

Cabinet

Agenda

Date: Tuesday, 24th March, 2009
Time: 2.00 pm
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe
CW1 2BJ

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 - 6)

To approve the minutes of the meeting held on 3 March 2009.

Please contact Cherry Foreman on 01270 529736
E-Mail: cherry.foreman@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. **Key Decision CE57 School Admissions** (Pages 7 - 20)

To approve the proposed coordinated admission schemes and admission arrangements for the school year commencing September 2010.

6. **Key Decision CE66 Capital Strategy 2009/10** (Pages 21 - 24)

To approve the proposal for the development of the Capital Strategy for 2009/10.

7. **Key Decision CE67 Asset Management Plan 2009/14** (Pages 25 - 48)

To consider the progress made on the development of the Asset Management Plan.

8. **Key Decision CE53 Cheshire Homechoice Common Allocations Policy** (Pages 49 - 52)

To consider and adopt the Cheshire Homechoice Common Allocations Policy.

9. **Sub Regional Housing Strategy** (Pages 53 - 56)

To consider and adopt the Sub Regional Housing Strategy prior to its launch by the Cheshire Housing Alliance in April 2009.

10. **Critical Day 1 HR Policies** (Pages 57 - 150)

To consider the HR policies that need to be in place for non teaching employees of the Council for Day 1, and policies for employees appointed on new Cheshire East terms and conditions of employment.

11. **Pension Discretions** (Pages 151 - 156)

To agree the adoption of the Pension Discretions for the Local Government Pension Scheme, to apply to all non teaching employees of Cheshire East.

12. **Flexible and Mobile and Working Policy** (Pages 157 - 164)

To consider a Flexible and Mobile Working Policy to support service delivery and provide benefits for employees in Cheshire East.

13. **Health and Safety Policy** (Pages 165 - 180)

To consider a Health and Safety Policy for Cheshire East and to agree to accountability arrangements.

14. **Sure Start Early Years and Childcare Funding and Contractual Arrangements 2009/10** (Pages 181 - 196)

To consider a request to extend a number of grant funding schemes currently operated by Cheshire County Council, and to delegate authority to the Head of the Children and Families Service to ensure they are allocated in accordance with Appendix 1.

15. **Harmonised Policy and Procedure for Activities under the Regulation of Investigatory Powers Act 2000** (Pages 197 - 226)

To consider and adopt the Cheshire East Policy and Procedure for Surveillance, and the Procedure for the Acquisition and Disclosure of Communications Data, under the Regulation of Investigatory Powers Act 2000.

16. **Harmonised Enforcement Policy for Cheshire East Council** (Pages 227 - 238)

To consider the adoption of the Enforcement Policy from 1 April 2009 for all Council services which have a responsibility for enforcement, with the exception of planning.

17. **Local Environmental Quality Strategy** (Pages 239 - 262)

To consider the adoption of the Environmental Quality Strategy to provide guidance on tackling local environmental quality issues such as litter, dog fouling, graffiti, fly posting and fly tipping.

18. **Corporate Procurement Strategy** (Pages 263 - 290)

To endorse the Corporate Procurement Strategy for publication and implementation.

19. **Borough Status - Council Name** (Pages 291 - 294)

To consider the practical implications that flow from the grant of borough status and to agree a consistent approach to the use of the word 'borough'.

20. **Cabinet Decision-making Arrangements** (Pages 295 - 298)

To consider proposed arrangements for individual Portfolio decision making, with effect from 1 April 2009.

21. **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 Committee 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 Paragraph 3 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

22. **Key Decision CE68 Waste Treatment PFI Contract** (Pages 299 - 316)

To note the report and authorise the certifying officer to settle the final terms of the Inter Authority Agreement, and secure its completion and signature by the deadline of 31 March 2009.

Foot note - Possible Additional Item on Shared Services

It is anticipated that an urgent report will be brought forward on Shared Services, as indicated by the Borough Treasurer and Head of Assets at the meeting of the Cabinet on 3 March 2009. The consideration of any such item will be approved by the Chairman as an item of urgent business in accordance with Section 100(4)(b) of the Local Government Act 1972.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 3rd March, 2009 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor W Fitzgerald (Chairman)
Councillor R Domleo (Vice-Chairman)

Councillors D Brickhill, D Brown, P Findlow, F Keegan, A Knowles, J Macrae,
P Mason and B Silvester

In attendance: Councillors A Arnold, A Richardson and A Thwaite

171 APOLOGIES FOR ABSENCE

There were no apologies for absence.

172 DECLARATIONS OF INTEREST

Members gave a general declaration of personal interest in respect of items on the agenda where an individual member was a Member of Cheshire County Council and/or one of the Borough Councils or Parish Councils. In accordance with the Code of Conduct they remained in the meeting during consideration of these items.

173 PUBLIC SPEAKING TIME/OPEN SESSION

There were no questions from members of the public.

174 MINUTES OF PREVIOUS MEETING

RESOLVED

The minutes of the meeting held on 17 February were approved as a correct record.

175 AIMING HIGH FOR DISABLED CHILDREN AND THEIR FAMILIES

Cabinet gave consideration to this report which outlined their duties under the Department for Children Schools and Families Transformation of Services programme 'Aiming High for Disabled Children'. It was reported that the People Advisory Panel had considered the matter the previous day and had revised the recommendations being made to Cabinet; these were reported by the Portfolio Holder for Adult Services and were agreed by the Cabinet.

RESOLVED

For the reasons set out in the report and as now reported: -

1. That Cabinet welcome the Aiming High Initiative for the recognition which it gives to the distinctive needs of disabled children and for the new resources which are to be made available to help address them.
2. That steps be taken to ensure that Aiming High is effectively incorporated into the structure of Cheshire East Council and that appropriate Governance arrangements be put in place.
3. That steps be taken to ensure that services for children and families and services for adults are required to work together on the implementation of Aiming High and particularly to ensure that the issue of transition is addressed at the design stage and not as an afterthought.

176 **KEY DECISION CE62 LOCAL EDUCATION AUTHORITY (POST COMPULSORY EDUCATION AWARDS) REGULATIONS 1999 – ANNUAL DETERMINATION**

Consideration was given to this report which requested that the Cabinet make an annual determination in respect of their powers to make awards to students. This was in accordance with the Local Education Authority (Post Compulsory Education Awards) Regulations 1999, which requires Local Education Authorities make an annual determination before the start of the following financial year.

RESOLVED

For the reasons set out in the report: -

That the Council does not take up the power to grant discretionary awards for the 2009/10 academic year.

177 **THE DEVELOPMENT OF AN ICT STRATEGY**

Consideration was given to the draft Information and Communications Technology (ICT) Strategy prior to it progressing to publication.

RESOLVED

For the reasons set out in the report: -

That the draft ICT Strategy be endorsed for publication.

178 **APPOINTMENTS TO CATEGORY 1 SCHEDULE OF OUTSIDE ORGANISATIONS**

Consideration was given to appointments to be made to the Category 1 list of outside organisations, with effect from 1 April 2009. Category 1 being

top level strategic organisations at national, regional and local level such as the Fire Authority and the Police Authority.

At the meeting it was reported that since the publication of the agenda a number of amendments had been made to the Schedule and these were reported as follows: -

Ref No	Organisation	No of places	Members <i>As stated on the schedule except in the following instances</i>
10	Cheshire Admissions Forum	Reduced from 5 to 2	Members to be advised
13	Cheshire Peaks and Plains Housing Trust		H Gaddum replaced by J Crockatt
17	Dane Housing Trust now known as Plus Dane Group		
27	Local Government Association, deleted reference to Environment Board and Improvement Board		D Brickhill and J Macrae replaced by R Domleo and P Findlow A Arnold added
34	Police Forum now known as 'Have Your Say'		
38	Supporting People Strategic Partnership		D Brickhill replaced by R Domleo
39	West Coast Rail 250	Reduced from 3 to 2	R Westwood and R Cartlidge replaced by H Davenport
40	North West Rail Campaign	Reduced from 2 to 1	J Macrae and R Cartlidge replaced by H Davenport
80	Peaks and Plains of Cheshire Tourism	Places increased from 1 to 2	A Arnold added
85	South and East Cheshire Enterprise Board	Places confirmed as 4	

RESOLVED

For the reasons set out in the report and as now reported: -

1. That subject to the above amendments approval be given for appointments to be made to the Category 1 schedule of outside organisations as detailed in the appendix to the report.
2. That the appointments commence on 1 April 2009.

3. That all appointments be made for a 2-year term of office, terminating in May 2011.

179 **PROGRESS REPORT**

Cabinet was requested to note the progress of the Local Government Reorganisation Programme with particular focus on customer access and staffing issues. Achievements made within the reporting period and steps to be taken were highlighted.

RESOLVED

For the reasons set out in the report: -

That the report be noted and that the steps to be taken in the next period be recognised.

