted that the Fire Authority was currently the Combined Fire Authority for Cheshire, Halton and Warrington in accordance with the Cheshire Fire Services (Combination Scheme) Order 1997. However in the light of LGR, a new combination order would create the Combined Fire Authority of Cheshire West and Chester, Cheshire East, Halton and Warrington.

The current constitution of the Cheshire Fire Authority required the appointment of 14 representatives from Cheshire County Council, 4 from Warrington Borough Council and 3 from Halton Borough Council.

The Fire Authority was proposing the overall size of the Authority should be increased to 23 places, and from 1 April 2009, that both Cheshire West and Chester and Cheshire East appoint 8 elected members. Prior to that date these members will have observer status.

The Fire Authority had sought nominations as soon as possible to enable those members to engage in budget and strategy setting for 2009/10.

The term of office for nominated Members is at the discretion of this authority. The report recommended appointments be made for 3 years to 2011 to tie in with member's term of office.

**RESOLVED** – that 8 members be appointed to the Cheshire Fire Authority as representatives of Cheshire East Council from 1 April 2009 for a period of 3 years (to 2011) acting as observers prior to that date, on the following basis: 6 Conservative: 1 Liberal Democrat: 1 Labour, and that Group Leaders advise the Governance Lead Officer of their nominations as soon as possible.

## **27 PROPOSALS FOR A HEALTH AND ADULT SOCIAL CARE SCRUTINY COMMITTEE FOR EAST CHESHIRE.**

The Governance Lead Officer submitted a report setting out a recommendation from the Scrutiny Committee that the Council constitute a Health and Adult Social Care Scrutiny Committee for East Cheshire. The report set out in Appendix 1 the proposed terms of reference for the Committee and in Appendix 2, the Cheshire East Health and Adult Social Care related business that had been dealt with since April 2007.

It was also reported that a Joint Committee with Wirral MBC currently existed to scrutinise the Mental Health Partnership NHS Trust as the deliverer of mental health, learning disability and drug and alcohol services. The Joint Committee had also been influential in sustaining the profile of mental health issues.

Government guidance stipulated that Health Trusts must bring significant proposals for change to scrutiny. Although there was no similar requirement for Social Care, it would be good practice to act as even handedly as possible and to use internal mechanisms such as the forward plan, call in etc to achieve this.

The report indicated that the Scrutiny Committee considered a separate Health and Adult Social Care Scrutiny Committee of 14 members would be required. However consideration would need to be given to:-

- The extent of cross representation with the membership of the Council's main Scrutiny Committee;
- The opportunity to involve a wider range of members in scrutiny work;
- The representation on any external Joint Health Scrutiny Committee to be drawn from the H&ASC Scrutiny Committee.

In terms of Membership of the Committee, the Scrutiny Committee felt there was merit in leaving the issue of co-option on the table for the time being, but that Members appointed to the Committee should have some knowledge of Health and Adult Social Care issues. It was noted there was much still to be done to enable the Authority to assume its statutory responsibility for Health Scrutiny as seamlessly as possible from 1 April; and to function effectively thereafter. The Chairman of the Scrutiny Committee addressed the meeting to present the Scrutiny Committee's unanimous recommendations. It was suggested that it would be helpful for officers to have the names to be nominated in advance of the Council Meeting.

**RESOLVED** - to recommend to Council : -

1. that a separate Health and Adult Social Care Scrutiny Committee be established within the Council's Political Structure with terms of reference as set out in Appendix 1 to the report;
2. that the proposed Committee consist of 14 Members but that no action be taken as regards Cooption for the time being; and
3. that it support the principle of continuing Joint Scrutiny arrangements of the Cheshire and Wirral Partnership NHS Trust and authorise further discussions with the Authorities concerned with a view to bringing forward more detailed proposals.

## 28 DATE OF NEXT MEETING

**RESOLVED** - that the next meeting be held on Monday 6 October at 2:00pm in Westfields, Middlewich Road, Sandbach.

The meeting commenced at 6.30 pm and concluded at 8.05 pm

Councillor A Ranfield (Chairman)



## CHESHIRE EAST

### GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 6 October 2008

**Report of:** People Block Lead Officer

**Title:** Local Authority School Governor Appointment Process

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#### **1.0 Purpose of Report**

- 1.1 To advise Cheshire East members of their statutory duties in relation to the appointment of Local Authority (LA) Governors to school governing bodies, and provide some background information in relation to the current position.
- 1.2 To seek agreement as to the principles and process the new Authority should adopt with regard to the appointment of new LA Governors<sup>1</sup> from 1 April 2009, with a view to introducing clarity, transparency and effectiveness to the process.
- 1.3 To confirm the particular arrangements for the appointment of additional governors in cases where the LA exercises its powers under Section 64 of the Education and Inspections Act 2006 and to agree that these arrangements can also apply where there are LA Governor vacancies in schools within the LA's Schools Causing Concern (SCC) programme (these are schools in the Ofsted categories of 'special measures' or 'notice to improve', and schools identified by the Authority as being 'at risk').

#### **2.0 Decision Required**

- 2.1 To agree the process for appointing LA Governors. In order to ensure that the needs of schools are met, through appointments made on the basis of the skills and experience required, and the ability to make a time commitment to governor duties and training, members are asked to approve the documents attached:
  - Model role description (page 6);
  - Code of conduct for LA Governors (page 7);
  - Criteria for appointment (page 8);
  - Terms of reference of appointment panel and appointment procedure (page 9).

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<sup>1</sup> Local Authority Governors are still referred to as LEA Governors in statute

- 2.2 Members are asked to note the application form and the attached statutory criteria for disqualification as a school governor (pages 10 and 11).
- 2.3 To agree that, for schools in the SCC category, or for schools where the LA proposes to use its statutory powers for intervention, or where the appointment is deemed by the Chair of the appointment panel to be urgent, the nominations may be agreed by the Chair, or his/her nominee, and the Strategic Director People's nominee.
- 2.4 To agree that, before taking up appointment, all LA Governor appointees would be subject to Criminal Records Bureau (CRB) clearance, the cost to be met by the LA.

### **3.0 Financial Implications for Transition Costs**

- 3.1 Officer time would be involved in processing applications and attending meetings of the appointments panel. The appointment of LA Governors is a statutory function (Regulation 6 of the School Governance (Constitution) (England) Regulations 2007), which will have to form part of the core Governor Support service within the new Authority, however it is structured.
- 3.2 There would be a £3 administrative charge for each CRB check undertaken. If the current 87 LA Governor vacancies in the east were filled the total cost would be £261.

### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 Additional costs may fall on the LA and/or schools as a consequence of the anticipated introduction of Independent Safeguarding Authority's (ISA) Vetting and Barring scheme. From October 2009, for new governors, and from 2010 for existing governors, it will be a statutory requirement for them to be registered with the scheme but it is not currently the case that it is a requirement for school governors to undertake a CRB check.

### **5.0 Legal Implications**

- 5.1 Appointing LA governors will be a statutory duty of the new Authority. It is necessary to have a robust and transparent process in place to avoid legal challenge.

