

Advisory Panel - People

Agenda

Date: Monday, 8th December, 2008
Time: 2.00 pm
Venue: Tatton Room, Macclesfield Town Hall

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. **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 - 4)

To approve the minutes as a correct record.

Please contact Julie North on 01270 529728 or 01270 529644
E-Mail: 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

5. **Children's Trust Implementation** (Pages 5 - 16)

To consider a report setting out the key issues that now need to be addressed in respect of Children's Trust Implementation over the next 12 months, which makes recommendations for how best to develop and implement future Trust arrangements, taking account of current legislation, emerging DCSF guidance and local experience of setting up and operating the current Children's Trust. Views are also sought on how setting up the new Trust should be linked to the evolving LSP / LAA arrangements for each new LA.

6. **Area Based Grant** (Pages 17 - 24)

To consider a report updating the Advisory Panel Members in respect of Area Based Grant, as requested at the meeting held on 27th October, 2008.

7. **Commissioning Strategy - Advocacy** (Pages 25 - 30)

To briefly highlight the range of provision in East Cheshire and to propose, in high level terms, the commissioning approach for the future, in partnership with the Primary Care Trust (PCT).

8. **Deprivation of Liberty Safeguards** (Pages 31 - 40)

To introduce to Members a new statutory responsibility, the Deprivation of Liberty Safeguards, which will come into force in April 2009 and to consider the appropriate administrative and procedural machinery that will be required to ensure their successful implementation.

9. **Leasing Contracts for Schools** (Pages 41 - 46)

To consider a report to be submitted to Cabinet to gain approval to a change in the process for taking out leasing agreements.

10. **Work Programme**

Verbal update.

11. **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 Panel 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 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

PART 2 – MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT

12. **People Directorate Structure - Update Report** (Pages 47 - 50)

To consider a report updating the Advisory Panel Members on the progress of work to implement a structure for the People Directorate of Cheshire East Council.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the Advisory Panel - People
held on Monday, 27th October, 2008 at Tatton Room, Macclesfield Town Hall

PRESENT

Councillor R Westwood (Chairman)
Councillor Miss C Andrew (Vice-Chairman)

Councillors D Beckford, D Brown, J Crockatt, R Fletcher, A Knowles,
W Livesley, M Parsons and Mrs C Tomlinson

Apologies

Councillors Mrs D Flude

20 DECLARATIONS OF INTEREST

A number of Councillors who were existing County Councillors and Borough
Councillors declared a personal interest in the business of the meeting en bloc.

21 PUBLIC SPEAKING TIME/OPEN SESSION

There were no Members of the public present who wished to address the Panel

**22 MINUTES OF MEETING TUESDAY, 23RD SEPTEMBER, 2008 OF
ADVISORY PANEL - PEOPLE**

RESOLVED

That the minutes of the meeting be approved as a correct record.

23 DRAFT STRUCTURAL PROPOSALS

Consideration was given to a report detailing the proposals being developed for a
structure for the People Directorate. The proposals had been developed in the
context of the Financial Scenario, which the Council had to address.

The Strategic Director (People) reported that 22 responses from officers and
Trade Unions on the draft proposals had been received, which were generally
positive.

In considering the report Members of the Panel raised the following issues:

Reference was made to the Head of Transformation, it was noted that this
position would focus around managing change, as there was a large programme

of works in areas relating to children's social care, the NHS and tackling wastage of resources.

With regard to paragraph 6.9 of the report Members noted the importance of grading posts at a level, which would enable the authority to recruit high calibre managers.

That joint working should be delivered at management and operational level.

Members were happy with the proposals and agreed that the structure should be implemented as soon as possible.

RESOLVED

That Cabinet be recommended to endorse the proposals and implement them as soon as possible.

24 PROVISION OF CULTURAL SERVICES

Consideration was given to the Project Initiation Document (PID) which had been put together in relation to the provision of Cultural Services. The Panel agreed that a task and finish group should be established to give consideration to the final report prior to it being considered by Cabinet at its meeting scheduled to be held on 2 December 2008.

RESOLVED

1. That a group of Councillors assist Councillor Knowles in considering the issues prior to deliberations upon them by the Cabinet. That group should include Councillors B Livesley, JB Crockatt, R Fletcher.
2. That the final report be circulated to the Advisory Panel – People for information.

25 TASK GROUPS

Consideration was given to the proposed Terms of Reference and officer support for the Transforming Learning Communities (TLC) and Social Care Redesign Task Groups.

With regard to the Transforming Local Communities Task Group, Members questioned whether or not Transforming Local Communities was currently being supported by consultants, how it would be supported in the future, what the current position was and how many surplus places were within the schools at present. The Panel agreed that at the first meeting of the task group a background report answering the above issues should be received.

It was agreed that Councillor Mrs E C Tomlinson would be added to the membership of the Social Care Redesign Panel and that the Democratic Services Officer arrange a meeting of both Task Groups for the end of November 2008.

RESOLVED

1. That the terms of Reference for the Task Groups be approved.
2. That the officer support arrangements be approved.
3. That the Transforming Local Communities Task Group receive a background report at its first meeting
4. That Councillor Mrs E C Tomlinson be added to the membership of the Social Care Redesign Panel
5. That meetings of both Panels be arranged for the end of November 2008.

26 CONNEXIONS CHESHIRE AND WARRINGTON LTD AND THE INTEGRATED YOUTH SUPPORT SERVICE CONTRACT

Consideration was given to a report, which was submitted to the Panel to enable Members to be aware of a forthcoming Cabinet issue and to contribute views to inform the decision making of the Cabinet.

The report informed Members of the legal and contractual context of the future relationship with Connexions Cheshire and Warrington Ltd. The report also highlighted the actions being taken by Cheshire County Council, in discussion with Warrington Borough Council and the Connexions Company, to transfer the County Council's interests in Connexions to Cheshire East Council under the terms of the legally binding Members' Agreement between CCC and WBC.

With regard to paragraph 2.6 of the report, Members agreed that Cabinet should be recommended to approve option 1- continuation of the current pan – Cheshire contract for one year with both LAs agreeing similar funding levels that will be compatible with delivering a pan-Cheshire contract and service specification to 1 April 2010, incorporating a refresh of outcome and output targets so they accord with each Authority's LAA and other area specific requirements.

Members expressed the importance of the need to put in place effective contract management arrangements within the Children's Services/People Directorate to performance manage the contract with Connexions.

Members also highlighted that the youth service provision should be maintained within the constraints of the budget.

RESOLVED

That Cabinet be recommended to:

1. Approve the continuation of the current pan – Cheshire contract for one year with both LAs agreeing similar funding levels that will be compatible with delivering a pan-Cheshire contract and service specification to 1 April 2010, incorporating a refresh of outcome and output targets so they accord with each Authority's LAA and other area specific requirements.
2. Give consideration to the need to put in place effective contract management arrangements within the Children's Services/People Directorate to performance manage the contract with Connexions

3. Give consideration to the youth service provision being maintained within the constraints of the budget.

27 PANEL WORK PROGRAMME

The Strategic Director (People) reported that the following items would be considered at the next Advisory Panel – People:

1. Area Based Grants
2. Children's Trust Arrangements
3. Update on the Structural Proposals

RESOLVED

That the above issues be considered at the Advisory Panel – People at the meeting scheduled to be held on 8 December 2008.

28 DATES OF FUTURE MEETINGS

Future meeting dates were noted as follows:-

8 December 2008
19 January 2009
2 March 2009
April 2009 – To be confirmed

The meeting commenced at 2.00 pm and concluded at 3.55 pm

Councillor R Westwood (Chairman)

CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 2 DECEMBER 2008
Report of: JOHN WEEKS – STRATEGIC DIRECTOR ~ PEOPLE
Title: CHILDREN'S TRUST – IMPLEMENTATION

This paper, which is in the format of a Cabinet report, is presented to the Advisory Panel (People) to enable Panel Members to be aware of a forthcoming Cabinet issue and to contribute views to inform the decision making of the Cabinet.

CHILDREN'S TRUST – IMPLEMENTATION ARRANGEMENTS**1.0 Purpose of Report**

- 1.1 The Local Authority has decided that it will set up its own local Children's Trust arrangement and has adopted the current Cheshire Children's Plan 2008-11 (as approved by all current Cheshire Councils).

This report sets out the key issues that now need to be addressed over the next 12 months and makes recommendations for how best to develop and implement future Trust arrangements taking account of current legislation, emerging DCSF guidance and local experience of setting up and operating the current Children's Trust. Views are also sought on how setting up the new Trust should be linked to the evolving LSP / LAA arrangements for each new LA.