180 **SECTION 24 APPLICATIONS FOR CONSENT**

Consideration was given to the report of the Monitoring Officer and the Chief Finance Officer on a Section 24 Consent issued under delegated powers since the last meeting in respect of Brine Leas for a capital scheme to develop post 16 provision at Brine Leas High School in Nantwich.

RESOLVED

For the reasons set out in the report: -

That the report be noted.

181 **KEY DECISION CE35 SHARED SERVICES**

In accordance with Section 100B(4)(b) of the Local Government Act 1972 the Chairman agreed to allow consideration of this report as an item of urgent business due to the importance and complex nature of the continuing negotiations; the need to finalize arrangements by 1 April 2009 made it essential that Cabinet receive the most current position statement available at the date of the meeting.

Consideration was given to a report of the Borough Treasurer and Head of Assets on progress made in collaborating with Cheshire West and Chester Council to deliver a number of the Council's functions on a shared basis.

RESOLVED

For the reasons set out in the report: -

1. That the list of services and functions to be shared (Appendix 1) including the proposed allocation of host and non-host for each and, in the case of transitional arrangements, the projected dates for each be endorsed.

2. That the supplementary list of services (Appendix 2) that have been provisionally considered for sharing by the Joint Programme Development Team be noted.
3. That the proposed governance framework between the two Councils and the structure of the Inter-Authority Agreement that will support it (Appendices 3 and 4) be noted.
4. That the proposed approach to dealing with staffing (Appendix 5) be noted.

The meeting commenced at 2.00 pm and concluded at 3.05 pm

W Fitzgerald (Chairman)

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CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: John Weeks,
Title: School Admissions

1.0 Purpose of Report

- 1.1 This Decision Paper reports on the outcome of the consultations held during the Spring Term 2009 on Cheshire East's proposed coordinated scheme and admission arrangements for the school year commencing September 2010 in order that arrangements can be determined by 15 April in the year preceding admission, in accordance with Statutory requirements.

2.0 Decision Required

- 2.1 Cabinet is recommended to approve
- the proposed **coordinated admission schemes**, which all local authorities are required by section 88M of the School Standards and Framework Act 1998 (SSFA) and the Co-ordination Regulations to have in place;
 - the proposed **admission arrangements** for its community and controlled schools, which are the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places, and;
 - notification of the determined arrangements to all consultees within 14 days of determination.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 Members should note that the costs of School Admissions are charged to the Dedicated Schools Grant within the element for central expenditure.

5.0 Legal Implications

- 5.1 The Authority has a duty to comply with the mandatory requirements imposed by the School Admissions Code (or by statutory provisions) The Code is made under section 84 of the SSFA 1998 as amended by section 40 of the EIA 2006.

- 5.2 It is a mandatory requirement of the School Admissions Code, made in accordance with section 88M of the SSFA and The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2007 and 2008, that local authorities determine a scheme by 15 April for coordinating the admission arrangements for maintained schools within their area.
- 5.3 Admission arrangements must also be determined by 15 April and authorities must, within 14 days of determination, give notice in writing to all consultees. A copy of the determined arrangements must also be included on the Authority's website, including information on how objections to the Schools Adjudicator can be made (which should be by 31 July in the determination year).

6.0 Risk Assessment

- 6.1 If the Local Authority does not determine its admission arrangements and coordinated scheme before 15 April 2009, it will be in breach of its statutory duty to comply with the provisions of the School Admissions Code. If the Local Authority does not notify the Secretary of state that it has adopted a coordination scheme by 15 April, the Secretary of State may impose one.

7.0 Background and Options

- 7.1 Following authorisation by the Cabinet on 2 December 2008 consultation on the proposed admission arrangements and coordinated schemes for 2010 was notified to parents, local groups, schools in the relevant area, neighbouring local authorities, and to trade unions regarding proposed increases to published admission numbers.
- 7.2 Consultation, which commenced on 1 January and ended on the statutory closing date of 1 March 2009, included the following proposed changes:

Primary Admissions:

- Admissions timetable revised resulting in an earlier decision on applications;
- Coordinated Scheme revised timetable - adjusted around the proposed change to the admissions timetable;
- Amendment to *sibling* criterion within the oversubscription criteria to remove infant to junior school cross-linked siblings.

Secondary Admissions

- Proposed oversubscription criteria for considering external applications for sixth form places where more applications are received than there are places available;
- Proposed minimum entry requirements for admission to sixth form (internal and external candidates);
- Proposed Published Admission numbers for admission to sixth forms for external applicants.

Primary and Secondary Admissions:

- A later closing date for submitting appeal applications with a separate date for accepting and declining places;
- Change to the oversubscription criteria with the removal of category 6 and the addition of social need alongside medical need within category 2;
- Change to the arrangements for considering applications submitted by parents/carers stating residency based on shared responsibility for a child;
- Proposals to vary some schools' current admission numbers for September 2010 admissions, in line with net capacities
- Proposed re- zoning arrangements

7.3 The consultation exercise has produced a small number of responses. In total this year only 16 responses have been received on Cheshire East Council's proposed arrangements. As a comparison, in the past no more than 50 responses were received from all consultees on Cheshire County Council's proposed arrangements.

7.4 Proposed arrangements for 2010 were notified as follows:

- Information on the consultation exercise was included in the Spring Term Director's report with full details being made available on Cheshire County Council's website.
- An e-mail was sent out to all Cheshire East maintained schools, neighbouring authorities, local groups (e.g. travellers service) and trade unions. Full copies of the proposed arrangements were included as attachments to the e-mail.
- Notices were published in newspapers across Cheshire to inform parents and local groups with an interest, in accordance with the mandatory provision of the School Admissions Code.
- A further e-mail was sent to all schools reminding headteachers of the closing date of 1 March for responses.

7.5 The responses received are summarised within **Appendix 1**. Overall, the majority of respondents have expressed either no view or shown support for the proposed arrangements, with the exception of a small number of comments received on the proposed changes to catchment areas (**Appendix 2**) and published admission numbers (**Appendix 3**) for some schools.

7.6 The Admissions Forum will consider the aforementioned responses at its meeting of 17 March 2009. The Forum's recommendations will be reported orally at the meeting of the Cabinet on 24 March 2009 and a revised decision paper will be provided before the meeting.

7.7 The Admissions Forum will be invited to recommend to the Cabinet that the proposed admissions arrangements, with changes set out below, be approved, with any further changes proposed by the Forum,

and that all consultees be notified of the arrangements, as required by the appropriate Regulations.

- Additional text to be included in respect of waiting lists, which states: 'Precedence over other children held on the waiting list for children who are the subject of a direction to admit; are part of a managed transfer from a closing school; or who are allocated in accordance with the Authority's 'in Year Fair Access (Hard To Place) Protocol

7.8 No objections have been received to the proposed coordinated scheme for 2010. It should be noted however, that following the introduction on 10 February 2010 of the new Schools Admissions Code, it is now statutory that all local authorities coordinate applications for school places made outside the normal admission round with effect from September 2010. This includes all applications made 'in year' and into any year group other than at the normal point of entry in September. The new School Admissions Code and associated Regulation (The School Admissions (Coordination of Admission Arrangements) (England) Regulations 2008) require that schemes for coordinating this process do not have to be determined until 15 April 2010, but will apply with effect from September 2010. It will therefore be necessary to revise the current arrangements for 'in year' applications at a later date and by 1 January 2010. The proposed scheme has therefore been revised as an interim measure as follows:

- The removal of the proposed 'in year' application process for September 2010, included within the consultation document, replaced with information on the requirement for local authorities to formulate a scheme by 1 January 2010, in accordance with legal requirements.

7.9 The proposed scheme for 'in year' admissions will be subject to consultation with the Admissions Forum, neighbouring local authorities and all admission authorities in Cheshire East.

7.10 The arrangements are, therefore, referred to this meeting for approval, with any further changes as recommended by the Admissions Forum.

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

8.1 East Authority determines on 15 April arrangements for admission in September 2010 following consultation (completed by 1 March 2009) within the newly determined relevant areas (determined on 2 December 2008). In accordance with the School Admissions Code (2009) arrangements will be subject to consultation in future years.

9.0 Reasons for Recommendation

9.1 The recommendation will enable the Authority to meet its statutory duty to determine for September 2010 the admission arrangements for Cheshire East community and controlled schools and the Authority's

coordinated scheme by 15 April in the year preceding admission, and notify all consultees of the decision, in accordance with legal requirements.