### **6.0 Risk Assessment**

- 6.1 Vacancy rates in East Cheshire are very high (detailed in 7.3 below) and it is judged that there is significant risk that these vacancy levels will increase further by 1 April 2009. In the absence of an agreed system for appointments in advance of vesting day it will not be possible to fill current vacancies or any that may arise from 1 April 2009 onwards. This would be unhelpful in terms of LA / school relationships and would increase the period in which posts remain unfilled. This could be particularly damaging in schools where governance needs strengthening, especially in schools in the SCC category.

## **7.0 Background and Options**

- 7.1 The evidence indicates that strong governance arrangements in schools improve outcomes for children. Under the current stakeholder model LA Governors make up around one fifth of the total school governor positions in Cheshire.
- 7.2 Because of the statutory requirement, it is necessary for Cheshire East Council, in advance of vesting day, to agree the process to be followed in relation to these appointments so that, when the statutory responsibility passes to the new Authority for all current vacancies and new vacancies that arise, action can be taken to fill them at the earliest opportunity.
- 7.3 The appointments are currently made by the political Party Groups, with LA Governor posts being broadly allocated to a Party on a proportion based on the political make up of the County Council. The Group whips, who coordinate the process for their party, have, in principle, been prepared to adopt a more flexible approach where a vacancy remains for an extended, but currently unspecified, length of time. However, the evidence is that this process is not working as well as it should, as 24% of LA Governor posts in East Cheshire schools are currently vacant, some having never been filled. This is substantially higher than the vacancy rate for any other category of governor.
- 7.4 There is a lack of clarity around the current process; no written appointment process is available and there is no guidance around timescales within which vacancies will be filled or criteria upon which appointments are based.
- 7.5 National Benchmarking Data for 2007 placed Cheshire as the worst performing Authority in the Northwest and at position 60 of the 65 LAs which responded nationally, in terms of the proportion of LA Governor posts vacant. This situation has led to significant frustration around the current process being expressed by schools.
- 7.6 A ministerial working group is currently considering the future of school governance. It is anticipated that the findings of this group will be made public in October 2008, to be followed by a consultation period in late 2008. There is no reason, at this point, to suppose that the outcome of this review will impact significantly on the category of LA Governor.
- 7.9 There is strong support from the Cheshire Association of Governing Bodies for a transparent process, in line with that recommended in this report. The actual documentation detailing the process and role description has yet to be shared with governor representatives.
- 7.10 The political parties currently contribute highly skilled and effective governors, and it is anticipated that they will continue to be an important source of recruiting governors. To assist local members, immediately a LA Governor vacancy is notified to the School Governance Team, the details will be forwarded to them, together with any relevant information, with a copy of the LA Governor application

form, so that, if they wish to make a nomination in advance of the next panel meeting, they are able to do so.

- 7.11 Potential governors could also be drawn from individuals known by, and nominated by, particular schools, LA officers, volunteers who approach the school governance team directly to express an interest in becoming a Governor and volunteers who approach the School Governors' One Stop Shop (a DCSF-supported organisation that places governors in schools).
- 7.12 If the current arrangements were to continue, with positions allocated by reference to political proportionality, this would present a significant challenge to the Conservative Party in terms of providing sufficient governors to fill the numbers of posts which would be apportioned to it.
- 7.13 The most recent government guidance on the way in which Local Authorities are advised to consider the appointment of school governors states:

*Authorities can also support schools by appointing as Local Education Authority Governors those who are best qualified to help schools improve. In making appointments to particular schools, Authorities should have regard to the skills and experience of which those schools have the greatest need, and to candidates' support for the schools' ethos and mission. It is good practice to advertise for candidates, highlighting the skills and experience required. Authorities should in any case publish the process and criteria by which they identify candidates for appointment. Once appointed, those Governors' priority is to contribute to raising standards at the school: they cannot be mandated by the Authority to take any particular line. Authorities may dismiss them for good reason. They should ensure appointments are promptly made, normally within 3 months.*

This is the current guidance, as advised by the DCSF Governance Unit, although it is the case that the document in which it appears (Code of Practice on LA – School Relations, 2001) has been superseded.

- 7.14 Many LAs have now moved away from appointing LA Governors according to party political affiliation, in line with this guidance. This enables LAs to draw on a wider pool of candidates with a wider range of skills and experience. The 2007 benchmarking data shows that the two top performing Authorities nationally were St Helens (3% of posts vacant) and Rochdale (3.1%). Both operate a system based on published criteria without reference to political affiliation.
- 7.15 The process should also give clarity around when LA Governors may be removed from their post. The process recommended incorporates arrangements for this to happen where a governor is deemed to have breached confidentiality or brought the school or the LA into disrepute.
- 7.16 Currently it is not Cheshire's policy for all school governors to have a Criminal Records Bureau (CRB) check. However, given that the LA has particular responsibilities for LA Governors it is suggested that it would be a sensible precaution for CRB checks to be carried out for all

individuals newly appointed to these positions. CRB checks for volunteers attract a £3 administration charge for each check.

## **8.0 Overview of Day One, Year One and Term One Issues**

- 8.1 The key day one issue is to ensure a process is in place so that early action can be taken to fill LA governor vacancies at the earliest opportunity.
  - 8.1.1 Transitional Regulations will enable all LA governors in post on 31 March 2009 to have their appointments continued, as if made by the new Authorities, up to the end of their current terms of office (a maximum of four years from the date of appointment). This will help to mitigate day one issues.
- 8.2 At the end of year one members will receive a report from officers for reviewing the process and assess its effectiveness in reducing vacancies.
- 8.3 By the end of term one it should be possible to clearly assess the effectiveness of this process in the context of national benchmarking data.

## **9.0 Reasons for Recommendation**

- 9.1 To ensure the criteria and process for making LA Governor appointments are transparent and effective in supporting a reduction in vacancy rates and providing schools with governors who have the time, commitment and ability to make a positive contribution to school governing bodies.

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

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*Tel No:01244 972389*

*Email: [andrew.kent@cheshire.gov.uk](mailto:andrew.kent@cheshire.gov.uk)*

## Role Description

### Cheshire East Local Authority Governor

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#### ***Purpose of Post***

The role of a school governor is to contribute to the work of the Governing Body in raising standards and maximising outcomes for all pupils. This involves providing a strategic view for the school, acting as a critical friend and ensuring accountability.

The individual governor has a responsibility, working alongside other members of the Governing Body, to the staff and pupils of the school, the school's wider community and where they are representatives, to their particular constituency (parents; staff; teachers; church; etc). Local Authority Governors are appointed by the Local Authority (LA) and are expected to conduct themselves having regard to the LA's policies, however they do not have a mandate from the LA.

#### **Responsibilities include:**

- developing the strategic plan for the school;
- determining aims, policies and priorities of the school;
- setting statutory and non statutory targets;
- monitoring and evaluating the work of the school;
- appointment of staff and ensuring the implementation of a range of personnel procedures;
- management of the budget;
- securing high levels of attendance and good standards of pupil behaviour;
- ensuring that all children in the schools have access to a broad and balanced curriculum which is suitable to age, aptitude and ability, which prepares them for adult life;
- ensuring the health and safety of pupils and staff.