2.0 Decision Required

- 2.1 That the Cheshire East Council approves the creation of a Children's Trust Implementation Board with a mandate to consider the issues raised in this report and its appendices and take forward the future Children's Trust arrangements.
- 2.2 That the Executive delegates authority on behalf of Cheshire East to the Lead Member for Children and the Strategic Director - People to ensure that the Trust is set up in a timely fashion in order to be sufficiently operational for 1 April 2009.
- 2.3 It is presumed that final decisions in relation to the Governance Documents for the Trust, will, as with the (statutory) Children Plan and the LSP/LAA, be subject to the consideration and advice by the Cabinet and the final decisions of Council and partners.

3.0 Financial Implications for Transition Costs

- 3.1 The Local Authority will need to appoint, nominate or second an Officer from Children's Services to act as facilitator and lead a shadow business unit (working on behalf of the Trust) during the implementation phase (i.e. from November 2009). Alternatively the Shadow LA will need to consider funding CCC to perform this role on its behalf as it cannot guarantee that capacity will be available to carry out this implementation work for both shadow authorities from within the existing business unit support.

- 3.2 However, the costs of setting up the two new Trusts can to some extent be mitigated by utilising the expert support of the highly respected DCSF Commissioning Support Team, which has offered a minimum of 10 days free 'consultancy' to each new Trust. This unit has experience of working with 80 Trusts so far and is closely linked to the DCSF. County Council officers are discussing with the Commissioning Support Team what support they could provide. The work can commence as soon as Cheshire East has approved the principle and process as set out in this report.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Shadow Authority and its partners will need to consider how to resource its Children's Trust Business Unit on a permanent basis in-line with the future recommendations of the Strategic Director and the proposed Children's Trust Implementation Board (if approved).

5.0 Legal Implications

- 5.1 The 2004 Children Act sets out requirements for Children's Trust arrangements to be established in every area (in England) by April 2008. Although Children's Trusts are not currently 'statutory', the Children Act 2004 clearly states that these are the *preferred* models for delivery. They are intended as the vehicle to fulfil the 'duty to cooperate' bringing together partners, to promote collaborative working with the aim of improving children's well-being.

- The local authority is responsible for driving forward the arrangements;
- The Director of Children's Services is accountable for the functioning of the Trust;
- The Lead Member for Children is politically accountable.

"Local authorities must take a lead in making arrangements to promote co-operation between local agencies whose work impacts on children within the authority's area. As joint stakeholders, the relevant partners must cooperate with the authority in the making of those arrangements and will wish to help shape them so as to ensure that co-operation results in improvements in all areas of service delivery and in associated outcomes for children and young people¹".

- 5.2 The Government is currently consulting on legislative options to strengthen Children's Trusts by:
- revising Section 10 of the Children Act 2004 to extend the **duty to cooperate** to schools, the **Schools Forum**, 6th Form and FE Colleges and Academies;
 - revising Section 17 of the Children Act 2004 to **strengthen the statutory framework for Children's Plans** to require all areas to have a Children's Plan and extending ownership to all statutory partners, so that the Plan becomes the **shared responsibility of the Children's Trust Board**;
 - strengthening the statutory basis of **Children's Trust Boards** – with primary legislation to require LAs to create a Board and set it clear

¹ Statutory guidance on inter-agency co-operation to improve the well being of children: Children's Trusts (Statutory Guidance 2005)

objectives in relation to: **improving outcomes for children, increasing early intervention, and narrowing gaps** in outcomes;

- introducing **regulations** relating to Children's Plans – including possibly prescribing what arrangements will be made for **Joint Commissioning** and **specified spending** by each 'partner' in specific areas;
- revising Section 10 of the Children Act 2004 to give local authorities and partners the **power to delegate functions**, and to extend the **power to pool budgets** beyond 'relevant partners' so that the private and voluntary sector can contribute to pooling of funding, staff, goods and services;

- 5.3 The current Children's Trust arrangements already comply with many of the proposals that the Government is considering enshrining in legislation and guidance. The proposed Trust models in this report takes full account both of current best practice in Cheshire and 'expected' future Government guidance where applicable. The models proposed are therefore anticipated as being fully compliant with future guidance due to be issued Autumn 2008. There are nonetheless some key issues to consider as set out at **Appendix 1**.

6.0 Risk Assessment

- 6.1 There are no risks relating to the decisions sought. However, the Authority should be mindful that delays in establishing Trust arrangements will generate uncertainty and risks in terms of; the roll out of local/national plans and imperatives, exposure to negative performance assessments, poor partner relations etc. It is important therefore that the work is set in motion in time and with adequate resources.

7.0 Background and Options

- 7.1 See Appendix 1 for an outline of the key issues and options relating to setting up a new Children's Trust.

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

- 8.1 See Appendix 2 for a timeline of key decisions and tasks.

9.0 Reasons for Recommendation

- 9.1 To comply with the Children Act 2004 and other relevant legislation. To take forward the Every Child Matters agenda and related Children's Trust initiatives. To ensure the continued support and engagement of the future key partners of the Shadow Authorities.

For further information:

*Portfolio Holder: Councillor Paul Findlow
Officers: John Weeks and Rick Howell
Tel No: 01244 973342
Email:*

Background Documents: Previous reports to Shadow LA on Plan and Trusts. Documents are available for inspection on CE website (Minutes and Agendas)

Issues and Options

1. Children's Trust (implementation) Board

There is no current statutory duty to establish a Children's Trust Board, but the Government is expected to bring in regulations in the Autumn this year that will require such Boards in the future. It is proposed that the Shadow Authority approves the creation of a Children's Trust Board to be implemented on a phased basis, starting with the creation of a 'Shadow' Children's Trust Board as an **Implementation Board**. This should be set up as soon as possible and be led by the Strategic Director as Children's Trust Boards should be led by the local authority's 'DCS' as accountable officer.

It is proposed that the Children's Trust Implementation Board has an initial core membership comprised of:

- **Strategic Director – People** (*Director of Children's Services*) (Chair)
- **Lead Member for Children**
- Chair or Senior Member of the **Police Authority and Chief Constable**
- Chair of the **Cheshire East Schools Forum**
- **Director of Public Health**
- Senior **PCT** representatives
- Trust Development / Business Unit Manager

In order to provide for greater Member involvement in the design of the Trust, as well as ensure links back to the emerging LSP and LAA structure and approaches, it is suggested that the Cabinet might consider nominating an Executive Member with responsibility for the Local Strategic Partnership to also sit on the Implementation Board during the design and set up phase.

Keeping the Board membership at this size and level will allow some fundamental early thinking to take place between the key partners in relation to the direction in which the Children's Trust should be developed, including the following **Key Issues**:

- Membership
- Governance
- Strategic Commissioning
- Delivery structure
- Business Unit - role and resources
- Integrated working arrangements
- Objectives, Priorities and Targets
- Performance monitoring and management

It is suggested that 3 months could be allocated to the above prior to Vesting day, with a further 3 months following it. The full Children's Trust Board should be set up by 1 July 2009, subject to the views and decisions of the Implementation Board. Other key partners (including the Third Sector, Connexions, Schools, LSC etc) can be brought into implementation discussions as necessary and appropriate.

2. Membership

The Implementation Board will need to consider what size and level of membership is appropriate for the full Trust Board. Among the factors to consider in deciding these are:

- To what extent should Commissioning and Delivery responsibilities be separated at Board level. The Trust Board will need to ensure that those who sit on it and strategically commission are able to lead effectively and with some independence; for example not unduly influenced or guided by their 'own' stake as a provider of current and/or future services.
- The current Children's Trust has a mixture of those with commissioner and provider responsibilities, it may be more appropriate in future if the level of provider or those with operational leadership is kept to an appropriate minimum. Such an arrangement would challenge the current membership in relation to County Operations Managers, Connexions Chief Executive, Head teacher representatives etc. Their role and function may be linked more to service delivery and development arrangements in the wider operating structures of the Trust.
- The Trust will sit as part of a wider commissioning and partnership structure. How the LSP arrangements (and then CDRP's Drug Action Teams etc) are developed will be a key influence for the future shape of the Trust

Appendix 4 provides a complete list of all the 'relevant partners' with to a duty to cooperate with Children's Trusts arrangements together with brief descriptions of their roles.

3. Governance

The Implementation Board will need to consider what form of governance is appropriate for the Trust. The Governance documents of the current Trust will provide an excellent starting point as these have been developed and approved in partnership with all the current Trust members including all 6 District Councils, Health, Police and Schools, but they will need to be reviewed in light of the Implementation Board's decisions in relation to membership, commissioning approach, role of the business unit, etc, as well as taking account of any new powers re **delegating functions, pooling resources** or new **statutory functions** imposed upon the Board, that arise from the ongoing DCSF review and subsequent guidance expected in Autumn 2008.

4. Strategic Commissioning approach

The Local Authority and the Implementation Board will need to consider what approach to take regarding the commissioning role of a Children's Trust. This is a key decision that will significantly guide many other decisions in relation to Trust membership, governance and operation. As outlined in the previous report to the Shadow LA on this matter, commissioning covers 2 principle arrangements:

- A commissioning approach to re-engineer or refocus current resources or services to meet agreed priorities;
- A commissioning approach to manage new or otherwise unallocated finance to invest.