For further information:

Portfolio Holder: Councillor P Findlow

Officer: Barbara Dale, Admissions and Appeals Manager

Tel No:01606 275698

Email:Barbara.Dale@cheshire.gov.uk

Background Documents:

School Admissions Code 2009; The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2007; The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2008; The School Admissions (Admission Arrangements) (England) Regulations 2008

Proposed coordinated schemes for 2010

Proposed Admission Arrangements for 2010

Documents are available for inspection at:

Westfields, Middlewich Road, Sandbach CW11 1HZ

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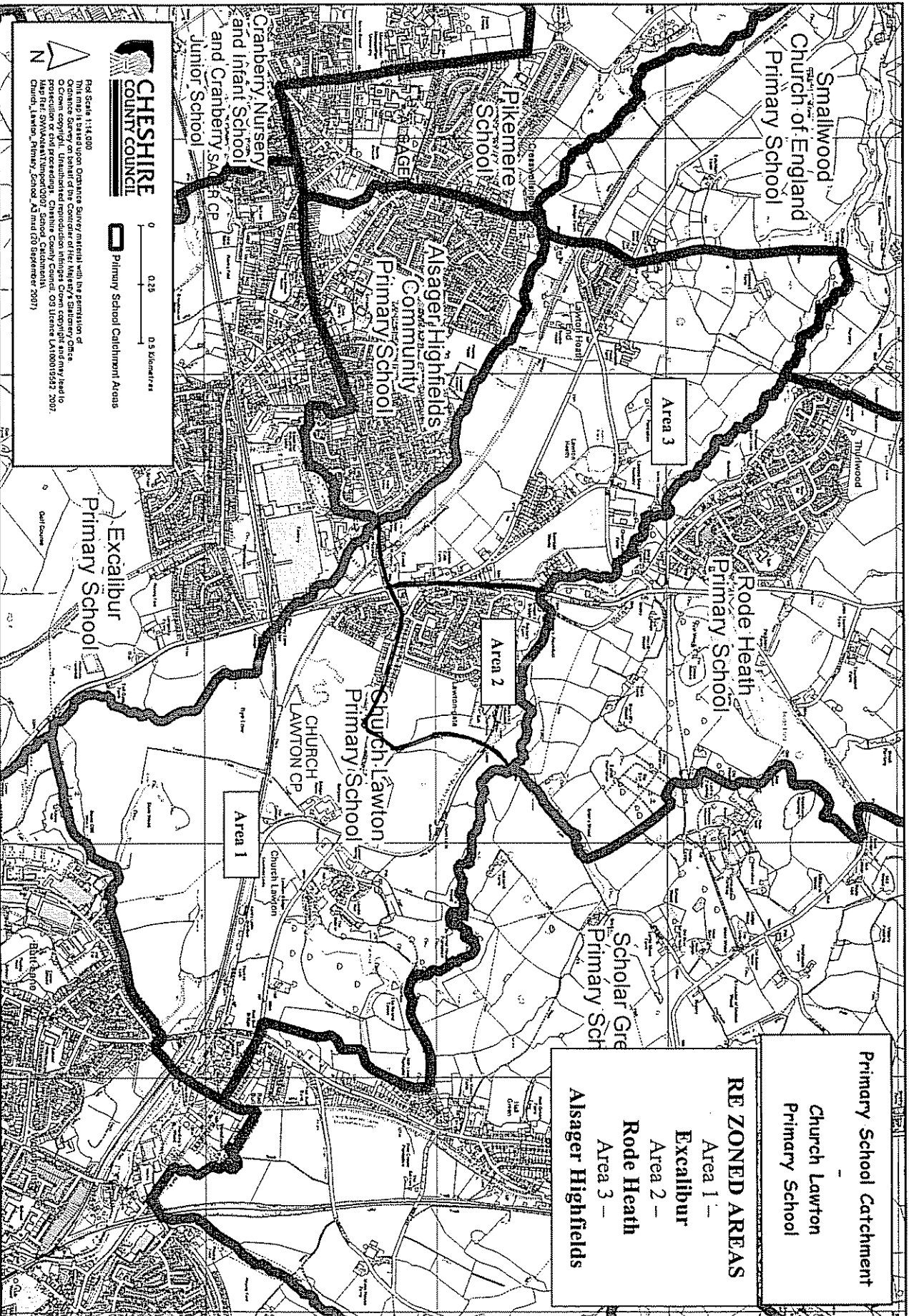
CONSULTATION ON SCHOOL ADMISSION ARRANGEMENTS FOR SEPTEMBER 2010/11 – RESPONSE FORM SUMMARY

	Support	Do Not Support	No View
1. Proposed revision of primary admissions timetable	3	0	13
2. Proposed revision of co-ordinated scheme timetable	3	0	13
3. Proposed amendment to sibling criterion – removal of infant to junior school cross-linked siblings	3	0	13
4. Proposed sixth form published admission numbers (PANs)	2	0	14
5. Proposed oversubscription criteria – sixth form places	2	0	14
6. Proposed sixth form minimum entry requirements (internal and external candidates)	2	1	13
7. Proposed revised date for handing waiting lists to schools	6	0	10
8. Proposed later closing date for submitting appeal applications with separate date for accepting and declining places	6	0	10
9. Proposed change to categories 2 and 6 of oversubscription criteria	5	0	11
10. Proposal in respect of residency based on shared responsibility for a child	5	0	11
11. Proposed variations to published admission numbers*	2	3	12
12. Proposed re-zoning arrangements for 2010	2	3	11

Total of 16 responses plus 1 Trade Union Representative* re item 11

(*No view expressed on proposed PAN increases)

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CHESHIRE EAST AUTHORITY**PROPOSALS TO REDUCE/INCREASE PUBLISHED ADMISSION NUMBERS FOR SEPTEMBER 2010**

Admission numbers are part of a school's admission arrangements. Admission regulations require that admission authorities set an admission number for the relevant year group, which is subject to consultation, based on the physical capacity of the school. Admission numbers must refer in each case to children to be admitted to the school for the first time.

Admission authorities may fix an admission number for a relevant age group that is lower than the capacity assessment. If they do so, they **must** publish this information for parents at the same time as they notify the bodies they are required to consult about the determination of their admission arrangements, who may object to the admission number. They can also set a higher admission number than that indicated by the capacity assessment.

This paper seeks comments on a number of proposals for reductions/increases in Published Admission Numbers (PAN) at various primary and secondary schools in Cheshire East Authority for September 2010-2011.

Comments on the proposed arrangements must be referred to the admission authority for the school before the closing date of 1 March 2009. Admission authorities will need to consider the responses before determining the admission arrangements, which must be 15 April 2009.

Proposed Changes for 2010 –2011

Part 1 - Reductions/increases proposed by, or supported by governing bodies which would bring Published Admission Numbers more in line with their school's net capacity are listed below. Proposals that the Local Authority recommends for approval are listed in Table A.

Table A
RECOMMENDED FOR APPROVAL - PROPOSED REDUCTIONS/INCREASES IN PUBLISHED ADMISSION NUMBERS

School	Current Net Capacity	Proposed Net Capacity	Current PAN	Proposed PAN for 2010
Bickerton Holy Trinity	126	140	18	20
Bollington St John's CE Primary	120	105	17	15
Bridgemere CE Aided Primary	84	105	12	15
Brierley Primary	210	161	30	23
Holmes Chapel Comp School	1180	1216	200	210
Monks Coppenhall	420	385	60	55
Sandbach School	1136	1167	195	210
St Paul's Catholic Primary	120	120	20	17
Shavington High	970	970	197	194
Wyche	200	196	30	28
Mablins Lane	567	504	81	75
Alsager School	1393	1393	225	235

Part 2 - Proposals by governing bodies to increase the published admission number for their school which the Local Authority recommends are not supported are listed in Table B. This recommendation is made as either the proposed change is not in line with the net capacity of the school, or the Authority has concerns about the long term implications for the school or other schools within the locality.

Table B
NOT RECOMMENDED FOR APPROVAL - PROPOSED INCREASES IN PUBLISHED ADMISSION NUMBERS

School	Current Net Capacity	Proposed Net Capacity	Current Published Admission Number	Proposed Published Admission Number 2010
Lacey Green Primary	210	210	30	40
Lindow	150	180	21	25
St Mary's Congleton	180	180	27	30
Sandbach High School	1285	1285	210	240

Part 3 – Cheshire County Council, in its review of school places in the Alsager, Sandbach, Congleton and Holmes Chapel locality, has proposed the following changes to the published admission numbers of the following schools. Comments on these proposals must be returned by 1 March 2009.

Table C
PROPOSED REDUCTIONS/ INCREASES IN PUBLISHED ADMISSION NUMBERS SUBJECT TO ANTICIPATED CHANGES TO NET CAPACITIES DUE TO TLC PROPOSALS

School	Current Net Capacity	Proposed Net Capacity	Current Published Admission Number	Proposed Published Admission Number 2010
Alsager Highfields	233	263	40	37
Astbury St Mary's	112	126	16	18
Black Firs Primary	240	270	40	38
Bollington St John's CE Primary	120	105	17	15
Brereton CE	150	147	30	21
Buglawton Primary	178	210	30	30
Chelford CE Primary	105	60	15	9
Cranberry Primary	315	210	45	30
Daven Primary	390	210	60	30
Haslington Primary	329	280	50	40
Offley Primary	420	315	60	45
Sandbach Com Primary	210	105	30	15
Scholar Green	210	180	30	25
Smallwood CE	112	126	16	18
St John's CE Primary	150	180	30	25
Sandbach Heath				
Woodcocks' Well	103	89	15	12

Objections to Determined Admission Arrangements

Once responses have been considered by admission authorities arrangements must be determined by 15 April. Any objections to determined arrangements must be referred to the Office of the Schools Adjudicator, which must be before 31 July 2009.