#### **Tasks include:**

- to get to know the school: its needs, strengths and areas for development;
- to attend meetings (full governing body, committees and working groups);
- to work as a member of a team;
- to speak, act and vote in the best interests of the school;
- to respect all Governing Body decisions and to support them in public;
- to act within the framework of the policies of the Governing Body and legal requirements;
- to commit to training and development opportunities;

## Code of Conduct

### Cheshire East Local Authority Governors

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**Local Authority governors should:**

- Act in the best interests of the pupils at the school having considered the views and advice of the Local Authority. You may need to balance long and short term issues, school and community issues;
- Work as a member of a team at all times and be loyal to collective decisions made by the governing body;
- Recognise that all governors have the same rights and responsibilities unless particular responsibilities are conferred on them by the full governing body;
- Understand that no governor can act alone except in exceptional circumstances prescribed in the regulations – the power of the governing body rests in it acting as a single body.

**All governors must:**

- Respect confidentiality;
- Listen to and respect the views of others;
- Express their own views clearly and succinctly;
- Take their fair share of work/positions of responsibility;
- Know, understand and work within the prescribed regulatory framework;
- Report any evidence of fraud, corruption or misconduct to an appropriate person or authority;
- Respect any code of conduct agreed by the governing body.

**And Local Authority governors are expected to:**

- Prepare for meetings by reading papers beforehand;
- Take responsibility for their own learning and development as a governor including attending training;
- Attend meetings promptly, regularly, and for the full time;
- Read any briefings specifically for LA governors;
- Familiarise themselves with LA policy and guidance and, where necessary, be able to explain this to other governors on the governing body.

**Cheshire East Local Authority Governor Declaration**

I certify that I am not disqualified by any of the above regulations and therefore I am eligible to serve on school governing bodies within the Cheshire East Council. I have read the attached code of conduct and I am willing to abide by it.

I also give my permission for Cheshire East Council to make arrangements with me to make a criminal records bureau check, and to check my details against list 99.

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Criteria for the Appointment of Local Authority Governors

### Cheshire East Council

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Local Authority (LA) governors will be appointed to Cheshire East schools by the LA Governor Appointments Panel, as evidenced in the school governor application form, in accordance with the following criteria:

Criteria	Essential / Desirable
<ul style="list-style-type: none"> <li>• Displaying support for the main strategic aims of the Education Service in East Cheshire with regard to achieving the best outcomes for children.</li> <li>• Displaying an interest and/or involvement in children's education.</li> <li>• Be willing to attend/undertake training and Governor briefing sessions.</li> <li>• A commitment to attending meetings and contributing to the work of the governing body, including membership of a committee.</li> <li>• Involvement in the school's community through local groups such as voluntary groups, churches or work in the community.</li> <li>• Connection with local business/Council partners.</li> <li>• Interest and/or links with the school such as ex-parent, voluntary helper, ex-employee at the school.</li> </ul>	<p>E</p> <p>E</p> <p>E</p> <p>E</p> <p>D</p> <p>D</p> <p>D</p>
<p><b>Disqualification Criteria</b></p> <ul style="list-style-type: none"> <li>• Any LA Governor who has been disqualified through non-attendance will not normally be re-appointed to the same Governing Body;</li> <li>• Anyone who is disqualified by virtue of Regulation 20 (Schedule 6) of the School Governance (Constitution) (England) Regulations 2003;</li> <li>• A person is disqualified from appointment as a LA Governor if s/he is eligible to be a Staff Governor of the school.</li> </ul>	



## Panel for the Appointment of Local Authority Governors

### Cheshire East Council

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**Membership:** Portfolio Holder for Children and Young People's Services (or nominee);  
Three other Elected Members;  
Officer from Governor Services (in an advisory capacity only).

**Meetings:** To be held at least termly.

**Terms of Reference:**

1. To consider and determine the selection of Local Authority (LA) governors to maintained schools in order that appointments can be made in accordance with the agreed criteria.
2. To monitor vacancy rates of LA Governors based on information provided by the Governor Services, with a view to ensuring that vacancies are filled within one school term.
3. To note the appointment of additional governors and any urgent appointment to Schools Causing Concern.
4. To consider terminating appointments of LA Governors where the governor has clearly breached confidentiality or brought the school or the LA into disrepute. This is in addition to situations where governors disqualify themselves under Schedule 6 of the School Governance (Constitution) (England) Regulations 2007.

**Procedure:**

1. The Governor Services Officer (GSO) will contact the clerk to governors to request any specific information that may assist the appointment process and any nomination the governing body wishes to make to the next meeting of the panel.
2. The GSO will inform the local members and supply any relevant information, with a copy of the LA Governor application form, enabling them to make a nomination to the next meeting of the panel.
3. LA Governors reaching the end of their terms of office will be approached as to whether they wish to be considered for reappointment.
4. The GSO will provide the panel with details of applications received for appointment as LA Governors and details of LA Governors nearing the end of their term of office who have indicated a wish to be re-appointed, together with recommendations for appointments to posts at specified schools. This information will be provided prior to the meeting. This will include any nominations received from local members.
5. Where there is more than one application for a vacancy, an officer recommendation will be made in line with the agreed criteria.
6. At the meeting the Panel will select individuals for appointment in line with the agreed criteria.
7. Where the termination of a governor's appointment is being considered a report will be made by the GSO. This report will be made available to the individual in advance of the meeting and the individual will have the opportunity to make a response in writing for the Panel to consider but the Panel's decision would be final.
8. Where a governor has disqualified themselves under the statutory criteria, members of the Panel will be informed.
9. The GSO will send appointment letters with copies to the Headteacher, Chair of the Governors and Clerk to the Governing Body.
10. The GSO will retain a record of the meeting.

# Application Form

## Cheshire East School Governors

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Title:	Surname:	Male/Female
First Names:		
DOB:	Occupation:	
Home Address:        Postcode:  Home Tel No:		Work address (where applicable) including company name and postcode:        Work Tel No: Can we call you at work?
E-mail:		Mobile No:

Have you been a school governor before or are you already a school governor?  
 If yes, please give details, including the name of the school, category of governor, length of appointment, any special responsibilities:

Please outline your reasons for showing an interest in becoming a school governor – including details of personal qualities, experience or skills you feel you could bring to a school governing body, in line with the criteria for appointment as a governor in Cheshire East Council.

Please continue on a separate sheet if necessary.