Both of the above are based on the premise of this being locally sensitive and that decisions to de-commission run in parallel with commissioning.

Commissioning covers a range of activities incorporating local **needs analysis**, local **priority and target setting**, **service reviews** and **performance management**. The expectation is that Children's Trusts will undertake commissioning in collaboration with partners and resource the infrastructure to make it happen, e.g. by ensuring there are sufficiently connected staffing arrangements for each phase of the commissioning process. Such staff may continue to be employed within their host organisations but **an integrated commissioning and business unit approach for each Trust is a given for the future**. The Local Authority needs to decide (and design into its structures) how it will develop such commissioning functions within its local partnerships.

The 2008-11 Children Plan (adopted by both Shadow LAs) states the following: *"Most members of the Trust have a function as commissioners and as providers - future arrangements will need to ensure challenge in a process that delivers open and fair approaches when deciding how best to commission and reform provision."*

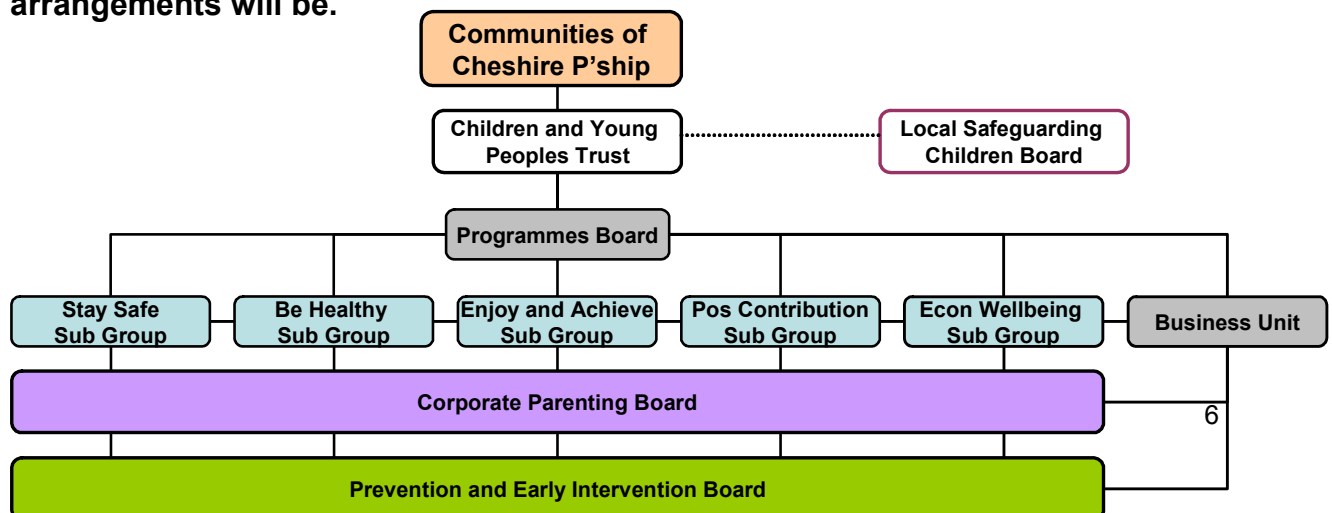
In relation to developing Joint Commissioning, the 2008-11 Plan says: *"The approach to developing this Plan is a good first step but it remains a priority over the next 6 months for an outline commissioning strategy for the Children and Young Peoples Trust to be developed that incorporates a commissioning model for the Children and Young Peoples Trust to apply to redesign and joint investment, and a competencies/skills review and action plan to ensure the model can be delivered"*

- **Joint Commissioning** arrangements might result in partners aligning their activities and resources around the priorities in the Children Plan.
- **Integrated Commissioning** arrangements might result in core partners integrating the resources (staff, money and assets) that they currently hold for services for children and young people and ultimately acting as one organisation with integrated strategies, governance and budget arrangements.

It is proposed that a key task for the Children's Trust Implementation Board will be to define and design a commissioning model.

5. Delivery Structures

The structure of the present Trust is as below. The Trust forms the strategic and commissioning body, while the Programmes Board and the Outcome Sub Groups form the delivery structure that draws together partners at an operational and management level to deliver on set Trust objectives and priorities. As part of the development of the new Trust(s) **the Implementation Board(s) will need to consider how commissioning and delivery will relate to each other in future; what the membership of the Board will be; what delivery arrangements are required; and what the skills, members and leadership of these delivery arrangements will be.**



6. Business Unit - role and resources

The Implementation Board and New trust will need business support to enable it to deliver, the current Business Unit (as shown above) works across the Trust structure to support it. However, it has always been constrained in its role by a lack of resources. **The Implementation Board will need to consider what role it wants the Business Unit to perform and the local authority and partners will need to put in the resources appropriate to enable it to fulfil that role.**

7. Integrated working arrangements²

The Government's 2008 guidance is expected to retain and build upon its existing 2005 guidance on a Children's Trust as a system for ensuring there is joint strategic commissioning board and co-located front line delivery. The issues relating to the development of a commissioning board have been summarised above, as has the supporting delivery and management structure including the business unit. The final piece in this emerging system is integrated frontline delivery of services in order to ensure that every child has access to appropriate preventative services and early intervention support.

The continuing development and implementation of the Common Assessment Framework, Multi-Agency Prevention Teams and Children's Centre are critical to this objective. **The Implementation Board will need to consider how to drive forward progress and what further integration and co-location will deliver the improvements to outcomes that the Government requires.**

8. Objectives and Priorities and Targets

The Implementation Board will need to consider what objectives, priorities and targets should be set by/for the Trust. The 2008-11 Children Plan contains some targets for the Shadow LAs, but many are mostly statements of direction of travel devised on a pan-Cheshire basis pending LGR and the creation of the new LAs. Final decisions on priorities and targets will likely be taken as part of the new Local Area Agreement and review of the Children Plan, and in discussion with GONW.

9. Performance Monitoring and Management

The Trust Board will be responsible for monitoring performance and delivery against those targets and priorities that are set. At the same time the Trust Board (as the Children's block of the LAA) will be accountable to the Local Strategic Partnership for overall Children's Trust performance against the key priorities and outcomes.

The Implementation Board will need to consider how performance will be monitored and accounted for, how frequently, and how those who monitor performance will be separated from those who are responsible for delivery and are being monitored. This latter issue takes us back to the matter of defining the commissioning role of the future Trust Board and ensuring that membership is appropriate to that role.

² Appendix 3 to this report provides some further guidance drawn from the Every Child Matters 'Onion' model in relation to integrated governance and working.

Outline Schedule of Day 1 / Year 1: Key Tasks and Milestones

October 2008	-	Shadow Authority approvals to proceed to implementation re Trusts (linked to LSP decisions)
November 2008	-	Set up facilitators identified (i.e. Business Unit development manager)
December 2008	-	Directors of Children's Services take up posts
January 2009	-	Shadow LSP set up ??
	-	Children's Trust Implementation Boards convened

TASK:	<i>Implementation Board start 6 month review of key issues</i>
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1 April 2009	-	Vesting Day
June 2009	-	Implementation Board completes review of key issues: <ul style="list-style-type: none"> • <i>Full Membership agreed</i> • <i>Governance arrangements agreed</i> • <i>Strategic Commissioning approach/model agreed</i> • <i>Delivery structure approved (with appropriate leads for all outcome groups)</i> • <i>Business Unit role and resources (incl funding source and level) agreed</i> • <i>Integrated working arrangements agreed</i> • <i>Objectives and Priorities and Targets set (incl with GONW)</i> • <i>Performance monitoring arrangements in place</i>

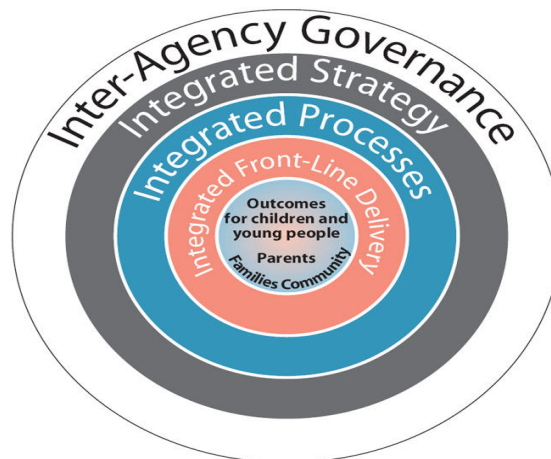
June 2009	-	Business Unit set up and staffed
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TASK:	<i>Business Units set up Trust websites for their new Trusts</i>
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July 2009	-	Children's Trust Board inaugurated
April 2010	-	Children Plan reviewed and approved