The School Adjudicator can consider objections from parents, admission authorities, local authorities and the admission forum. Governing bodies of community and voluntary controlled schools can also object to the admission arrangements of other schools within the relevant area, although they may not object to the admission arrangements for other community and voluntary controlled schools whose admission arrangements have been determined by the local authority.

Full details of this process are available at www.schoolsadjudicator.gov.uk

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CHESHIRE EAST COUNCIL

Cabinet

Date of meeting: 24 March 2009
Report of: Borough Treasurer & Head of Assets
Title: Capital Strategy 2009/10

1.0 Purpose of Report

- 1.1 To present the proposal for the development of the Capital Strategy for 2009/10 for Cheshire East Council and to form the basis for consultation with Members and key stakeholders.

2.0 Decision Required

- 2.1 To approve the proposal for the development of the Capital Strategy 2009/10 as described in Section 7.0.

3.0 Financial Implications for Transition Costs

- 3.1 There are no financial implications for Transition Costs as a consequence of this report.

4.0 Financial Implications 2009/10 and Beyond

- 4.1 The financial implications of the initial Capital Strategy adopted by Cheshire East Council are reflected in the Medium Term Financial Strategy and Treasury Management Strategy approved by Council on 24th February 2009.

5.0 Legal Implications

- 5.1 There are no specific legal implications related to the issues raised in this report.

6.0 Risk Assessment

- 6.1 The Council's Capital Strategy provides a strategic framework within which the Council can achieve its medium and long term priorities. By providing links with all of the Council's other key plans and strategies the effective use of capital resources will be maximised and value for money in the use of those resources will be clearly demonstrated. The risk of the poor use of capital resources will therefore be minimised and the Council will ensure that the Capital Programme can be delivered and is sustainable.

7.0 Capital Strategy Outline

7.1 The proposal for the development of the Capital Strategy 2009/10 as detailed in this report sets out the process for developing the Capital Programme in future years. It will ensure that the prioritisation of investment is clearly aligned to the Corporate Plan priorities, which allows for a three year Capital Programme to be developed through Service Delivery Plans.

7.2 The Capital Strategy is being developed from the best practice of the four existing Cheshire East authorities and the latest national and regional direction in this important area of strategy. Links will also be made with the Council's other key strategies to ensure that there is a coordinated Business Planning approach to the three-year planning cycle. The Asset Management Plan is being reported alongside the outline Capital Strategy as this plan demonstrates the intention to deliver the Capital Strategy through the effective management of the Council's assets. The Capital Strategy will cover the following areas:

- The Policy Framework and Corporate Priorities
- National, Regional and Local priorities
- Plans for delivery to Comprehensive Area Assessment (CAA) standards
- Plans for delivery of the Value for Money (VFM) Agenda
- Key Partnerships
- Links to the Council's Key Plans & Strategies including:
 - Medium Term Financial Strategy (approved 24th February)
 - Treasury Management Strategy (approved 24th February)
 - Asset Management Plan (to be approved 2nd April)
 - Procurement Strategy (to be approved 24th March)
 - External Funding Plan (to be developed and approved)
 - ICT Strategy (approved 3rd March)
- Links to Corporate Improvement Initiatives
- Approach to Prioritisation & Programme Management
- Resourcing the Capital Programme

7.3 The Capital Strategy needs to reflect the impact of the current economic volatility, particularly with regard to capital schemes that are fully funded or partly funded from linked capital receipts. Care will need to be taken with the commencement of new schemes if it is felt that the potential capital receipt is well below the level required to fund the scheme. The Capital Strategy also has strong links with the Treasury Management Strategy. The borrowing requirement resulting from the Capital Programme has been reflected in the Treasury Management Strategy and the revenue consequence of the Capital Programme has been reflected in the Medium Term Financial Strategy.

7.4 Further prioritisation will also be examined to reflect statutory requirements, health and safety issues, community consultation

outcomes, invest to save or income generation possibilities. Major items of repair, maintenance and renewal are identified by the asset management process, and fed into the three-year Capital Programme. The Capital Programme is developed by this process and matched to available finance identified from the Disposal Programme and other capital resources. The process for developing and monitoring the Capital Programme with officer and Member involvement will also be identified in the Capital Strategy and will include:

- Mechanism to identify new and innovative investment opportunities including Member and partner involvement
- Review of available capital resources including links to External Funding plan
- Capital Scheme appraisal process including Member involvement
- Capital Programme monitoring and reporting
- Performance measurement to demonstrate the effectiveness of the management of the Capital Programme and to measure the achievement of outcomes
- Quarterly reporting to Cabinet
- Consultation framework including links to the main Business Planning process

7.5 There is a need for flexibility in the availability of capital resources to be able to react relatively quickly to opportunities to:

- Introduce new innovations linked to the concept of Lean Systems
- Pursue additional invest to save schemes
- Pursue schemes jointly with partners

A comprehensive review of available Capital resources will be undertaken during the first quarter of 2009/10 and it may be appropriate to earmark a proportion of the available resources for this purpose.

7.6 **Principal Milestones for Development of the Capital Strategy**

Date	Milestone
Apr 2009	Review current Capital Programme: <ul style="list-style-type: none"> • Links to Corporate Plan priorities • Risks associated with linked capital receipts • Deliverability in light of current economic environment
Apr 2009	Review of Available Capital Resources: <ul style="list-style-type: none"> • Current assumptions in the Capital Programme • Grant availability • Links to Asset Management Plan – Asset Disposal Strategy • Borrowing Profile • Partner Contributions

	<ul style="list-style-type: none"> • S106 Agreements • Other sources
Apr/May 2009	Development of Programme Management and Prioritisation Mechanism including: <ul style="list-style-type: none"> • Links to Business Planning Process • Links to Consultation Programme • Plans for Member involvement • Links to External Funding Plan
May 2009	Consultation with Members, Partners and other Key Stakeholders
Jun 2009	Development of draft Capital Strategy 2009/10
Jul 2009	Draft Capital Strategy 2009/10 to Cabinet to recommend to Council
Jul 2009	Draft Capital Strategy 2009/10 to Council for approval
Jul 2009	Publish Capital Strategy 2009/10 on website

8 Reasons for Recommendation

- 8.1 It is important for the new Council to set out its broad Capital Strategy for 2009/10 to establish the national, regional and local context, to link with the Council's Corporate Plan and key strategies and to provide a framework for the development and delivery of the Capital Programme.

For further information:

Portfolio Holder: Councillor Frank Keegan
Officer: Lisa Quinn, Borough Treasurer & Head of Assets
Tel No: 01270 529628
Email: lisa.quinn@cheshireeast.gov.uk

Background Documents:

Documents are available for inspection at:

Westfields, Middlewich Road
Sandbach, Cheshire CW11 1HZ

CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Borough Treasurer & Head of Assets
Title: Asset Management Plan 2009 -2014

1.0 Purpose of Report

- 1.1 To outline the progress made on the development of the Asset Management Plan 2009 – 2014 and associated documents.

2.0 Decision Required

- 2.1 To recommend the Asset Management Plan 2009-14 to Council for approval based on the outline and content described below.
- 2.2 To endorse work on the attached Asset Management paper and the Modern Use of Property document.

3.0 Financial Implications for Transition Costs

- 3.1 The recommendations contained within this report have no additional financial implications for transitional costs

4.0 Financial Implications 2009/10 and beyond

- 4.1 There are no specific financial implications related to the issues raised in this paper.

5.0 Legal Implications

- 5.1 There are no specific legal implications related to the issues raised in this paper.

6.0 Risk Assessment

- 6.1 A council's Asset Management Plan is an important document providing a strategic overview which will underpin a wide range of work across the Authority. By having a robust Asset Management Plan in place Cheshire East Council will minimise the risk of inconsistency of approach across service areas and provide a clear focus for the deployment of resources.