Signature:	Date:
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## **Grounds for Disqualification from Membership of a Governing Body**

**(Schedule 6 of the School Governance (Constitution) (England) Regulations 2007)**

**You may not serve as a School Governor if you:**

- Are aged under 18 years at the time of application or appointment;
- Already hold a governor position at the same school;
- Are detained under the Mental Health Act 1983;
- Fail to attend the governing body meetings for six months continuously, beginning with the date of the first meeting you fail to attend, without the consent of the governing body. This provision does not apply to the ex-officio governors;
- Have been disqualified as a governor in any school during the previous twelve months;
- Are bankrupt, i.e. your estate has been sequestrated and the sequestration has not been discharged, annulled or reduced or you are the subject of a bankruptcy restrictions order or interim order;
- Are subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an order made under section 429 (2) of the Insolvency Act 1986 (failure to pay under county court administration);
- Have been removed from the office of charity trustee or trustee for a charity by the Charity Commissioners or High Court on grounds of any misconduct or mismanagement, or under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 from being concerned in the management or control of any body;
- Are included in the list of teachers or workers prohibited from working with children or young people (currently called List 99);
- Are disqualified from working with children;
- Are disqualified from being an independent school proprietor, teacher or employee by the Secretary of State;
- Have been sentenced to 3 months or more in prison (without the option of a fine) in the 5 years before applying to become governor;
- Have at any time received a prison sentence of 5 years or more;
- Have been fined for causing a nuisance or disturbance on school premises during the 5 years prior or since applying to become a governor or being appointed as a governor;
- Have refused to an application being made to the Criminal Records Bureau for a criminal record certificate, or refuse such a request at any point.

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## CHESHIRE EAST

### GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 6 October 2008  
**Report of:** Governance Lead Officer  
**Title:** Appointments to Cheshire Police Authority

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#### **1.0 Purpose of Report**

- 1.1 To advise the Committee of the arrangements for the appointment of Members to the Cheshire Police Authority, initially with observer status.

#### **2.0 Decision Required**

- 2.1 To appoint three Members to the Police Authority Shadow Joint Appointments Committee, in order that the Council's representation on the Cheshire Police Authority can be determined.

#### **3.0 Financial Implications for Transition Costs**

- 3.1 None, apart from the payment of travel and subsistence allowances for Members attending Police Authority meetings.

#### **4.0 Financial Implications 2009/10 and beyond**

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

#### **5.0 Legal Implications**

- 5.1 An Order will be laid before Parliament in October, which makes the transitional arrangements for membership of the Police Authority. The implications are set out fully below.

#### **6.0 Risk Assessment**

- 6.1 Action to identify and appoint the Council's representatives on the Police Authority should be taken in advance of the confirmation of the Order, so that the Members concerned can begin their induction and undertake Member development and familiarisation with the work of the Authority. Failure to make the appointments would mean that the Council would not be able to participate appropriately in the budget setting and policing plan developments for 2009/10.

#### **7.0 Background and Information**

- 7.1 The Department of Communities and Local Government has produced a draft Order on transitional arrangements relating to the membership

of the Police Authority as a consequence of local government restructuring in Cheshire. The Order will be laid before Parliament in early October 2008.

- 7.2 The Order will enable Cheshire West and Chester, Cheshire East, Halton and Warrington Councils to form a Shadow Joint Committee to appoint the local authority Members to the Police Authority with effect from 1 April 2009. Once these appointments are made, however, those Members will be entitled to attend meetings of the Authority in an observer capacity prior to 1 April 2009 and the Authority will be required to seek their views on its budget/precept and policing plan for 2009/10.
- 7.3 Schedule 2 of the Police Act 1996 provides for the establishment of a Joint Appointments Committee where there is more than one local authority in the Police Authority area.
- 7.4 The Joint Committee for Cheshire was first established in 1997, when it was agreed that the Committee would consist of nine Members allocated on the basis of population. The allocation was therefore:

Halton Borough Council - 1 Member  
Warrington Borough Council - 2 Members  
Cheshire County Council - 6 Members

Using the same criteria, the Shadow Joint Committee would consist of:

Halton - 1 Member  
Warrington - 2 Members  
Cheshire West and Chester - 3 Members  
Cheshire East - 3 Members.

- 7.5 The Shadow Committee will need to consider:
- i) the allocation of the nine local authority places on the Police Authority in accordance with the political proportionality of the constituent Councils taken as a whole
  - ii) how each of the constituent Councils should make their Party Group nominations to achieve the balance required above.
- 7.6 In order that the Shadow Committee can be convened, the constituent Councils have been invited to make nominations on the basis set out in para 7.4 above. Accordingly Cheshire East needs to appoint 3 Members. The Council's proportionality would suggest a 2 Conservative and 1 Liberal Democrat basis.
- 7.7 In order to make the appointments to the Police Authority itself, the Joint Committee will then meet to review and take into account the political proportionalities across the four Councils which are as follows:

	<b>Con</b>	<b>Lab</b>	<b>Lib Dem</b>	<b>Indep</b>
Cheshire East	59	6	12	4
Cheshire West and Chester	55	13	4	0
Warrington	7	22	28	0
Halton	9	33	14	0
	130	74	58	4
Giving a “raw” proportionality across 9 places of:	4.398	2.503	1.962	0.135
“Rounded” places	4	3	2	0

- 7.8 If it is assumed that Halton continue to appoint one Labour Member and Warrington appoint one Labour and one Liberal Democrat Member, this would leave the two Cheshire Unitaries to appoint the four Conservatives, plus one Labour and one Liberal Democrat Members. The Appointments Joint Committee will need to determine how all of the 9 places are allocated, and to make the necessary appointments.

## **8.0 Conclusion**

- 8.1 The Committee is asked to consider the position and appoint the Council’s three representatives to the Police Shadow Joint Appointments Committee.

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

*Officer: Mike Flynn (Governance Lead East)*

*Tel No: 01244 972260*

*Email: mike.flynn@cheshire.gov.uk*

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

- *Letter dated 4 September 2008 from the Chief Executive of Cheshire Police Authority.*

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## CESHIRE EAST

### GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 6 October 2008  
**Report of:** Task and Recommendation Group – Outside Organisations  
**Title:** Progress Report on Development of a Work Programme and Recommendations to Deal with Appointments to Outside Organisations

---

#### **1. Purpose of Report**

- 1.1 To up-date the Governance and Constitution Committee on progress on the work of the Task Group – Outside Organisations and to outline its proposals for developing criteria and procedures to form the basis of an appointment process which can be put into effect from 1 April 2009.

#### **2. Decision Required**

- (a) That progress to date be noted;
- (b) That, subject to there being no constitutional restrictions, responsibility for appointments during the transitional year be delegated to the Chair of the Governance and Constitution Committee in consultation with Group Whips and the Interim Monitoring Officer; and
- (c) That the Cabinet be consulted on the proposed criteria at the appropriate time, and the need for any appointments to be reserved to the Cabinet.

#### **3. Name of Group**

- 3.1 The Task Group has adopted the name “Task and Recommendation Group – Outside Organisations” and held its first meeting on Monday, 15 September 2008 in the Municipal Buildings, Crewe. Councillor Shirley Jones was elected Chair of the Group.

Its next meeting is to be held on the 8 October.

#### **4. Progress**

- 4.1 The Group considered a work plan, criteria for appointments and the method of making appointments during the remainder of the transitional year.