The Every Child Matters integration 'Onion' Model³**Inter-agency governance**

- Robust inter-agency governance and accountability
- Local authority Director of Children's Services establishes and leads cooperation arrangements with partners
- Partners include public, private, voluntary and community organisations

**Integrated strategy**

- Joint assessment of local needs involving children, young people and parents
- Single plan shared between all children's services agencies reflecting national and local priorities for improved outcomes
- Pooling of budgets to support joint commissioning of services
- New Joint Area Reviews to inspect local children's services
- The delivery of integrated frontline services to improve outcomes for children and young people will need support at a strategic level

Integrated processes

- New common initial assessment to reduce duplication and improve referrals
- Better information sharing between professionals
- Local processes and procedures re-engineered to support integration around the needs of children
- The delivery of integrated frontline services to improve outcomes for children and young people will need to be supported by more integrated processes which drive multi-agency working. The development of children's trusts will involve integrated processes such as the Common Assessment Framework: a national, common process for initial assessment to identify more accurately and efficiently the additional needs of children and young people at risk of poor outcomes,

Integrated frontline delivery

- More integrated, accessible and personalised services built around the needs of children and young people, not around professional or service boundaries
- Shift to prevention and improved safeguarding
- Services co-located in places like children's centres and extended schools
- Workforce reform to ensure sufficient, suitably trained staff. All staff working with children have a common core of knowledge and understanding about children's needs and increased understanding and trust between professionals
- Development of multi-disciplinary teams and lead professionals

³ <http://www.everychildmatters.gov.uk/aims/strategicoverview/>

Relevant Partners under the 2004 Act (who must cooperate in a Trust)

- District Councils (functions relating to Housing, Leisure and Recreation services)
- Police Authority and the Chief Officer of Police
- Probation Board
- Youth Offending Team
- Strategic Health Authority
- Primary Care Trust
- Connexions
- Learning and Skills Council

Local Authorities need to ensure their constituent departments work together to achieve a coherent, whole agency approach. Relevant departments include education, children's social services, regeneration, lifelong learning, the youth service and housing and leisure. The activities of these departments will need to be co-ordinated within the Children and Young People's Plan, which in turn should be consistent with the Community Strategy.

Strategic direction for the **Police Service** is established by the annual National Policing Plan (NPP). Beneath this are two local planning documents which will need to be consistent with the local vision for children and strategic actions set out in the Children and Young People's Plan: *Three Year Strategy Plans* and *Local Policing Plan*

National Offender Management Service / Probation Boards are able to work with the local authority and partner agencies to contribute strategic priorities for children and young people and deliver improved outcomes through the Children and Young People's Plan.

Youth offending teams (YOTs) are multi agency teams with pooled budgets made up of representatives from the police, probation service, social services, health, and education; and, at local discretion, other relevant services such as drugs and alcohol misuse and housing. YOTs can jointly commission and pool budgets with other partners for the benefit of children at risk of offending and those involved in the youth justice system. The annual Youth Justice Plan will need to be aligned with the Children and Young People's Plan.

Strategic Health Authorities (SHAs) and Primary Care Trusts (PCTs) have a key role in ensuring the provision of health services to meet the needs of the population. They have a central role in delivering all five outcomes and must be closely involved with the children's trust arrangements at all levels.

- SHAs manage the National Health Service (NHS) locally and are responsible for improving health services in their local areas and ensuring that the approach to managing children's services across local partner organisations is consistent and is reflected in organisational and joint plans, including the Children and Young People's Plan. SHAs should ensure that PCTs are actively working towards meeting these objectives.
- PCTs are responsible for commissioning and some provision of health services in local areas. PCTs commission primary care services using a number of different contracts. Drawing upon these contracts and other mechanisms such as training and development, PCTs will be able to ensure the engagement of primary care providers, including general practitioners.

Connexions undertake the mapping of need, data collection, strategic planning and commissioning of services for teenagers in their area. This will provide a useful and detailed basis for, assessing need, pooling budgets and joint commissioning for young people within the children's trusts arrangements. In Cheshire the Connexions Cheshire and Warrington is

a wholly owned Company Limited by Guarantee of Cheshire County Council and Warrington BC, which delivers Integrated Youth Services for those LAs on a Contract basis.

The **LSC** is a key player in planning and commissioning services for young people in the locality. It has significant funding powers and extensive networking and brokering skills, with cross-agency links at national, regional and local level. The LSC will need to work to ensure that its local strategic plans are closely aligned with the local Children and Young People's Plan.

Co-operation arrangements

Co-operation arrangements should not be limited to the local authority and 'relevant partners'. Section 10 (1)(c) of the Act states that other agencies that exercise functions or are engaged in activities in relation to children and young people should also be involved, including

- voluntary and community sector agencies;
- agencies with responsibility for delivering other front-line statutory services to children young people and their families
- learning providers, providers of health services
- childcare, culture sport and play organisations;
- families, carers and communities. The Act also specifically requires authorities to 'have regard to' the importance of parents and other persons caring for children when making arrangements under section 10.
- Schools

Related partnership bodies with links to a Children's Trust

- Local Strategic Partnership
- Crime and Disorder Reduction Partnership
- Drug and Alcohol Action Team
- Behaviour and Education Support Teams

It should also be noted that though Fire and Rescue Services are not listed in government legislation or guidance as a statutory Trust partner, the Cheshire Fire Service has been a member of the current Trust and is keen to continue as part of any future arrangements in order to further its community work with young people.

Latest Guidance from DCSF

As highlighted in the main report, the DCSF is likely to legislate make the following Relevant Partners with a duty to cooperate to improve well-being;

- Schools Forum
- 6th Forms and Colleges
- Academies

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CHESHIRE EAST**Advisory Panel – People**

Date of Meeting	8 th December, 2008
Report of:	John Weeks, Strategic Director (People)
Title:	Area Based Grant

1.0 Purpose of the Report

- 1.1 The purpose of this report is to update the Advisory Panel Members as requested at the meeting held on 27th October, 2008.

2.0 Decision Required

- 2.1 Advisory Panel Members are requested to note the implications of the Area Base Grant and any potential budgetary consequences.

3.0 Financial Implications for Transition Costs

None

4.0 Financial Implications, 2009/10 and Beyond

- 4.1 The Area Based Grant relating to the Cheshire East People portfolios for 2009-10 is expected to be just under £21 million combining over 30 formerly separate funding streams. The individual allocations making up this sum are set out in Appendix 1. It is possible this list may change before final budgets are set for 2009-10 as final confirmation has not been received that all these grants will be paid as ABGs in 2009-10 and final decisions over which budgets will form part of the People portfolio are also still pending. The appendix also gives some indication of the extent to which this funding is already committed to ongoing services which would need to be decommissioned before alternative uses could be funded.
- 4.2 Appendix 2 sets out brief details of the sort of activities which were previously funded from the grants which have now been included in the Area Based Grant. In the majority of cases these activities remain the statutory responsibility of the local authority to deliver but the level of investment in each area is now at each LSP's discretion. The Communities of Cheshire Partnership (the LSP) has a responsibility for moving the LAA forward and, through the Governance Board, making decisions re: any re-allocation of resources between partners / across theme Blocks to meet those targets. To date there have been no changes to overall allocations which remain in line with the original grant streams.

5.0 Legal Implications

None

6.0 Risk Assessment

- 6.1 The appendix shows that there could be almost £1.5m of uncommitted grant available for reallocation within Cheshire East. In reality however some of this is already committed – such as the £1m underspend on Supporting People. Expenditure against this grant has been managed down to ensure that when the grant reduces in subsequent years, there will be sufficient grant rolled forward to meet commitments. Some grants do not have committed allocations against them, such as Care Matters, however there will be Service implications in not fully spending the grants as originally allocated.

7.0 Background and Options

- 7.1 In 2005/06, Government introduced Local Area Agreement (LAA) grant, into which a number of specific grant funding streams were pooled and allocated as a single grant to upper tier authorities for the purposes of supporting the achievement of their LAA targets. LAA grant primarily acted as a means of capturing the wide range of area based funding streams, allowing for rationalisation of the administration and monitoring that surrounds those funding streams and increasing local flexibility over the use of funding. LAA grant has helped to enable local authorities, working with partners, to invest their resources in the most effective and efficient routes to delivering local priorities.
- 7.2 In 2008-09 the Government has introduced a new approach to allocating funding: -
- **General Grant (non ringfenced)** – providing funding for core services. The main item of general grant is formula grant (made up of Revenue Support Grant and national non-domestic rates) which is distributed amongst all authorities according to relative need as determined by formulae.
 - **Area Based Grant (non ringfenced)** – a general grant providing additional revenue funding to areas according to specific policy criteria. Local Strategic Partnerships are free to use the totality of their non-ringfenced funding as they see fit to support the delivery of local, regional and national priorities in their areas, including the achievement of LAA targets,
 - **Specific grants** – in some circumstances, particularly where a central Government Department wish to direct how funding is spent, it may choose not to include funding within Revenue

- Support Grant or Area Based Grant allocations. This funding frequently comes with conditions governing how it can be spent and what it should achieve but Government is increasingly moving away from this approach.