7.0 Background and Options

Corporate Context

- 7.1 Property asset management is an essential corporate activity led by the Borough Treasurer and Head of Assets. It is an inclusive process involving Members, the corporate centre, Services, external partners and customers. The Corporate Property Officer role is held by the Asset Manager. All decisions affecting the Council's property and asset management policies are made by the Portfolio Holder for Assets.
- 7.2 Cheshire East will deliver services through the natural communities and localities within its area. Easy access to services that are designed to meet customer requirements is essential and Property is a crucial component to support, deliver and enhance these services. The Corporate Property Strategy is to be based upon the key priorities set out in the Sustainable Community Strategy and Local Area Agreement and consists of two key documents covering the 5-year period 2009 – 2014:
- the Corporate Asset Management Plan
 - the Capital Strategy
- 7.3 The integrated Corporate Asset Management Plan and Capital Strategy will be supported by a further range of policy and guidance documents, all of which, will be available by September 2009 at the latest:
- Area and Service Asset Management Plans (SAMPS) – 5 – 10 year period
 - Office Accommodation Strategy – 5 year period
 - Property Maintenance Plan – 5 year period
 - Asset Disposal Plan – 5 year disposal programme
 - Capital Projects Procurement Plan and the Capital Building Programme
 - Sustainable Construction Policy
 - Design Guide
- 7.4 The Asset Management Plan is set out as follows:
- Overview
 - Corporate Context
 - Core Asset Management Principles
 - Asset Management Aims and Objectives
 - Property Management Activities
 - Key Property Opportunities and Issues

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

- 8.1 The creation of Cheshire East Council provides a golden opportunity to bring together existing good asset management practices in the County and District Councils with best practice elsewhere to provide a model of excellence in high quality asset management.
- 8.2 Property is Cheshire East's largest physical resource in financial terms and is fundamental in providing support to all Service users. Effective corporate asset management must therefore, form an integral element of high quality service planning and delivery.
- 8.3 The Council will own a substantial portfolio of 603 major property assets with an asset value of £440m that will facilitate the delivery of a wide range of services to the people of Cheshire East.

9.0 Reasons for Recommendation

- 9.1 It is important for the new Council to set out its Asset Management Plan for 2009 - 2014 within a national, regional and local context. This will link with the Council's Corporate Plan and key strategies to provide a cohesive framework for the management of the Council's property assets.

Appendices:

Appendix 1 – Asset Management Plan 2009-14

Appendix 2 – A Modern Use of Property Cheshire East (draft)

For further information:

Portfolio Holder: Councillor Peter Mason

Officer: Lisa Quinn, Borough Treasurer & Head of Assets

Tel No: 01270 529628

Email: lisa.quinn@cheshireeast.gov.uk

Background Documents:

Documents are available for inspection at:

Westfields, Middlewich Road

Sandbach, Cheshire CW11 1HZ

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ASSET MANAGEMENT PLAN 2009-14

1. OVERVIEW

Cheshire East has a population of around 359,000 and an area of 116,600 hectares and will be one of the largest local authorities in the North West.

The creation of the new Unitary Cheshire East Council provides a golden opportunity to bring together existing good asset management practices in the County and District Councils with best practice elsewhere to provide a model of excellence in high quality corporate asset management.

Property is Cheshire East's largest physical resource in financial terms and is fundamental in providing support to all Service users. Therefore, effective corporate asset management must be an integral element of high quality service planning and delivery.

Property is expensive to procure, manage and maintain, and can be inflexible in responding to changing service needs. It is essential that asset management is at the centre of the Council's corporate forward planning processes. Only in this way can the use and efficiency of the property portfolio be maximised to support and facilitate modern ways of working and make a long term, positive contribution to successful and efficient service delivery.

The Council will own a substantial portfolio of 603 major property assets, with an asset value of £440m, which will assist in the delivery of a wide range of services to the people of Cheshire East.

2. THE CORPORATE CONTEXT

Property asset management is an essential corporate activity championed by the Borough Treasurer and Head of Assets. It is an inclusive process involving Members, the corporate centre, Services, external partners and customers.

The Corporate Property Officer role is held by the Asset Manager, who has responsibility to report on all strategic property matters and is the designated Officer overseeing development of a comprehensive Asset Management Plan updated by annual review.

All key decisions affecting the Council's property and asset management policies are made by the Portfolio holder.

Cheshire East will deliver services through the natural communities and localities within its area. Easy access to services that are designed to meet customer requirements is essential and property is a crucial component to support, deliver and enhance these services.

The Corporate Property Strategy is based on the key aims set out in the Corporate Plan and the Community Strategy, and consists of two key documents covering the 5 year period 2009 – 2014:

- the Corporate Asset Management Plan – setting out action plans, management criteria and principles together with setting property targets & monitoring their performance
- the Capital Strategy – setting out criteria for capital expenditure together with spending and funding plans to support capital programmes.

The key to asset management strategies and their foundation is the long-term sustainable Community Strategy and local priorities. The Council must be clear about its 'place shaping' objectives and review its arrangements for corporate and cross service working, and cross sector working to ensure:

- a linkage between sustainable community strategy and property asset objectives/priorities;
- the full involvement of all key customer and service areas;
- a clear distinction between strategic and operational decision making;
- clear reporting lines to a strong corporate centre;
- effective engagement of overview and scrutiny members in identifying value for money opportunities;
- the integration of the Capital strategy and Corporate Asset Management Plan

The integrated Corporate Asset Management Plan and Capital Strategy will be supported by a further range of policy and guidance documents which will be completed by September:

- Area and Service Asset Management Plans – identifying those issues facing a specific area of Cheshire East or a Service, their property implications and key actions to deal with them over a 5 – 10 year period
- Office Accommodation Strategy – setting out planned changes in office requirements over a 5 year period including the impact of flexible and mobile working
- Property Maintenance Plan – identifying condition assessment criteria and prioritisation of planned maintenance items over a 5 year period

- Asset Disposal Plan – identifying a 5 year disposal programme to deliver capital funding requirements
- Capital Projects Procurement Plan and the Capital Building Programme – setting out the means by which new projects are procured
- Sustainable Construction Policy - setting out standards for construction, materials and energy use in new buildings
- Design Guide – setting out planning policy and design influences for Council developments

3. CORE ASSET MANAGEMENT PRINCIPLES

Property is a corporate resource and the following key principles apply to its management:

- Land and buildings will be made available to Departments and Service Providers for the delivery of public services. All property assets are corporately 'owned' by the Council with the Borough Treasurer and Head of Assets being the 'Landlord' and user services the "tenants" of all property.
- Property will be held only if it is required to meet operational need or if it contributes demonstrably to one of the Council's corporate aims. For example, holding an investment portfolio that generates a surplus to fund and improve core service provision and/or provides employment opportunities to the local economy. Any property not required for operational purposes or no longer achieving investment performance criteria will be promptly sold.

In support of these key principles, the Asset Management Service will work:

- To provide a property portfolio of optimum size, suitability and condition to meet the Council's business needs
- To continuously review operational requirements and property performance to ensure that changing needs and corporate aims are anticipated and met
- To challenge the basis for holding or acquiring properties in the traditional way, exploring partnerships and new ways of working wherever appropriate
- To reduce over time the financial resources tied up in property, both in terms of capital and revenue expenditure.

- To ensure that property decisions are fully justified against measurable criteria, demonstrating a clear business case and best value for money

4. ASSET MANAGEMENT AIMS & OBJECTIVES

In managing our property we aim to:

- Continually review the property portfolio to ensure that it is fit for purpose to deliver the services required
- Look at all property used and not just focus on what is owned
- Be clear about how decisions are made about what to acquire, what to use and invest in, and what to sell
- Maintain a robust measurement and reporting system to ensure that property performance is closely monitored and appropriate action taken
- Implement decisions in an efficient and effective manner and continually monitor performance

5. PROPERTY MANAGEMENT ACTIVITIES:

In order to achieve the above objectives, we will focus on the following priorities:

IMPROVED CORPORATE ASSET MANAGEMENT

- Assists the Council to take account of significant trends affecting property and its procurement and in developing strategies to deal with them. For example, demographic changes, planning policy, construction practice and major Government initiatives
- Supports and undertakes property review and option appraisals for individual Services and stakeholders in planning for changes to meet corporate objectives
- Provides an information service for property users which is accessible, accurate and aids decision making on individual projects
- Provides regular reports to Members and Senior Officers allowing appropriate decisions to be made in accordance with Corporate and Service priorities

BETTER USE OF RESOURCES

- Continuously assess the condition of properties in order to quantify and prioritise maintenance spending to improve the condition and suitability of the portfolio
- Undertake whole life costing on major building projects to obtain the best balance between capital and revenue investment
- Continuously monitor property performance, energy and running costs to optimise use and improve efficiency.
- Maximise receipts from redundant properties for reinvestment in Service delivery and modernisation

INCREASED FINANCIAL ACCOUNTABILITY

- Manages construction and maintenance projects in an efficient and timely manner using the most appropriate procurement methods including partnering arrangements with objective project reviews on completion to achieve continuous improvement
- Ensures that property disposals are carried out efficiently and receipts are maximised to contribute to the funding of the Capital Programme
- Optimises financial performance and return from all income producing assets

INCREASED CUSTOMER SATISFACTION

- Seeks to ensure that customers have a good experience when visiting properties that promote a positive image of the Council.
- Seeks new ways of providing services through rationalisation of properties, partnering arrangements or alternative ways of flexible and mobile working where beneficial
- Takes advantage of regeneration projects to enhance opportunities for providing services closer to local people
- Undertakes reviews of completed major projects with Services and stakeholders to assess 'fitness for purpose' and inform future developments
- Helps Services and their stakeholders to facilitate suitability and sufficiency assessments of the existing property portfolio

COMPLIANCE WITH STATUTORY CODES/CHANGES IN LEGISLATION

- Puts in place procedures and inspection regimes in order to comply with legislative requirements e.g. asbestos, Legionella and disabled access, to ensure a safe and healthy environment for all property users