#### 4.2 Work Plan

Members agreed that to enable progress to be made, the following information is required for its next meeting –

- List of categories of appointments to be made by the Cabinet, together with a list of those appointments which the Cabinet wishes to reserve to itself;
- List of categories of appointments to be made by the Governance and Constitution Committee;
- Full list of organisations covering Cheshire East area (ie those relating to the individual boroughs of Crewe & Nantwich, Congleton and Macclesfield, together with a list of the Cheshire-wide organisations compiled by Cheshire County Council);
- Information in respect of constitutional requirement (by the organisation) for a local authority representative, including those where a particular type of representative is specified; for example, Education Foundations often stipulate that the local authority representative must be a local Member;
- Financial implications of representation, taking into account those organisations which pay expenses/honoraria to their local authority representatives; and where representation is a cost **to** the local authority;
- Details of frequency of meetings for each organisation to establish the level of commitment required by appointees;
- List of “strategic organisations” (Category 1) for each of the four constituent authorities.

#### 4.3 Priorities

The Group has agreed that its first priority is to review the Cheshire-wide organisations provided by Cheshire County Council. The aim is to identify those organisations where appointments have been made by both the County Council and the individual Borough Councils, with the aim of eliminating duplication.

At its meeting in October, the Group will also consider those organisations regarded as top level-strategic appointments at national, regional and local level to which the new authority should appoint; examples are NWRA, NWE0, Primary Care Trust, Hospitals Trusts, and Manchester Airport Consultative Committee.

#### 4.4 Criteria for Appointment

The Group gave initial consideration to the criteria for appointments which were based on the consultation exercise undertaken across authorities outside Cheshire. Some common themes have emerged from that exercise and these will be considered in more detail at future meetings.

The current working draft criteria are attached as an appendix.

**5. Potential Devolution to Town and Parish Councils**

The Group acknowledges that an inevitable outcome of the review will be that some of the smaller organisations may be removed from the composite list, where benefit is only to a small area rather than the whole of the Cheshire East area. This should not be perceived negatively. It could provide a greater opportunity for involvement of the local Town and Parish Councils which could make appointments to such organisations.

**6. Appointments During Transitional Year**

Members considered delegation arrangements, in the event of receipt of requests for representation on outside organisations during the remainder of the transitional year. The Group agrees that it is important for the process to be Member-led. It was agreed that, subject to there being no constitutional restrictions, the Governance and Constitution Committee be recommended to delegate this task to the Chair of the Committee in consultation with Group Whips and the Interim Monitoring Officer.

As specific criteria for appointment has not yet been agreed for recommendation to the Committee, these will need to be dealt with on a case-by-case basis.

It is expected that representatives will attend in an observer capacity only and this will have the advantage of allowing Members to familiarise themselves with the operation of the organisation.

**7. Training**

- 7.1 The Group agreed that, in due course, a training day should be arranged for all Members to raise awareness prior to accepting appointments. On that occasion, Members will be informed of the purpose of representation on outside organisations, the commitment involved and any potential legal implications, particularly for those appointed as trustees or company directors.

**8. Recommendation**

The Governance and Constitution Committee is recommended to RESOLVE -

- (a) That progress to date be noted;
- (b) That, subject to there being no constitutional restrictions, responsibility for appointments during the transitional year be delegated to the Chair of the Governance and Constitution

Committee in consultation with Group Whips and the Interim Monitoring Officer; and

- (c) That the Cabinet be consulted on the proposed criteria at the appropriate time, and the need for any appointments to be reserved to the Cabinet.

**9. Reasons for Recommendation**

- 9.1 It is important for Cheshire East Council to participate actively as a partner in the network of local organisations across the whole of the Cheshire East area.
- 9.2 The process being undertaken by the Task Group will enable appropriate and timely recommendations to be made to the Governance and Constitution Committee to ensure that there is a scheme in place by 1<sup>st</sup> April 2009 for making appointments to outside organisations.

***For further information:***

*Officer: Carol Jones – Democratic Services Officer, Crewe and Nantwich Borough Council*

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Progress Report on Development of a Work  
Programme and Recommendations to Deal with  
Appointments to Outside Organisations

**DRAFT CRITERIA FOR  
APPOINTMENTS TO OUTSIDE ORGANISATIONS**

**1. Consultation**

A number of authorities outside Cheshire had been contacted and asked for details of any reviews conducted and criteria used for appointments to outside bodies to try to identify best practice.

Some common themes have emerged from this exercise, which are set out below together with comments.

**2. Draft Criteria**

**2.1 The appointment is a statutory requirement**

There will be a limited number of bodies to which the authority is required to appoint but statutory requirement should be included as a criterion. Examples include the Police Authority and Fire Authority.

**2.2 The appointment will allow the authority to influence policy at a national or regional level**

Again this is suggested as a valid criterion for inclusion which will apply to those bodies which give the authority a voice at national or regional level and enable it to influence high level policy decisions. Examples will include the Local Government Association, North West Regional Assembly and the North West Employers Organisation.

**2.3 The appointment will assist the authority to deliver its strategic objectives and priorities**

It is recommended that this is a key part of any appointment system, where it can be demonstrated that the appointment will make a direct or significant contribution to the authority's strategic objectives.

The impact of this criterion is likely to be the exclusion of a number of smaller, local bodies. However, it would still be open to Members to put themselves forward as representatives to those organisations on an individual basis, rather than as representatives of the authority.

## **2.4 The appointment is to an organisation which receives major funding from the authority or provides key public services**

On the face of it, it would seem sensible to appoint a representative to an outside body which is in receipt of significant levels of funding from the authority. This may be, for example, to ensure that body uses the funding properly and develops in a way which the authority considers appropriate. In the same way, organisations which provide key public services, such as housing trusts, are often created by a local authority which reserves the right to place members on the board.

However, members should bear in mind that in taking up a formal position within an incorporated body - as director or trustee – the member will be under a legal duty to act in the best interests of that outside body, notwithstanding the fact that s/he is there as a representative of the authority. That duty will override a member's duties to the authority or the ratepayers it serves. It is also worth noting that where a matter is raised by the outside body relating to its relationship with the authority, it is likely to give rise to a conflict of interest for the member representative who will usually be required to absent himself from the meeting during the discussion. A dual-hatted role may therefore be problematic and out-weigh any perceived benefits for either the organisation or the authority.

## **2.5 Other options**

There are other means by which the authority may exercise control and/or influence;

(a) appoint a Member as an observer only to a charity or company board. Whilst not able to vote, the member is able to attend meeting to represent the views of the authority.

(b) by means of a well drafted funding or service level agreement which incorporates comprehensive monitoring arrangements to ensure information is provided to the authority regularly, showing how funding is being used or services provided.

### **Risk based approach**

Members may therefore prefer to consider an approach which is based on a balance of the risk between being represented and not being represented on these types of bodies, which takes into account the outcome sought from making appointment – be it control of funds, influence or input of expertise - and other means by which that outcome may be achieved.