8.0 Area Based Grant

- 8.1 Area Based Grant builds on the successes of LAA grant by further increasing local flexibility over the use of resources, and further reducing onerous reporting requirements. Unlike LAA grant, which was allocated for the purposes of supporting the achievement of LAA targets, Area Based Grant will be a non-ringfenced general grant. Local authorities and their partners will still be responsible for working towards delivering against the National Indicator Set and their LAA targets through the Local Strategic Partnership (LSP): the new performance framework provides a robust assessment regime to scrutinise progress against priorities, as well as how effectively authorities use their resources. It also provides a clear ladder of intervention and support to address cases of poor performance.
- 8.2 The Government has significantly increased local authorities' flexibility over the use of their mainstream resources by moving at least £5 billion into non-ringfenced general grants over the current CSR period. Over £4 billion will be moved into the new Area Based Grant (ABG) and nearly £1 billion moved into Revenue Support Grant (RSG). This will minimise the barriers to local authorities using their mainstream resources to support Local Area Agreement (LAA) priorities where they wish to do so. From April 2008, all general grants (RSG and ABG) have been allocated on a three year basis to maximise stability and certainty. Local authorities are expected to pass on the stability of their three-year financial settlements to the Third sector.
- 8.3 Ensuring that the new Area Based Grant is a non-ringfenced general grant simply maximises local flexibility over the use of resources to deliver local priorities effectively and efficiently. As a non-ringfenced general grant, there should be no restrictions on authorities' ability to carry forward Area Based Grant.

For further information:

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Background Documents:

Documents are available for inspection at:

APPENDIX 1

Agreed Disaggregation of Specific Revenue Grants (ABG)

Grants via ABG	2009-10	
	Cheshire East	
	Allocation	Committed
Childrens Services		
Connexions	2,490,745	2,490,745
Extended Schools - Start Up	918,350	918,350
School Development Grant (LA retained element)	416,150	228,433
Children's Fund	662,652	662,652
Care Matters	184,638	0
Secondary National Strategy: Central Co-ordination	150,189	144,761
School Improvement Partners	154,349	22,604
Primary National Strategy: Central Co-ordination	171,362	158,491
Secondary Behaviour and Attendance: Central Co-ordination	62,900	61,400
School Intervention	108,490	28,070
Teenage Pregnancy	91,500	91,500
Flexible 14 to 19 Partnerships Funding	100,280	62,000
Children's Social Care Workforce	69,263	69,263
Education Health Partnerships	69,260	69,260
Extended Rights for Free Travel	163,583	163,583
Positive Activities for Young People	307,925	307,925
School Travel Advisers	48,155	48,155
Child Death Review Processes	28,186	28,186
General Duty on Sustainable Travel To School	27,259	27,259
Choice Advisers	20,913	20,913
Child Trust Fund Top Up	3,841	3,841
ContactPoint (ABG wef 2010-11)	-	-
CAMHS (Children & adolescents Mental Health Service)	372,315	372,315
Cheshire DAAT (Drug & Alcohol action Team)*		
Young People's Substance Misuse Grant	45,131	45,131
Community Services		
Adult Social Care workforce	812,909	829,000
Carers	1,340,863	1,357,000
Learning Disability Development Fund	225,078	235,000
Local Involvement Networks	126,360	129,000
Mental Capacity Act & IMCAS	174,243	179,000
Mental Health	760,000	870,000
Preserved Rights	1,134,000	1,134,000
Supporting People Admin.	235,515	275,497
Supporting People (core grant)*	9,128,934	8,125,000
Stronger Safer Communities Fund***	349,278	
TOTAL	20,954,616	19,158,335

Notes*** Cheshire DAAT (Drug & Alcohol action Team)**

The grant shown under Cheshire DAAT in the table above is to be passported to Cheshire DAAT.

*****Stronger Safer Communities Fund**

There is a total of £40,674 within this grant which relates to substance misuse and this is to be passported to Cheshire Drug & Alcohol Action Team

APPENDIX 2

A summary of Grants received via the Area Based Grant

Childrens Services:	
Connexions	To support the delivery of support services for young people aged 13-19 (up to age 25 for people with learning difficulties/disabilities)
Extended Schools – Start up	To assist schools in opening up facilities, out of hours, to pupils parents and the wider community
School Development Grant	To support improvements in teaching and learning in schools, leading to higher standards of attainment for every learner
Childrens Fund	To tackle disadvantage among children and young people. The programme aims to identify at an early stage children and young people at risk of social exclusion, and make sure they receive the help and support they need to achieve their potential
Care Matters	Seeking to achieve better outcomes for children in care and narrow the attainment gap with their peers., in accordance with ‘The Care Matters: Time for Change’ White Paper
Secondary National Strategy: Central Co-ordination	To support Local Authorities central coordination in delivering the next phase of the Secondary National Strategy, which aims to raise standards in the early years of secondary education by strengthening teaching and learning across the curriculum
School Improvement Partners	The management of the statutory School Improvement Partner functions, which will provide expert support to schools in their drive to raise standards and improve the education of all pupils
Primary National Strategy – Central Co-ordination	To support Local Authorities central coordination in delivering the next phase of the Primary National Strategy, which supports teachers and schools to raise standards across the whole curriculum
Secondary Behaviour and Attendance: Central Co-ordination	Integrating Behaviour & Attendance into the Secondary National Strategy
School Intervention	To enable prompt action to be taken to prevent school failure
Teenage Pregnancy	Meeting targets for reduced under 18 conception rates and improving outcomes for teenage parents and their children
Flexible 14-19 Partnerships Funding	To deliver the 14-19 reform programme, which aims to secure a curriculum which has sufficient flexibility, breadth and stretch to engage all young people, to offer them success, and to ensure that the wider community of parents, employers, trainers and higher education can have confidence in what they have

APPENDIX 2

A summary of Grants received via the Area Based Grant

	achieved
Children's Social Care Workforce	Replacing previous National Training Strategy and Human Resources Development grants. This is designed to support workforce development in the children's social care workforce in the statutory, private and voluntary sectors
Education Health Partnerships	Maintenance and development of local Healthy Schools programmes
Extended rights for free travel	The right to free school transport be extended to some pupils meeting certain criteria
Positive Activities for Young People	Diversionary and development activities to young people aged 8-19 at risk of community crime and social exclusion
School Travel Advisors	To help schools prepare and implement travel plans
Child Death Review Process	To Review all Child Deaths as this became mandatory after April 2008
General Duty on Sustainable Travel to School	To promote the use of sustainable travel and transport
Choice Advisors	To fulfil the duty to provide advice to all parents on choosing schools for their children
Child Trust Fund Top Up	The 'Care Matters: Time for Change' White Paper set out the Government's commitment to provide an extra £100 per year for the Child Trust Fund accounts of looked after children for every whole year they spend in care after 1 April 2007
ContactPoint (ABG wef 2010-11)	To provide funding to support local authorities to carry out key activities during ContactPoint database implementation, based on the current implementation plan.
CAMHS (Childrens and Adolescents Mental Health Services)	Mental health services to children and adolescents
Cheshire DAAT (Drug and Alcohol action Team):	
Young Persons Substance Misuse Grant	To enable local delivery of substance misuse, universal and targeted interventions with vulnerable young people
Community Services:	
Adult Social Care Workforce	Replacing previous National Training Strategy and Human Resources Development grants. This and is

APPENDIX 2

A summary of Grants received via the Area Based Grant

	designed to support workforce development in the Adults social care workforce in the statutory, private and voluntary sectors
Carers	Funding provided for Carers of both children and adults to provide services, including enhancing community services and for Carers to take breaks
Learning Disability Development Fund	To support local authorities in delivering the key outcomes for people with learning disabilities
Local Involvement Networks	Local authorities have a duty to make contractual arrangements for the involvement of people in the commissioning, provision and scrutiny of health services and social care services. The allocation provides for the procurement from a host for a LINK for each area
Mental Capacity Act and IMCAS	To train staff to understand the implications for the Mental Capacity Act. To fund the Independent Mental Advocate service. To fund increased social care costs. Resources to plan for the implementation of the Deprivation of Liberty Safeguards
Mental Health	Designed to assist local authorities in developments to support implementation of Mental Health National Service Framework and other Mental Health service developments
Preserved Rights	Replaces a benefit previously available to clients, which the Local Authority now pays directly to the care home on behalf of these clients
Supporting People Administration Grant	To administer the supporting people welfare grant
Supporting People (Core Grant)	To provide housing related support services, to enable vulnerable people to live independently and enjoy a quality of life
Stronger Safer Communities Fund	aimed at tackling crime, reducing the harm caused by illegal drugs, addressing anti-social behaviour, improving the poor condition of streets and other public spaces; in particular for deprived neighbourhoods where these issues are often more prevalent

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CHESHIRE EAST COUNCIL

ADVISORY PANEL – PEOPLE

Date of meeting: 8 December 2008
Report of: John Weeks, Strategic Director Designate (People)
Title: Commissioning Strategy – Advocacy

This paper, which is in the format of a Cabinet report, is presented to the Advisory Panel (People) to enable Panel Members to be aware of a forthcoming Cabinet issue and to contribute views to inform the decision making of the Cabinet.