ENVIRONMENTAL IMPROVEMENT

- Develops policies for both existing and new Council buildings including design, construction standards and environmental sustainability

6. KEY PROPERTY OPPORTUNITIES AND ISSUES

- The new Unitary Council provides the opportunity to ensure a fully corporate approach to asset management by ensuring that all properties are managed from the outset by the Asset Management Service
- Staff office accommodation is a crucial element influencing the way the Council works which will impact on the delivery of services. Adopting flexible and mobile working for staff will provide opportunities to create modern flexible offices with increased utilisation reducing the amount of office space needed and providing service access for customers where required.
- Property review is an essential part of the asset management process and the amalgamation of County and District property portfolios should create opportunities for the rationalisation of properties. This will enable buildings not meeting current Service needs, and/or in poor condition/in the wrong location to be sold to provide funds for reinvestment in Service delivery.
- Many Services are moving away from being a totally dependent on Council owned buildings. For example, there is greater emphasis on people with learning disabilities using existing community facilities such as Libraries, Community Centres, Church/Parish Halls and Leisure Centres instead of attending a dedicated Council provided Day Centre.
- The condition of the building stock is beginning to decline due to year on year reductions in the maintenance budgets and the increasing age of the stock, resulting in an increase in maintenance backlog. A significant proportion of repairs need to be carried out over the next 5 years to prevent a serious deterioration in the condition of buildings.
- Increases in energy costs are having a major impact on overall building running costs. A number of energy suppliers are on 3-year fixed price

contracts which have cushioned the full impact of the rise in prices. However, it is essential that energy saving measures are fully embraced so that buildings are as energy efficient as possible.

- The economic downturn has caused
 - a significant reduction in actual and anticipated capital receipts to assist in funding the capital programme
 - reduced rental income due to tenants becoming insolvent, increased voids and difficulties in finding new tenants
- The introduction of Comprehensive Area Assessment (CAA) in 2009 represents a fundamental change in the approach to performance improvement for the Council. It recognises that the Council and its partners play a broader role in leading their communities by supporting the development of the local economy, responding to the needs of an increasing older population, improving environmental sustainability, tackling climate change and reducing crime and inequalities. The interconnected nature of these challenges highlights the importance of effective asset management in delivering better results for local people.

The proposed CAA Key Lines of Enquiry for assets will focus on whether the Council has:

- a strategic approach to asset management based on an analysis of need to deliver strategic priorities, service needs and intended outcomes
- manages its asset base to ensure that assets are fit for purpose and provide value for money
- works with partners and community groups to maximise the use of its assets for the benefit of the local community

There will be a greater emphasis on outcomes and the quality, use and benchmarking of data to measure these.

- The Quirk Review (May 2007) made recommendations to encourage more community management and ownership of public assets, and this is now part of Government policy. Some transfers of assets to community groups have already successfully taken place but further opportunities will be explored and pursued as appropriate. The full Asset Management Plan will include a policy for the community transfer of assets.
- Appendix 1 lists a number of specific Departmental property matters to be addressed. These will be prioritised in accordance with the Council's key aims and objectives, in consultation with Services and through effective business planning. This is by no means an

exhaustive list and it will be regularly reviewed, updated and reported to Members.

APPENDIX 1

SPECIFIC PROPERTY ISSUES – MARCH 2009

PEOPLE

Children and Young People

The Government's priorities for children and young people are the delivery of the Every Child Matters agenda and the continuing pursuit of higher standards of achievement for pupils. The strategy will deliver projects that meet the local priorities but also the following key programmes

- The Sure Start Children's Centre programme
- Extended schools/community use
- The Building Schools for the Future agenda
- The Primary Capital programme
- Raising standards in the primary and secondary sectors
- Diversity (e.g. expanding popular and successful schools)
- Inclusion (e.g. providing efficient and accessible high quality provision for pupils with special education needs and disabilities)
- Schools workforce reform
- The 14 –19 Agenda
- National Curriculum requirements
- Addressing pupil behaviour and attendance
- E-learning
- School security
- Other ministerial priorities e.g. sustainable development and school transport

Schools – In response to the 'Every Child Matters' agenda, significant demographic change, falling pupil roles and rising surplus places, Children's and Young People Services embarked upon a challenging process of schools organisational review under the banner of "Transforming Learning Communities" (TLC) A Case for Change. Having been the major priority for school capital expenditure over the last four years this programme has delivered significant structural change integrated with the Children's Centres capital programme, review of Special Educational Needs (SEN) provision and development of extended school opportunities.

In line with a new 15 year 'Primary Strategy for Change' capital funding criteria DCSF had provisionally allocated the County Council £14.4m for the period 2008-2011 with an opportunity to further develop the Strategy for additional funding over the remaining 12 year period.

Priorities for the first two years have emerged through the TLC Review of which the major schemes are:

1. Vernon Infant/Nursery School and Junior School to be amalgamated on the junior school site.
2. Development of a Joint Faith Primary School in Macclesfield.
3. Cledford Infant/Nursery School and Junior School to be amalgamated on the junior school site.
4. Middlewich Infant/Nursery School and Junior School to be amalgamated on the junior school site.
5. Other smaller schemes and latter elements of current schemes also included in the initial two year funding phase.

Following Building Schools for the Future (BSF) guidance received in September 2008 an Expression of Interest (EOI) bid was submitted to attract funding that would address the most severe educational and social need. To achieve a coherent approach it is proposed that the initial focus from April 2009 should be on the Crewe locality and include the following schools:

1. Kings Grove High School
 2. Ruskin Sports and Language College
 3. Shavington High School
 4. Sir Thomas Moore RC High School
 5. Adelaide Special School
 6. Springfield Special School
- **Children's Social Care Establishments** – these include a small number of residential care homes for children which are no longer fit for purpose and a similar number of family centres which in conjunction with other agencies provide a range of specialist services for families requiring intensive support. The majority of these properties fall short of current aspirations for social care provision and require fundamental review.
 - **Adults with Learning Disabilities** – many Day Centres are tired and out of date. Some are the wrong size and in the wrong location. Users of the Centres are increasingly polarising into those who need and can benefit from a range of integrated community facilities with support and those who are far more dependent or challenging and who need substantial support in a safe environment. It is anticipated that the existing long standing provision of Day Centres will need to change and reduce over time as people are enabled to use buildings in their local area such as Leisure Centres, Community Centres and Libraries. This will require a fundamental review and rationalisation of the current Day Centre property portfolio. Building based services would need to continue to be provided for high dependency users.

The provision of a new residential facility for high dependency adults with learning disabilities is currently being planned in partnership with

an RSL. This will involve the re development of a site at Willaston Crewe. . This development will enable users who are currently in placements out of Cheshire to return to live in their local area and also provide significant revenue savings from reduction in very costly out of county placements.

- **Adults with Physical and Sensory Disabilities** - existing Day Centres provide limited facilities for people with a visual disability, fail to meet many of the needs of young people and are not necessarily suitable for future service delivery. It is proposed that the current traditional buildings based service will develop into a Resource Centre model which would provide a range of services from one central location with multi-agency involvement. It is also the desire of service users & their carers to have extended service provision during evenings and weekends.
- **Adults with Mental Health Needs** – local services are integrated with health and social care needs. This involves PCT's (Primary Care Trusts), the Partnership Trust, voluntary groups, service users and carers working closely from co-located buildings. However, some of the buildings and offices occupied by joint mental health teams are not suitable both in terms of their location and facilities and will need to be reviewed as part of the wider office accommodation strategy.
- **Community Wellbeing** – this Service deals with the least advantaged people in the community and aims to give people choice, a greater voice, increase people potential and where possible, prevent disadvantage. A Supporting People Team and Supported Employment Team currently based in Middleswich are shortly to be relocated as the building is to be sold to a commercial developer.
- **Community Support Centres (CSC)** – reconfiguration of respite and day care services to older people will be a key priority for the new Council. Current centres provide respite care for frail and vulnerable older people, to assist them to remain in or return to their own homes. A major review CSC's commenced prior to the LGR decision and was subsequently "parked" until the two new Unitary Councils established. Revisiting the CSC review must be a priority for the new Council as the current buildings are generally in poor condition and the development of Direct Payments is a further driver for change.
- **Libraries** – the building stock dates predominantly from the 1970's with the network and service point locations being unchanged from the pattern inherited as part of the 1974 Local Government Reorganisation. A County-wide review of the Service was carried out in 2007 but was not implemented due to LGR. This review now needs to be revisited to fundamentally assess community needs and provide a modern library service that meets community needs as well as providing accommodation for community use.

- **Registration** – this Service is provided from town centre locations in Crewe and Macclesfield together with some part time facilities in at public buildings in Sandbach, Congleton, Handforth and Knutsford. The Crewe Register Office is affected by the proposed town centre redevelopment and will need to be relocated if the redevelopment proposals progress. Macclesfield Register Office is located in a listed building in Park Green. It is under utilised as result of access restrictions to 1st floor and it does not provide modern marriage facilities which makes it difficult for the Register Office to compete with for marriage business with hotels and leisure venues in the area. The Register Office is situated within the area of the proposed Macclesfield Town Centre redevelopment and this could present an opportunity to relocate to alternative premises in Macclesfield Town Centre.