**2.6 The appointment will have significant cost or resource implications for the authority**

It may not be appropriate to appoint to an outside body in extreme cases where there are significant cost and resource implications for the authority set against the benefits accrued.

Contact Officer: Cheshire East  
Carol Jones – Democratic Services Officer  
Crewe & Nantwich Borough Council  
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## CHESHIRE EAST

### GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 6 October 2008  
**Report of:** Interim Monitoring Officer  
**Title:** Whistleblowing Protocol

---

#### **1.0 Purpose of Report**

- 1.1 To seek the approval of the Committee in respect of the new unitary Council's Whistleblowing Protocol.

#### **2.0 Decision Required**

- 2.1 To endorse the proposed Whistleblowing Protocol

#### **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 No financial implications 2009/10 and beyond arise over and above those which would apply to any local authority.

#### **5.0 Legal Implications**

- 5.1 The legal implications of the Protocol are built into the draft Protocol itself.
- 5.2 It is proposed that the Protocol should be contained in the new unitary Council's Constitution and, therefore the Committee will need to make a recommendation to the Shadow Council to that effect.

#### **6.0 Risk Assessment**

- 6.1 The adoption of a Whistleblowing Policy is an important element of the emerging unitary Council's approach to Corporate Governance. Such a Policy can be said to minimise risk to the authority in ensuring that the highest standards of openness, probity and accountability are embedded into the Council's work.

#### **7.0 Information**

- 7.1 One indicator of local authority good governance is that the authority in question has a Whistleblowing Policy or Protocol. The document "Delivering Good Governance in Local Government: Guidance Note for English Authorities"

cites such a Policy of Protocol as a source document or good practice which may be used to demonstrate compliance with the requirement that: the authority “has arrangements in place for whistle-blowing to which staff and all those contracting with the authority have access”.

- 7.2 The Accounts and Audit Regulations 2003 require that an annual governance statement be produced by local authorities. A Whistleblowing Policy/Protocol is envisaged as being a “proper practice” for local authority good governance and for meeting the requirements of the Regulations.
- 7.3 The purpose of the Protocol is to provide for circumstances in which an employee, Member or contractor, supplier to or consultant witnesses practices that seem suspicious. It seeks to address situations in which those individuals may be deterred from expressing their concerns because they may fear harassment or victimisation.
- 7.4 The Protocol sets out a process by which the individual can report their concerns internally and how the Council will then respond.
- 7.5 Members are referred to the draft Protocol contained in the Appendix to this report.

## **8.0 Conclusion**

- 8.1 The Committee is asked to endorse the proposed Protocol and to note that, in view of its implications for staff, that there will need to be consultations with unions before the contents of the draft can be finalised.

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

*Officer: Brian Reed*

*Tel No: 01244 972205*

*Email: [brian.reed@cheshire.gov.uk](mailto:brian.reed@cheshire.gov.uk)*

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

- Cheshire Local Authority Constitutions
- DETR Modular Constitution
- Delivering Good Governance in Local Government: Framework

*Documents are available for inspection at:*

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

[CHESHIRE EAST][CHESHIRE WEST] COUNCIL

WHISTLE BLOWING PROTOCOL

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- 2.0 PURPOSE AND SCOPE
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  - 4.1 Harassment or victimisation
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- 5.0 PROCEDURES
  - 5.1 Raising a concern
  - 5.2 How the Council will respond
  - 5.3 The Responsible Officer
  - 5.4 If you are not satisfied with the Council's response

## 1.0 INTRODUCTION

- 1.1.1 As an employee, Member or contractor, supplier to or consultant with, the Council you may, from time to time, witness practices that seem suspicious. However, you may be deterred from expressing your concerns because you fear harassment or victimisation. You may feel that it may be easier to ignore the concern rather than to report your suspicions.
- 1.1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisals. This policy document makes it clear that you can do so, without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.1.3 These procedures are intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. Premature or unnecessary publicity may damage the Council's reputation, impede proper investigations, or hurt individuals unnecessarily.
- 1.1.4 A Member shall not disclose confidential information, using the public interest exemption in the Council's Member Code of Conduct without first considering using the procedure in this Whistle Blowing Protocol to raise concerns about an issue, unless it is necessary for the disclosure to be made to the Police or a Regulatory Body.

## 2.0 PURPOSE & SCOPE

- 2.1.1 These procedures have been introduced to provide employees, Members and contractors, suppliers or consultants with a secure basis for reporting suspicions of impropriety, in the knowledge that the matter will be treated confidentially.
- 2.1.2 This policy covers the reporting of a malpractice, the information that will need to be recorded and the steps that need to be followed to ensure that you do not suffer any recriminations or victimisation.
- 2.1.3 These procedures are intended to supplement, rather than replace, existing Council policies and procedures (for example the Council's grievance procedures and the policies dealing with harassment) whereby employees of the Council may already raise complaints or matters of genuine concern with the Council. They are therefore designed to provide for those instances where the person reporting the matter feels that, for any reason, they cannot make use of other procedures.

2.1.4 This policy has been designed to take into account Human Rights considerations.

## 2.2 CONTRACTORS, SUPPLIERS AND CONSULTANTS

2.2.1 In your dealings with the Council you will often work very closely with Council employees and Councillors. You will also operate under the Council's procedures and policies. The Council is fully aware that if you notice anything suspicious, or come across malpractice, you may be concerned about your relationship or future relationship with the Council if you raise this. As with employees and Councillors, the Council wants to encourage you to voice any concerns you may have, secure in the knowledge that the matter will be taken seriously and investigated, and that you and your organisation will not suffer any disadvantage.

## 3.0 LEGISLATION

3.1.1 The Public Interest Disclosure Act 1998 has been introduced to protect employees who expose serious wrongdoing in the workplace. It applies where a malpractice is disclosed involving:-

- a crime or breach of regulatory, administrative and common law;
- a miscarriage of justice;
- danger to health and safety;
- damage to the environment;
- unauthorised use of public funds;
- possible fraud and corruption; and
- sexual, physical or financial abuse of clients

3.1.2 The Act protects you from victimisation where you reasonably believe the information, and are acting in good faith.

3.1.3 A disclosure is protected if you have an honest and reasonable suspicion that a malpractice has occurred, is occurring or is likely to occur. As an employee you can raise the matter with your line manager who will refer it to one of the named below, or if you prefer direct to:-

- Head of Paid Service;
- Monitoring Officer;
- [Relevant Director];
- [Audit Manager].

3.1.4 Councillors can report suspicions to:-

- Head of Paid Service
- Monitoring Officer
- [Relevant Director];
- [Audit Manager]

A confidential record will be maintained by the [Audit Manager] of all concerns raised (except if the complaint is against the [Audit Manager's] Team).

- 3.1.5 It is important to note that in response to concerns raised with any of the above, they will initially act independently of each other when making investigations, except for the Audit Manager who may be asked to carry out the investigation.