1.0 Purpose of Report

- 1.1 Independent advocacy has for many years been a key element along the spectrum of social care. Often provided close to the communities they serve, independent advocacy is set to grow in importance with the development of social care redesign and new legislation such as the Mental Capacity Act 2005 and the Mental Health Act 2007.
- 1.2 The purpose of this report is to briefly highlight the range of provision in East Cheshire and to propose, in high level terms, the commissioning approach for the future, in partnership with the Primary Care Trust (PCT).

2.0 Decision Required

- 2.1 To approve the general approach to independent advocacy into the first year of the Council and beyond.

3.0 Financial Implications for Transition Costs

- 3.1 There are no transitional costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 Funding for independent advocacy comes primarily from the PCT and the Council for Mental Health and Older People's services. Funding also comes from the Mental Capacity Act grant. Funding for learning disability advocacy comes from the pooled budget and is therefore shared with the PCT. Self advocacy is funded from the Learning Disability Development Fund. More work is required on the disaggregation of this funding, which across Cheshire is £534,579.

5.0 Legal Implications

- 5.1 Up until recently, there has existed no statutory requirement to provide advocacy. It has, however, been regarded as an essential element of service provision, helping vulnerable people have their voices heard. The Mental Capacity Act 2005 has for the first time, given people who lack capacity and who are in certain circumstances the statutory right to advocacy, known as Independent Mental Capacity Advocacy (IMCA). The Mental Health Act 2007 amends the Mental Health Act 1983 to introduce similar statutory rights to advocacy to people who meet certain qualifying conditions, i.e. are liable to be detained under one of the Act's longer term sections for assessment or treatment or who are subject to Guardianship or a Community Treatment Order. This statutory duty will come into power in 2009. We are still awaiting guidance from the Department of Health as to how this service is to be commissioned and financed. Also, in 2009, the Deprivation of Liberty Safeguards will come into force. People subject to these safeguards may also be entitled to IMCA.

6.0 Risk Assessment

- 6.1 Advocacy provision is an essential element of the spectrum of social care. It is provided by a range of local organisations which have grown up from within local communities and their strengths are very much based on a strong identity with a locality and or specific user groups. They are significant generators of local social capital, supporting a wide range of activities around befriending, volunteering and welfare rights. As small organisations they are vulnerable to problems of cash flow and require a degree of stability from which they can confidently deliver their services. Failure of business continuity would impact on vulnerable service users and their carers and adversely effect external judgment of the Council's performance from Commission for Social Care Inspection. The Council would also fail in it duty to commission the IMCA service which is a statutory responsibility.

7.0 Background and Options

- 7.1 East Cheshire, along with West Cheshire, is unique in England for its commissioning approach to IMCA. All other local authorities have commissioned this service separately from their main advocacy providers, often geographically remote from their area. The advantage of the East Cheshire approach is to provide a holistic service, offering continuity of care with no hand-offs. This is not the case in other areas, where people may receive an IMCA advocate and another advocate for matters not directly linked to the Mental Capacity Act.
- 7.2 It is recommended that this approach continues.

- 7.3 Similarly with the Mental Health Act, once we know the guidance around its implementation and crucially, the amount of grant funding, it is recommended to adopt the same approach. The mental health advocacy organisations are already providing this type of advocacy and this will enable them to build further on their level of service and expertise.
- 7.4 The commissioning of advocacy will need to continue to be developed jointly with the PCT. Some of the organisations are pan-Cheshire. The providers in east and west have also formed a federation, "Cheshire Independent Statutory Advocacy", which provides a forum for the exchange of good practice and mutual support, e.g. will take referrals from each other if work flow is uneven between the partners. Currently, Macclesfield Citizens Advice Bureau receives an extra £5,000 from the MCA grant to provide administrative support to CIAS. Commissioners receive comprehensive statistical reports, including commentary and case studies, from CIAS which adds great value to our understanding of their work and provides good evidence to CSCI on outcomes.
- 7.5 It recommended that the work of CIAS continues, at least for the first year, and is commissioned in co-operation with West Cheshire, on a 51:49 basis.
- 7.6 For those organisations that are pan Cheshire, it is recommended that they continue to be commissioned in co-operation with West Cheshire, again on a 51:49 basis.
- 7.7 Once the PCT boundaries are aligned, this current pattern of funding can be reviewed in line with the Council's commissioning strategy for advocacy.
- 8.0 Overview of Day One, Year One and Term One Issues**
- 8.1 Day One, to achieve business continuity for the advocacy providers via joint funding between the PCT and the Council at the current level in accordance with their contract with Cheshire County Council.
- 8.2 In Year One, monitor and review the workload of all the providers. In respect of those providers which provide for both East and West Cheshire, review the level of funding in proportion to the work generated in co-operation with West Cheshire.
- 8.3 By the end of Term One reviewed the entire provision of advocacy to ensure that the service is efficient and effective. Depending on the results of this review, there may be a need to re-tender all or part of the advocacy service.

9.0 Reasons for Recommendation

- 9.1 To ensure stability and business continuity in to the first year of East Council and to provide a secure base for the future growth and development of advocacy.

Advocacy Provider and Funding	Service Group	Area Covered
Age Concern £125,701	Older People with Mental Health	Across Cheshire
Cheshire Centre for Independent Living (CCIL) £30,281	Physical Disability	Across Cheshire
Crewe CAB £40,483	Mental Health	Crewe and Nantwich Borough
Macclesfield and Wilmslow CAB £60,047 (plus £5,000 for CISA)	Mental Health	Macclesfield Borough and Congleton Town
East Cheshire Advocacy £41,587	Learning Disability	Macclesfield Borough and Congleton Town
Independent Advocacy £39,587	Learning Disability	Vale Royal and Crewe and Nantwich and Congleton Boroughs, excluding Congleton Town
Self Advocacy (MENCAP) £33,087	Learning Disability	Two schemes covering West and East Cheshire

For further information:

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Background Documents:

Documents are available for inspection at:

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CHESHIRE EAST COUNCIL

ADVISORY PANEL – PEOPLE

Date of meeting: 8 December 2008
Report of: John Weeks, Strategic Director Designate (People)
Title: Deprivation of Liberty Safeguards

This paper, which is in the format of a Cabinet report, is presented to the Advisory Panel (People) to enable Panel Members to be aware of a forthcoming Cabinet issue and to contribute views to inform the decision making of the Cabinet.

1.0 Purpose of Report

- 1.1 To introduce to Members a new statutory responsibility, the Deprivation of Liberty Safeguards, which will come into force in April 2009 and to consider the appropriate administrative and procedural machinery that will be required to ensure their successful implementation.
- 1.2 This is a new statutory power which will affect all electoral wards and will be a significant element in the wider safeguarding role and function of the Council. It is therefore a key decision.

2.0 Decision Required

- 2.1 To consider the appropriate mechanisms for the receipt and scrutiny of assessments for Deprivation of Liberty in partnership with the Primary Care Trust.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 The financial implications of these new safeguards are uncertain (see below section 6). The Mental Capacity Grant is an Area Based Grant and for 2007/08 is £282,000, for 2009/10 it will be £357,000, and for 2010/11 £344,000. These amounts refer to the grant allocation to Cheshire County Council. This grant is also used to support the wider implementation of the Mental Capacity Act, including the Independent Mental Capacity Advocacy Service.

5.0 Legal Implications

- 5.1 The Mental Capacity Act 2005 has now been amended by the Mental Health Act 2007 to introduce for the first time in law, the Deprivation of Liberty Safeguards. These safeguards will have significant implications for all health and social care staff working in hospitals, residential/ nursing homes and in assessment and care management teams.
- 5.2 The Deprivation of Liberty Safeguards mean that a hospital or care home (managing authority) must seek authorisation from a Primary Care Trust or the Local Authority (the supervisory bodies) in order to deprive someone of their liberty who has a mental disorder, and who lacks capacity to consent. These safeguards are intended to bring UK law into compliance with the European Convention of Human Rights (ECHR) and came about as a result of the Bournemouth case.
- 5.3 The Bournemouth case involved a man with profound autism and learning disability, who lacked capacity to, or to refuse, admission to hospital for treatment. The European Court of Human Rights found that the manner in which he was deprived of his liberty was not in accordance with a procedure prescribed by law and was therefore in breach of Article 5(1) of the ECHR.
- 5.4 Furthermore there was no procedure available to him to review the legality of his detention which failed to satisfy Article 5(4).