PLACES

- **Highways Depots** – County Council and District Highways teams have shared the same local depots for a number of years. However, some of the Depots are outdated and in poor condition and the opportunity should now be taken to rationalise and improve Depot facilities.
- **Passenger Fleet Driver Bases** – the range, quality and complexity of work carried out from these bases has increased dramatically over the past 10 years. As a result, the current bases, which in most cases do not provide secure overnight parking for vehicles are not fit for purpose.
- **Regeneration** – a review of the Council's investment portfolio is required to assess whether properties are meeting performance targets and justify the capital investment.
- **Waste – Operational Landfill** - the County Council had been progressing a Waste Treatment contract through a PFI scheme to address the requirement for a more sustainable solution for disposal of household and trade waste.
- **Household Waste Recycling Centres** – the majority of Centres are run by a contractor by way of leases until 2023. Some Centres had been recommended for closure and new sites are needed for modern replacements.

CORPORATE

- **Office Accommodation** - there is a need for additional office accommodation to accommodate the amalgamation of staff from all Councils and also staff transferred from Cheshire County Council previously based in West. This will require the development of a robust Office Accommodation Strategy that provides modern and flexible office space based on strict space standards and the adoption of FMW principles.

- Potential redevelopment of Middlewich Civic Hall and land off Civic Way, Middlewich - identification of property rationalisation opportunities with Middlewich Town Council, Primary Care Trust and Cheshire Police.

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A Modern Use of Property

Overview

Property represents the Council's largest physical resource in financial terms and is needed to support all our service activities. It therefore follows that proper corporate asset management must be an integral element of high quality service planning and delivery. By its very nature, property is expensive to procure, manage and maintain, and is also inflexible in terms of responding to changing service needs, so it is therefore important that its management is at the heart of the Council's corporate forward planning process. Only in this way can we maximise use and efficiency of our property portfolio to support and facilitate modern and changing ways of working and hence make a long term, positive contribution to successful and economical service delivery.

The Council owns a substantial portfolio of over 600 property assets, with a current use value in the order of £440m, through which are delivered a wide range of services to the people of Cheshire East. The scope of the portfolio is extensive and includes schools, libraries, day centres, short-term accommodation for young people and the elderly, highways depots, car parks, business generation centres, industrial units and land, household waste sites, farms, parks, leisure centres, historic buildings and offices. Running and maintenance costs for the majority of these are borne directly by the Council.

Some services are also delivered through partnerships using property not in the Council's control, for example homes for the elderly.

The Corporate Context

The Council, in its role as a community leader and partner, is committed to delivering services through the natural communities and neighbourhoods within Cheshire East, ensuring there is easy access to services, and that they are designed from a customer's point of view.

Through development and change, Cheshire East works to:

- [Involve local people](#) and to make all Cheshire East's communities great places to live, work and play in safety.
- [Help all our children](#) and young people to make the most of their lives
- [Promote healthy communities](#) and to support people to live as independently as possible.
- [Achieve sustainable communities](#) which are socially, economically and environmentally viable

Cheshire East's commitment to this is underpinned by Service specific objectives with property a crucial component in their support, delivery, and enhancement.

In managing our property we aim to

- Continually review our portfolio to ensure that it is fit for purpose to deliver the services required.
- Look at all property we use and not just focus on what we own
- Be clear about how decisions are made about what to acquire, what to use and invest in, and what to sell
- Maintain a robust measurement and reporting regime to ensure that property performance is closely monitored and action taken as appropriate
- Implement our decisions in an efficient and effective manner and continually monitor our performance

The over-arching criterion for all these, as fully described in the range of documents forming the corporate property strategy (see page 5) is the extent to which they will contribute to the key aims set out in the Council's Corporate Plan.

Core Asset Management Principles

- **Property is a corporate resource.** Land and buildings are made available to Departments for the delivery of services but 'ownership' is retained centrally with the Assets Manager.
- **Property is held only if it is required to meet operational need** or if it contributes demonstrably to one of the Council's corporate aims. Any property no longer required for operational or investment purposes is sold promptly.

In support of these key principles, the Asset Management Services works:

- To provide a property portfolio of optimum size, suitability and condition to meet the Council's business needs.
- To continuously review operational and investment requirements and property performance to ensure the changing needs and Corporate aims are anticipated and met
- To challenge the basis for holding or acquiring property in the traditional way, exploring partnerships and new ways of working wherever appropriate
- To reduce over time the financial resources tied up in property, both capital and revenue.
- To ensure that property decisions are fully justified against measurable criteria, demonstrating a clear business case and best value for money.

So how is property management undertaken?

To enable the property portfolio to be managed on a day-to-day basis, respond to changing needs and for the Council to develop strategies to provide services in a better way in the future,

the Assets Manager, in conjunction with Services and Corporate Members, undertakes the activities listed below:

Improved corporate management

- Assists the Council to take account of significant trends affecting property and its procurement and develops visionary strategies to deal with them. For example demographic changes, planning policy, construction practice and major governmental initiatives.
- Supports and undertakes property review and option appraisals for individual Services and stakeholders in planning for changes required to meet corporate goals
- Provides an information service for property users which is accessible and accurate and aids decision making on individual projects
- Provides regular reports to Senior Officers and Members so that appropriate decisions can be made in accordance with Corporate and Service priorities.

Better use of resources

- Continuously assesses the condition of properties in order to quantify and prioritise maintenance spending to improve the portfolio
- Undertakes whole life costing on building projects to obtain the best balance between capital and revenue investment.
- Continuously monitors property performance, energy and running costs to optimise use
- Manages the farms estate and takes the opportunity to rationalise holdings in accordance with the Farms Strategy
- Maximises receipts from redundant properties for reinvestment in Service delivery and modernisation
- Manages the corporate offices to ensure that there is sufficient good quality modern office space to accommodate all of the Council's staff, and flexibly designed and fitted out to promote new ways of working

Increased financial accountability

- Project manages construction and maintenance projects in an efficient and timely manner using the most appropriate procurement techniques and partnering arrangements with reviews on completion.
- Ensures that the disposals programme is undertaken in a timely manner to meet the requirements of the Capital Programme.
- Manages financial return from industrial Units, farms and other income producing assets

Increased customer satisfaction

- Seeks new ways of providing services through rationalisation of properties, partnering arrangements, or alternative ways of flexible working where these are beneficial
- Takes advantage of regeneration projects to enhance opportunities for providing services nearer to local people - for example improved customer satisfaction through better accessibility of Services.
- Undertakes reviews of completed major projects with Services and stakeholders to assess fitness for intended use and to learn for the future
- Helps Services and their stakeholders to facilitate suitability and efficiency assessments of the existing portfolio

Compliance with statutory codes/changes in legislation

- Puts in place new inspection regimes in order to comply with legislative requirements e.g. Asbestos, Legionella and Disabled Access, to ensure a safe and healthy environment for all property users.

Environmental improvement

- Develops policies for new Council buildings including design, construction standards, and environmental sustainability

The Corporate Property Strategy 2009 - 2014

Property asset management is a crucial corporate activity. It is championed by the Assets Manager but is an inclusive process involving Members, the Corporate Centre, Services, external partners and stakeholders alike. Each has an important part to play and it is essential that the process is adequately resourced and involvement maintained throughout in order that the maximum cross-cutting benefits can be achieved.

The Corporate Property Strategy 2009 – 2014 is encompassed in two key documents, the Corporate Asset Management Plan and the Capital Strategy which set out key policies, procedures, and detailed actions arising from the Corporate and Service planning processes. In turn they are supported by a further range of documents also set out below:

- **The Corporate Asset Management Plan 2009-2014** (*describing management criteria, building performance and action plans over a 5 year period*)
- **The Capital Strategy 2009-2014** (*describing capital expenditure criteria, together with spending and funding plans over a 5 year period*)

The Corporate Asset Management Plan and Capital Strategy will be supported by the following documents, which will be available by September:

- **Area and Service Asset Management Plans**

(identifying issues facing specific areas or services, their property implications and key service actions to deal with them over a 5-10 year period)

- **Property Maintenance Plan**

(identifying assessment criteria and prioritisation of maintenance items over a 5 year period)

- **Asset Disposal Plan** *(identifying disposal proposals over a 5 year period to match capital funding requirements).*

- **Sustainable Construction Policy**

(setting out standards for construction and energy use in new buildings)

- **Design Guide** *(setting out planning policy and design influences pertinent to Council developments)*

- **Office Accommodation Plan** *(setting out the agreed office strategy covering the next 3 years, combining space and quality standards and identifying how the Council's offices will underpin the introduction of new ways of working designed to facilitate customer focused service delivery whilst improving the working environment for staff)*

- **Farms Management Strategy** *(setting out the Council's objectives for the future management of the Farms Service)*

- **Capital Projects Procurement Plan** *(setting out the means by which new projects are procured, including their management and anticipated workload over a 5 year period)*

CHESHIRE EAST COUNCIL

CABINET

Date of the meeting: 24 March 2009

Report of: Places

Title: Cheshire Homechoice Common Allocations Policy

1.0 Purpose of Report

- 1.1 To update the Cheshire East Cabinet on the amendments made to the Cheshire homechoice common allocations policy to take into account local connection to rural areas and seek adoption of the policy.