#### 4.0 SAFEGUARDS

##### 4.1 HARASSMENT OR VICTIMISATION

- 4.1.1 The Council is committed to good practice and high standards, and wants to be supportive of employees.
- 4.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. It will not tolerate any harassment or victimisation and will protect you if you raised a concern in good faith.
- 4.1.3 If you happen to be already involved in any disciplinary or redundancy procedures these will be kept separate from the investigation of your complaint.

##### 4.2 CONFIDENTIALITY

- 4.2.1 The Council will protect the confidentiality of all matters raised by concerned employees and Councillors.
- 4.2.2 If there is any breach of confidentiality by any of the four named officers in paragraph 3.1.3, the employee raising the concern can take the appropriate action under the grievance procedures.

##### 4.2.3 ANONYMOUS ALLEGATIONS

- 4.3.1 This policy encourages you to put your name to your allegation whenever possible.
- 4.3.2 This is because concerns expressed anonymously are much less powerful than those raised by an identified individual. Anonymous allegations will, however, be considered at the discretion of the Council.
- 4.3.3 In exercising this discretion the factors to be taken into account would include:-

- the seriousness of the issues raised;
- the credibility of the concern; and

- the likelihood of confirming the allegation from attributable sources.

#### 4.4 UNTRUE ALLEGATIONS

- 4.4.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, as an employee you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you. In the case of Members, the Standards Committee will consider the matter and make recommendations to the Council.

#### 5.0 PROCEDURES

##### 5.1 RAISING A CONCERN

- 5.1.1 You can raise your concern orally, (i.e. face to face or over the phone) or in writing. If you write, mark the envelope 'personal, private and confidential' and if the concern is of a serious nature, hand deliver the envelope to the person you wish to report the matter to.
- 5.1.2 Whichever way you choose, please give as much information as you can. Remember also to give your name, job and say if you do not want to be contacted at work (if so, give your home address and phone number).
- 5.1.3 You should include the following:-
- background information;
  - information as to why you are concerned;
  - details of any other procedures which you have already used, and what happened;
  - the names of the employee/Members involved and where they work (if applicable);
  - dates or periods of time relating to the matter;
  - the names and jobs of any other employees/Members who may support your concern.
- 5.1.4 The earlier you express your concern, the easier it will be to take action.
- 5.1.5 Although you will not be expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there are reasonable grounds for the concern.
- 5.1.6 You may find it easier to raise the matter jointly if there is another employee/Member who has the same concern, and will support your allegation.

- 5.1.7 You would be advised to invite your trade union representative, or another person, to be present during any meetings or interviews in connection with the concern raised. In this case you can remain anonymous when the concern is first raised, but you may have to be involved personally if the matter goes further.

## 5.2 HOW THE COUNCIL WILL RESPOND

- 5.2.1 One of those named in paragraphs 3.1.3 will firstly decide whether to carry out an investigation and determine which Council procedure it is appropriate to use.

- 5.2.2 If it is decided that the matter should be taken further under Whistleblowing procedures, the concern raised will be:-

- investigated by the Monitoring Officer, Management or [Internal Audit];
- referred to the police;
- referred to the external auditor;
- considered to become the subject of an independent inquiry;
- considered under the Council's Member Code of Conduct.

You may be interviewed by the person investigating the matter.

- 5.2.3 In order to protect individuals accused of a possible malpractice, enquiries will be made to decide whether an investigation is appropriate. Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required, this will take place before an investigation is undertaken.

## What You Will be Told

- 5.2.4 The person to whom you have raised your concern will contact you in writing within 10 working days detailing the following:

- acknowledging that the concern has been received;
- indicating how the Council intends to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- detailing any initial enquiries that have been made; and
- informing you whether further investigations will take place (and if not, why not).

- 5.2.5 The amount of contact you have with the people considering the matter will depend on the type of concern, the potential difficulties of the investigation and the availability of information. Wherever possible, you will be told the final outcome of any investigation.



- 5.2.6 The Council will take steps to minimise any difficulties you may experience as a result of raising a concern. For example, if required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure.

### 5.3 THE RESPONSIBLE OFFICER

- 5.3.1 The Council's Monitoring Officer has overall responsibility for the maintenance and operation of this policy.

### 5.4 IF YOU ARE NOT SATISFIED WITH THE COUNCIL'S RESPONSE

- 5.4.1 This procedure is meant to give everyone an effective way to raise a concern within the Council (and if possible resolve it internally). However, if you are still unhappy after using the procedure (and getting a final written response) you are entitled to consider taking your concern elsewhere. If you do this, these are some of the contacts that are available:

- the Council's external auditors [insert link/contact details]
- UNISON Whistle blowing Hotline – 0800 597 9750
- Audit Commission Anti Fraud and Corruption Unit – 020 7630 1019
- The independent charity Public Concern at Work – 020 7404 6609
- a Citizens Advice Bureau
- the Standards Board for England – 0845 0788181
- a relevant professional or regulatory body
- a relevant voluntary organisation
- the police

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## CHESHIRE EAST

### GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 6<sup>th</sup> October 2008  
**Report of:** Governance Lead Officer  
**Title:** Petition for Borough Status

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#### **1.0 Purpose of Report**

- 1.1 To update the Committee on the proposed application for Borough status, as agreed in principle by Council on 30 July 2008.

#### **2.0 Decision Required**

- 2.1 To recommend the Council to approve –
- (a) the formal presentation of a Petition seeking the grant of a Charter for Borough status
  - (b) the form of the Council's Petition for Borough status and of the proposed Charter for submission to the Privy Council Office.

#### **3.0 Financial Implications for Transition Costs**

- 3.1 The estimated cost of obtaining the Charter for Borough status is £2000.

#### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 No additional costs are anticipated in 2009/10 and beyond.

#### **5.0 Risk Assessment**

- 5.1 Failure to make the application by the end of October could result in delay so that Borough status is not granted by 1 April 2009.

#### **6.0 Background and Options**

- 6.1 Under the provisions of the Implementation Order, Cheshire East will be a Unitary authority with a Chairman. However, the Shadow Authority may petition for Borough status, and through the Privy Council Office, seek the grant of a Charter conferring Borough status on the whole area. Such a grant would mean that the Council would elect a Mayor, rather than a Chairman of the Council. The Council would also be able to appoint Honorary Freemen and Honorary Aldermen, although this would still be possible as a District Council rather than being dependent on Borough status.