6.0 Risk Assessment

- 6.1 Failure to implement the Deprivation of Liberty Safeguards could result in a vulnerable person who lacks capacity being deprived of their liberty outside of these procedures. This could amount to a breach of the Local Authority's statutory duty to ensure that these safeguards are properly implemented.
- 6.2 There is great uncertainty about how many assessments will result as a consequence of these new safeguards. We need to ensure that we have sufficient doctors and Best Interest Assessors available to carry out these assessments. If we have too many assessors because we have over-estimated the work, the Council may find itself paying a premium for staff which is not required. On the other hand, if there is an underestimation of the level of demand for this work, the Council could find itself overwhelmed with requests for assessments.

7.0 Background and Options

- 7.1 Not everyone who lacks capacity and who is in a hospital or a nursing home will be deprived of their liberty. When considering whether or not an application is necessary, managing authorities will need to consider the entire care package for the person concerned and what, if any, restrictions are necessary to support that person. For example, being located in a day room with a key pad system to gain access to and

from a unit for adults with dementia would not in itself amount to a deprivation of liberty. Factors to be taken into account include:

Is the person allowed to leave?

What degree of choice do they have over their life within the care home?

Is the person prevented from maintaining contact with the outside world?

7.2 The assessment of deprivation of liberty includes six elements:

- 1) Age Assessment – must be over 18
- 2) Mental Health Assessment to determine the presence of a mental disorder
- 3) Mental Capacity Assessment
- 4) Best Interest Assessment
- 5) Eligibility Assessment – to make sure that they should not be subject to the Mental Health Act instead.
- 6) No refusals Assessment – to make sure that the proposed care plan does not conflict with an Advanced Decision, an existing Lasting Power of Attorney or Court appointed Deputy.

7.3 A person can only be deprived lawfully of their liberty if the managing body has been issued with a standard authorisation from the supervisory body, following the completion of the above assessments. These assessments will need to be completed within 21 days of the confirmation of the request from the managing body by the supervisory body. If the person is already in a care home and is subject to a deprivation of liberty, the managing body must issue an urgent authorisation and the assessments must be completed within seven days (a seven day extension is available in certain circumstances)

7.4 The Mental Health assessment will need to be carried out by an appropriately qualified and experienced doctor. The Best Interest Assessment will be carried out most probably by a new Approved Mental Health Professional or a social worker, nurse or occupational therapist who has been trained to undertake these assessments

7.5 The Deprivation of Liberty Safeguards will impact on hospital and nursing/residential care homes looking after older people with dementia and adults with a learning disability. It will also have an impact on staff working with adults with an acquired brain injury and those with a severe mental illness.

7.6 Managers of hospitals and care homes will need to set up systems for identifying where someone's liberty may be at risk, making applications to the supervisory body and the issuing of urgent authorisations.

- 7.7 The Council and the Primary Care Trust will need to set up systems for the receipt and scrutiny of requests from managing bodies, commissioning and receiving assessments of deprivation of liberty and their active monitoring and reviewing.
- 7.8 Staff are already undergoing training around the Mental Capacity Act.
- 7.9 The Department of Health estimate that 20% of all assessments will be the responsibility of the Primary Care Trust and 80% the Local Authority. Guidance recommends the use of joint procedures wherever possible, but at the point of authorisation each organisation must take responsibility for its own decision.
- 7.10 The Appendix outlines the administrative and procedural mechanisms that will be required to implement the Deprivation of Liberty Safeguards.

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

- 8.1 On day one there will need to be sufficient Best Interest Assessors and doctors who can respond to any requests. The Department of Health is anticipating an “administrative bubble” in April and under transitional arrangements has doubled the period of time allowed for authorisations to be considered; 42 days for standard authorisations and 14 days for urgent authorisations.
- 8.2 There will be a minimum of six Best Interest Assessors working across the Council. The Primary Care Trusts are currently exploring with some GP practices the inclusion of this service as part of a Locally Enhanced Service.
- 8.3 Referrals will be received via determined access points and allocated accordingly.
- 8.4 Assessments will be considered by the relevant senior officer on behalf of the Director and issued accordingly. This is consistent with the current process for the receipt and scrutiny of applications for Guardianship under the Mental Health Act.
- 8.5 After 12 months of operation, a formal review of these procedures will be undertaken to ensure that they are fit for purpose and to adopt lessons learnt from the first year of operation.

9.0 Reasons for Recommendation

- 9.1 To implement the new statutory framework of safeguards for people at risk of being deprived of their liberty, to establish the Council as a functioning supervisory body and to ensure that these procedures are delivered efficiently and effectively jointly with the Primary Care Trust.

For further information:

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ACTIONS REQUIRED FOR DEPRIVATION OF LIBERTY SAFEGUARDS

Stage	Proposed processes	Requirements	Risks	Actions
1. Referral	All Deprivation Of Liberty Safeguards referrals will be handled and allocated by a nominated team in each authority	<ul style="list-style-type: none"> All identified staff to be trained in Deprivation Of Liberty Safeguards in order to screen referrals correctly 	1. Workload may be onerous 2. Lack of availability of Best Interest Assessors	1. Training plan to be developed 2. Manager to be made aware of predicted impact of Deprivation Of Liberty Safeguards 3. Referral form to be devised
2. Allocation	All Deprivation Of Liberty Safeguards referrals allocated to relevant Best Interest Assessor, as per rota	<ul style="list-style-type: none"> Adequate number of Best Interest Assessors for rota Contact details for all Best Interest Assessors available and up to date Allocation to occur same day 	1. Low numbers of Best Interest Assessors 2. Delayed allocation	1. Best Interest Assessors recruitment process to be implemented 2. Allocation process to be defined (electronic preferably), including recording of allocation 3. Rota to be defined and implemented
3. Assessment	Best Interest Assessors appointed and will then co-ordinate all six assessments.			
3.1 Age assessment	Captured on referral form	<ul style="list-style-type: none"> All referral forms to be completed correctly 	1. Time spent by Best Interest Assessor chasing incomplete information	1. Training of forms and processes to all managing authorities. (likely via cascade)
3.2 Mental Capacity assessment	Two-stage test carried out in-line with principles of Mental Capacity Act. Could be carried out by Best Interest Assessor or S12 doctor?	<ul style="list-style-type: none"> Forms for recording Best Interest Assessor/S12 Doctor fully trained and competent 		1. Training plan for Best Interest Assessors 2. Recruitment of Best Interest Assessors 3. Contracting of S12 doctors for assessments

Stage	Proposed processes	Requirements	Risks	Actions
3.3 No refusals assessment	Carried out by Best Interest Assessor to ensure that any authorisation does not conflict with other existing authority for decision making for that person, e.g. advanced decisions, Local Provision Agreements.	<ul style="list-style-type: none"> Supporting documentation in Deprivation Of Liberty Safeguards forms to instruct Best Interest Assessors in what they are looking for and suggestions of how to locate it 		
3.4 Eligibility Assessment	Carried out by Best Interest Assessor to establish whether person is covered by Mental Health Act or Mental Capacity Act.	<ul style="list-style-type: none"> Supporting documentation in Deprivation Of Liberty Safeguard forms Best Interest Assessor to be sufficiently knowledgeable of Mental Health Act Should person fall under Mental Health Act, hand-off process may be required (e.g. if Best Interest Assessor is not an Approved Mental Health Provider) 	1. Incorrect legislation used 2. Challenge from 3 rd parties, e.g. family	1. Process to hand of to Approved Mental Health Person if Mental Health Act is appropriate
3.5 Mental Health Assessment	Best Interest Assessor refers to S12 doctor to complete.	<ul style="list-style-type: none"> Contracting structure for S12 doctors to carry out assessment Referral process to S12 Doctors Forms for recording. Training plan for S12s (part of contract?) 	1. No S12 doctors ready and willing and time of assessment	1. Devise appropriate contract to ensure adequate responsiveness of S12 doctors.

Stage	Proposed processes	Requirements	Risks	Actions
3.6 Best Interest assessment	Best Interest Assessor's to carry this out to determine whether Deprivation Of Liberty is appropriate and for what length of time.	<ul style="list-style-type: none"> Deprivation Of Liberty Best interest assessment form Electronic record of decision plus review date Best Interest Assessors to complete 	1. Lack of clarity around who can assess whom in Cheshire. E.g. Approved Mental Health Persons working for Cheshire Wirral National Health Service Partnership Foundation Trust effectively commissioned to cover whole of county, therefore could be construed as having conflict of interest under Court of Protection guidelines	1. Procedures reflect Court of Protection. 2. Clarity of Cheshire and Wirral National Health Service Partnership Foundation Trust position to be sought.
4. Authorisation	<p>Person(s) required within each supervisory body to sign-off Best Interest Assessor recommendations</p> <p>Appointing of Relevant Persons Representative (RPR) by above person. (from Best Interest Assessor recommendation)</p>	<ul style="list-style-type: none"> Senior staff identified in each authority Authorisation process, including Service Level Agreement for response Key staff and Independent Mental Capacity Act Service to be briefed around role of Relevant Persons Representative and made aware that they may have to act as one on the future 	<p>1. Lack of individuals to sign off in a timely manner</p> <p>2. Definition Of Liberty not authorised within 21 days</p>	<p>1. Three people from each org identified as sign-offs</p> <p>2. Auth process mapped and briefed</p>
5. Review	Supervisory body responsible for ensuring the timely review of any Deprivation Of Liberty	<ul style="list-style-type: none"> Recording of Definition Of Liberty with review date Named person responsible for following up. Best Interest Assessor made aware that they will be responsible for review also 	1. Review date missed and therefore person unlawfully deprived	<p>1. Gatekeeper appointed for database to monitor and prompt reviews (county wide?)</p> <p>2. Review procedure written and adopted county-wide</p>

Stage	Proposed processes	Requirements	Risks	Actions
6. IMCA	Independent Mental Capacity Act to be instructed as per Mental Capacity Act criteria	<ul style="list-style-type: none"> Referral process already in situ 	1. Independent Mental Capacity Act not fully aware of role within Definition Of Liberty Safeguard cases	1. Training for local Independent Mental Capacity Act service required. (is it part of current contracts that they train themselves?)

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CHESHIRE EAST COUNCIL

ADVISORY PANEL - PEOPLE

Date of meeting: 8 December 2008
Report of: John Weeks, Strategic Directory Designate (People)
Title: **LEASING CONTRACTS FOR SCHOOLS**

This paper, which is in the format of a Cabinet report, is presented to the Advisory Panel (People) to enable Panel Members to be aware of a forthcoming Cabinet issue and to contribute views to inform the decision making of the Cabinet.

1.0 Purpose of Report

- 1.1 The purpose of this report is to gain Executive approval to a change in the process for schools taking out leasing agreements. The benefits of the proposed arrangements are:
- Schools can benefit from Office of Government Commerce contracts.
 - Schools can benefit from “finance lease” arrangements.
 - The Local Authority can look to improve Local Authority/School purchasing power from the increase in business generated from the schools.
 - The School would not be left with a disposal issue.

2.0 Decision Required

- 2.1 The proposed new procedures to enable schools to benefit from Office of Government Commerce (OGC) contracts be approved.

3.0 Financial Implications for Transition Costs

- 3.1 There are no transitional costs arising from the proposal.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The proposal is self financing.

5.0 Legal Implications 2009/10 and beyond

- 5.1 The aim of the proposal is to allow schools a wider range of procurement options within the legal framework.

6.0 Risk Assessment 2009/10 and beyond

- 6.1 There are no identified major risks with these proposed procedures.

7.0 Background and Options

- 7.1 Currently, schools are unable to take out finance leases for photocopiers and other equipment as a consequence of requirements contained in the Schools Standards and Framework Act 1998 that prevents schools from borrowing monies without the prior approval of the Secretary of State for Children, Schools and Families. Schools were reminded of this requirement on 7 December 2005. Local Authorities are not restricted on their ability to take out finance leases at the moment.
- 7.2 This in effect means that schools can currently only benefit from the Office of Government Commerce contracts for photocopiers, computers etc by taking out a loan from the Authority to purchase equipment that then leaves the school with the issue of disposal at the end of the loan period, should they wish to update/replace their equipment. Local Authorities can, however, benefit from the OGC contracts that include for the disposal of equipment.
- 7.3 The OGC offers a number of contracts for the procurement of equipment and a variety of finance options. The Contracts have been market-tested and the terms and conditions surrounding procurement, lease or rental are fully transparent.
- 7.4 It is considered that this procurement route represents value for money and is risk free for schools and the Local Authority.
- 7.5 The whole issue of corporate procurement of printers, photocopiers and computers etc will need to be examined by the new authorities.

PROPOSED PROCEDURES

- 7.6 Following discussions with officers from Children's Services, Procurement and County Finance Services it is proposed to introduce the following process/procedure to enable schools to benefit from OGC contracts without the need to dispose of the equipment at the end of the contract period:
- a. the School to negotiate with OGC contractor for the provision of equipment and obtain a lease proposal for the required equipment and contract period;
 - b. the School to submit a lease proposal to the Local Authority for approval who then arranges for the IBS order to be sent to the contractor. Order will be from the Local Authority with school as the receiving body;

- c. the School to sign an agreement with the Local Authority accepting full responsibility for the equipment and ensuring sufficient insurance cover in place in respect of fire/damage/theft etc.;
- d. the County Council sets up payment arrangements with the contractor for the **lease charges only** and at the same time a journal transaction with the school to reimburse Cheshire for the lease charges only. This would effectively be a standing order arrangement;
- e. lease charges would cover the lease of equipment/any in-built maintenance costs/free copies, etc.;
- f. the Local Authority would arrange with the school/contractor for any additional charges for copies/toners etc not included within the lease to be sent directly to the school for payment;
- g. the School would be able to track **all** charges for the equipment on the IBS systems;
- h. the Local Authority to charge school “administrative fee” of £100 for a three year lease and £150 for a five year lease. The full fee to be paid in full in the first year of the contract;
- i. at the end of the lease OGC contractor removes equipment from school free of charge in accordance with the terms of the contract;
- j. in the event that a school may close during the term of the lease, the Local Authority to deduct any outstanding charges requested by the company from the school budget.
- k. the Local Authority will resolve all accountancy requirements.

FINANCIAL REQUIREMENTS

- 7.7 The equipment acquired by the County Council under finance leases will need to be shown as both a fixed asset and as associated creditor liability in the balance sheet.
- 7.8 The annual payments made to the leasing company under the terms of the lease will be used to write down the lease creditor to nil over the lease term. In addition, the school making use of the equipment will receive a charge equal to the amount paid by the County Council to the leasing company. The income generated by this recharge will exactly offset the additional minimum revenue provision (MRP) and interest payable charges that the County Council will incur as a result of entering into the finance lease.

- 7.9 The introduction of this new procedure now will enable schools to benefit immediately.
- 7.10 There is potential for significant savings both from schools and by the new Councils from improved procurement and significantly greater buying power. The cost of the individual leases is relatively small but if the scheme is popular the total of the individual leases could be sizable. In view of this, the views of the two Shadow Authorities should be sought.
- 7.11 Cheshire County Council **Executive** and the Executive Headteacher Groups (CAPH/CASH/CASSH) have agreed in principle to these proposals.

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

- 8.1 No issues are anticipated.

9.0 Reasons for Recommendation

- 9.1 To improve value for money for schools in terms of procurement efficiency and contract costs, to give schools the option of buying from a corporate contract, to increase the Councils spending power and potentially reduce prices to the whole of the Council.

For further information:

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Background Documents:

Documents are available for inspection at:

Briefing Note - LEASING CONTRACTS FOR SCHOOLS

We have had a problem with schools procurement since the Schools Standards and Framework Act 1998, the implications of this Act meant that schools can't take out finance leases. Many leases are set up as finance leases and some suppliers have been adjusting finance leases to make them look as though they are operating leases. There have also been problems with expensive de-commissioning of equipment.

This has come to be more of an issue with schools not being able to take advantage of the Office of Government Commerce (OGC) contracts for photocopiers, which the rest of the County use and computers. Added to this is the roll out of I Procurement as part of Transforming Cheshire and the vision of procurement from large County contracts. The OGC contracts are a cost effective procurement solution but have the reputation of not being the cheapest method of procurement (in other words some Authorities have negotiated better deals) so we hope that the new authorities can move to their own corporate contracts sooner rather than later.

The proposal to move to OGC has three main advantages; it reduces the amount of illegal procurement in schools by reducing the number of finance leases schools enter into directly, it helps remove schools from the sharp salesmen who trap schools into disadvantages contracts thus improving value for money and it increases the County buying power. The change would also save the school time, reduce the number of suppliers and help pull schools into all of the shared services products. The OGC contracts can also include removal of the equipment making it full life costs clearer.

In existing structural terms the School will consult Procurement about options, the Service Department will raise the requisition which will be converted in the usual way. The admin fee would be payable to CFO for doing the book-keeping for supporting the process over the contract period years.

Principle has been agreed by Mark Wynn, Su Moan, Gerry Budd and Steve Ashton.

Cheshire County Council **Executive** and the Executive Headteacher Groups (CAPH/CASH and CASSH) have also agreed to these proposals.

Agreement from Cheshire West and Chester Council and Cheshire East Council is now required to ensure continuity beyond 31 March 2009.

Terry Harrop
November 2008

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