- 6.2 The Department for Communities and Local Government (DCLG) have indicated that the Petition should be submitted by the end of October, to allow the grant of a Charter (if made) to come into effect by 1 April 2009. DCLG have also indicated that the support of the current local authorities in the area would be a factor to be taken into account by the Privy Council Office in advising on the award of the Charter.
- 6.3 Cheshire East Council on 30 July agreed –
- “in principle to submit a Petition for the grant of a Charter conferring Borough status on Cheshire East Unitary Council from April 2009;
- the three current Borough Councils and Cheshire County Council be invited to support the Petition for Borough Status for Cheshire East, and to identify as soon as possible any proposals for the continuation of their existing rights beyond vesting day.”
- 6.4 The Council also authorised this Committee to take forward the detailed arrangements for Borough status (and other civic and ceremonial matters), and to make periodic progress reports to the full Council.
- 6.5 Macclesfield Borough Council has since resolved to support Cheshire East’s Petition for Borough status, and to apply to DCLG for Charter Trustees to provide for a Mayor for Macclesfield Town. Crewe and Nantwich Borough Council has resolved to oppose Cheshire East’s Petition, and to seek Charter Trustees to provide for a Mayor for Crewe Town. It is understood that Congleton Borough Council has not considered the issue of Borough status for Cheshire East.
- 6.6 Cheshire Council Council’s Organisation Committee has resolved –
- “That
- (1) The decision of Cheshire West and Chester Executive to advise the Unitary Council to reconsider its intention to seek Borough status be welcomed;
  - (2) The proposal by Cheshire East Council to apply for Borough status be noted, on the basis that appropriate arrangements are being sought to establish Town Mayors where there is a community wish to do so;
  - (3) This Committee regrets the submission of any proposals which seek artificially to perpetuate the identities of the current District Councils; and

- (4) Any proposals leading to the creation of a multiplicity of overlapping Mayoralities in any area be not supported.”
- 6.7 In order to seek the grant of the Charter, a Petition in the appropriate format has to be presented to the Privy Council Office, together with the proposed wording of the Charter. Drafts of both documents are attached for consideration by the Committee, prior to submission to the full Council.
- 6.8 The Privy Council Office have indicated that the fee payable for sealing a Charter is £2000. This can be met from the transitional costs budget.
- 6.9 The Local Government Act 1972 provides that “a Petition for a Charter shall not be presented except on a resolution passed by not less than two-thirds of the Members voting thereon at a meeting of the Council specifically convened for the purpose with notice of the object”. Appropriate provision will therefore be made in the agenda to enable the Council on 20 October to consider the formal presentation of the Petition for Borough status.

***For further information:***

Officer: Mike Flynn, Governance Lead Officer  
Tel No: 01244 972260  
Email: [mike.flynn@cheshire.gov.uk](mailto:mike.flynn@cheshire.gov.uk)

***Background Documents:***

None

**DRAFT**

**LOCAL GOVERNMENT ACT 1972**

**Sections 245 and 246**

**PETITION FOR THE GRANT OF A CHARTER CONFERRING THE STATUS  
OF A BOROUGH**

To the Queen's Most Excellent Majesty in Council:

The Humble Petition of the Council of the District of [    ]

Sheweth as follows : -

The District of [.....] is a district for the purposes of the Local Government Act 1972.

The Council of the said District, in accordance with the section 245 of the Local Government Act 1972, has resolved that a Petition be presented to Your Majesty praying for the grant of a Charter under subsection (1) of the said section conferring on the said District the status of a borough.

Your Petitioners therefore most humbly pray that Your Majesty may be graciously pleased to grant a Charter in the terms of the draft submitted herewith or in such other terms as may to Your Majesty seem proper.

And Your Petitioners will ever pray, etc.

[Common Seal of the Council]

**DRAFT**

**Elizabeth The Second by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:**

**TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING!**

Whereas certain new local government areas known as districts have been established by the Local Government Act 1972:

And Whereas a Petition praying for the grant of a Charter conferring upon the district of Cheshire East Council the status of a borough of the said district:

And Whereas We are pleased by the advice of Our Privy Council to grant a Charter for such purpose:

Now Therefore Know Ye that We, by virtue of Our Prerogative Royal and in pursuance of the Local Government Act 1972 and of all other powers and authorities enabling Us in that behalf, have granted and declared and by these Presents do grant and declare as follows:-

1. The district of Cheshire East Council shall have the status of a borough.

IN WITNESS whereof We have caused these Our Letters to be made Patent.

WITNESS Ourselves at Westminster the 1<sup>st</sup> day of April in the 2009 year of Our Reign.

BY WARRANT UNDER THE QUEEN'S SIGN MANUAL

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## CHESHIRE EAST

### Governance and Constitution Committee

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**Date:** 6 October 2008  
**Report of:** LGR Governance Group  
**Title** Cheshire East Work Plan

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#### **1.0 Purpose of Report**

- 1.1 To present to the Committee an updated Work Plan for consideration.

#### **2.0 Decision Required**

- 2.1 That the Committee:

2.1.1 note the current detail of the Work Plan; and

2.1.2 note that this will be developed and periodically brought back to the Committee for approval.

#### **3.0 Implications for Transitional Costs**

- 3.1 There are no implications for transitional costs.

#### **4.0 Background and Information**

- 4.1 It has previously been agreed that the Committee should have a programme of work which provides for periodic reports to be made upon the development of a Constitution and other key governance-related matters.

- 4.2 Appendix A is the current version of the Work Plan. The details contained in it represent the timescales within which reports are proposed to be brought to the Committee.

- 4.3 It has previously been accepted that the timescales within the Work Plan need to be flexible in order to account for work priorities, changes in legislation etc. It will therefore be important for the Committee to receive regular reports with updates of the Work Plan.

#### **5.0 Conclusion**

- 5.1 The Committee is asked to note the current version of the Work Plan as the basis for its work, and that the Work Plan will be developed and periodically brought back to the Committee for approval.

**For further information:-**

Officer: *Brian Reed*  
Tel No: *01244 972205*  
Email: [brian.reed@cheshire.gov.uk](mailto:brian.reed@cheshire.gov.uk)

***Background Documents:- Nil***

*Documents are available for inspection at the Cheshire East Support Office:  
Town Hall  
Macclesfield  
SK10 1DX  
And at [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)*

## Appendix A

	<b>Work Area</b>
6 <sup>th</sup> October 2008	Whistleblowing Protocol
	Police Authority appointments
	Borough Status
	Outside Bodies appointments
	Process for appointment of School Governors
	Scrutiny arrangements
3 <sup>rd</sup> November 2008	Recommend to Council: area working political structure and decision making
	Policy and Planning Framework and Budget Procedure Rules (how these documents are adopted and changed): <ul style="list-style-type: none"> <li>• Budget</li> <li>• BVPP</li> <li>• Community Strategy</li> <li>• Local Transport Plan</li> <li>• Development Plan</li> </ul>
	Responsibilities for Functions
1 <sup>st</sup> December 2008	Review Constitution for new Council
	Consider overall committee structure for new authority
	Finance and Contract Procedure Rules
	Other Procedure Rules
12 <sup>th</sup> January 2009	Proposals for Leadership model
	Boundary Review preparations
	Procurement Rules
	Code of Corporate Governance
	Audit arrangements & recommend an Audit Plan
9 Feb 09	Recommend a Scheme of Delegation to Officers
	Recommend a Scheme of Delegation to individual members
	Timetable for meetings 2009/10
	Code of conduct for officers (including TU consultation)
	Protocol on member/officer relations (possible TU consultation)
	Codes and Protocols
9 March 09	Decide on representation on outside bodies
	Recommend a constitution for the new Council
	Recommend a committee structure for the new council
	Recommend Members Allowances for the new council

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