2.0 Decision Required

- 2.1 Adoption of the Cheshire homechoice common allocations policy.

3.0 Financial Implications for Transition Costs

- 3.1 No implications for transition costs

4.0 Financial Implications 2009/10 and beyond

- 4.1 Each of the six partners have committed financial resources in order to implement Choice Based Lettings, this includes the procurement of an ICT system. There will be a requirement for an ongoing financial commitment in order to maintain the ICT system and to cover revenue costs, which will be approximately £20,100 per year from each partner.

5.0 Legal Implications

- 5.1 Under Part VI of the Housing Act 1996 local authorities are required to have an allocations policy and procedure in place in order to allocate social housing and under Part VII of the Housing Act 1996 (as amended by Homelessness Act 2002) to make provision for homeless households.

6.0 Risk Assessment

- 6.1 The adoption of a common allocations policy will ensure that there is a consistent approach to the allocation of social housing across the partnership. The development and adoption of an allocations policy is an

fundamental part of the project plan and without a policy in place the implementation of choice based lettings cannot take place.

- 6.2 The Government have tasked all local authorities to implement choice based lettings by 2010. The project is currently on target to meet this timescale, however any delays in the process will jeopardise this.

7.0 Background and Options

- 7.1 The Government require that all local authorities implement choice based lettings by 2010. Cheshire East will not itself own, let or manage any of the social housing stock within the area but still has responsibilities for ensuring that households in housing need have those needs met. These will be achieved through the Cheshire homechoice partnership.
- 7.2 The proposed common allocation policy was presented to members at the Places Advisory Panel on the 16th December 2009. Councillors expressed concern over the ability of people living within certain rural settlements to access housing within those communities. In particular, the likelihood of applicants not connected to the community but in housing need receiving offers because of their higher priority. As a result, the Common Allocation Policy was not progressed to cabinet for adoption.
- 7.3 Officers have now investigated and assessed the options that might be available to address these issues and are putting forward an amended policy. The Cheshire homechoice Project Board have now agreed amendments that will help to meet the concerns of elected members, the Boards of the partner Housing Associations and the needs of legislation.
- 7.4 The Housing Act 1996 and the Homelessness Act 2002 dictates that Local Authority lettings schemes give an overall priority to households in certain types of housing need (the “reasonable preference” categories) These are set out in the policy document and form the basis of the priority banding scheme. Whilst there is no requirement to let all available properties to households in these categories, the Cheshire East will be required to ensure that:
- Non “reasonable preference” lets do not dominate the scheme
 - Any additional criteria incorporated within the policy does not indirectly result in restrictions to housing being placed on groups covered by equality legislation
 - Cheshire East’s legal duties to secure accommodation for certain households are not compromised, in practice, this means ensuring that they receive sufficient priority and choice for social housing within the area

- Those in housing need are able to exercise a significant amount of choice in terms of quality and location when seeking a socially rented home

7.5 The following amendments to the policy have been made:

7.6 **Community connection:** The Project Board have added a category of “community connection” in order to address the needs of those that wish to remain within their existing communities but where stock turnover and the availability of properties is low.

7.7 Under this provision, landlords may advertise their properties in rural communities (fewer than 3,000 population) for those with a connection to that settlement. Those qualifying bids that are received will be prioritised in line with the needs bands as set out in the policy. The proportion of lets advertised in this way will be determined by monitoring the number of lets to ensure that the rules concerning reasonable preference are met.

7.8 In addition to the “community connection” category the Project Board have concluded that the five star plus category had the potential to give certain groups too much preference within the scheme, and have therefore taken the decision that its removal would result in a fairer and more balanced scheme.

7.9 There are a number of additional references within the policy affecting community lettings including:

7.10 **Unacceptable behaviour:** The policy includes a capacity to exclude for all consideration those that have engaged in criminal or anti social behaviour. This will be invoked in all appropriate cases in order to ensure that those that may present a risk to community stability are not re-housed by the partnership. Although no changes have been made to the policy itself. Officers are committed to developing effective assessment procedures prior to implementation of the policy.

7.11 **Priority Banding:** The priority banding scheme incorporates the ability to give reasonable preference to those that can demonstrate a need to move into or remain within a given community in order to prevent or alleviate hardship. This includes needing to give, or receive care, support and employment. This provision applied to all areas and is not limited to rural populations of fewer than 3,000.

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

- 8.1 Implementation of the new Cheshire homechoice scheme is scheduled to take place in 2009 and will therefore be launched after "Vesting Day", approval and adoption of the policy is therefore sought from the Cheshire East Cabinet.

9.0 Reasons for Recommendation

- 9.1 The recommendation is to adopt the Cheshire homechoice common allocations policy to ensure that choice based lettings is progressed to implementation in order to meet the Government target of 2010.

For further information:

Portfolio Holder: Councillor J. Macrae

Officer: Karen Carsberg

Tel No: 01270 529689

Email: Karen.carsberg@congleton.gov.uk

Background Documents:

Westfields, Middlewich Road, Sandbach, Cheshire CW1 1HZ

*Documents are available for inspection at: Cheshire homechoice common allocations policy: **amendments highlighted in red.***



"Amended Common
Allocation Policy Vers

CHESHIRE EAST COUNCIL

CABINET

Date of the meeting: 24 March 2009

Report of: Places

Title: Sub Regional Housing Strategy

1.0 Purpose of Report

- 1.1 To consider the recently completed Sub-regional Housing Strategy, which has been published on behalf of the Cheshire Housing Alliance.

2.0 Decision Required

- 2.1 To consider the Sub-regional Housing Strategy and adopt prior to its launch by the Cheshire Housing Alliance in April 2009.

3.0 Financial Implications for Transition Costs

- 3.1 No implications for transition costs

4.0 Financial Implications 2009/10 and beyond

- 4.1 Officer time.

5.0 Legal Implications

- 5.1 No legal implications.

6.0 Risk Assessment

- 6.1 Government Office North West endorse the preparation of Sub-regional Housing Strategies and state that *“Where an authority has a signed off Fit for Purpose strategy we would expect it to participate in the preparation of a Sub-regional strategy”*. They are effective documents to demonstrate how the Sub-region contributes to the Regional priorities and gives the Sub-region the ability to “lever-in” additional resources. Failure to adopt the strategy could see scarce resources being directed to the other Sub-regions of the North West.

- 6.2 The Cheshire Housing Alliance are preparing to launch the strategy at the beginning of the new financial year, therefore failure to adopt the strategy by Cheshire East will result in the inability to keep to this timescale.

7.0 Background and Options

- 7.1 In order to obtain feedback on the draft strategy and the proposed housing priorities the Cheshire Housing Alliance undertook a period of public consultation during November and December 2008.
- 7.2 Following the closure of the consultation period the strategy has now been amended and the Action Plans for both Cheshire East and Cheshire West and Chester have been finalised. The launch of the strategy by the Cheshire Housing Alliance is set for the beginning of the new financial year.
- 7.3 One of the main reasons that the Cheshire Housing Alliance has developed this strategy is to demonstrate the issues faced by Cheshire and to use it as a lobbying tool to raise the profile and to attract more resources into the area.
- 7.4 Though Cheshire is often viewed as being a fairly affluent area, average house prices here are substantially higher than the regional and national average and affordability has long been an issue, even in the current economic climate. Many of our rural populations and historic market towns, in particular, face a growing affordability crisis, dwindling local services, ageing houses and increasing isolation.
- 7.5 Cheshire is a key part of the wider regional housing market and the sub Regional strategy complements and contributes to the developing aims of the North West Regional Housing Strategy (currently under review). It sets out the common housing issues affecting Cheshire and the wider region and identifies how we can add value by working together with key partners across geographical and administrative boundaries. The creation of two new unitary authorities for the sub-region will allow us to further streamline key partnerships and practices to maximise the opportunities available.
- 7.6 The first Sub-Regional Housing Strategy for Cheshire was developed in 2003. Much has changed, not only within the sub-region, but also on a regional and national level in the intervening years. The impact of international economic events is beginning to make itself felt and the consequences of the 'credit crunch' are likely to have a significant effect for some time to come, in terms of increasing restrictions on lending, rising repossession and falling sales. Many developers are already cutting back on their build programmes, which could have serious consequences for new affordable housing development and Government growth targets.

7.7 The vision of the Strategy is to provide a housing offer that supports the creation of balanced, sustainable communities and the regeneration of the sub-region's most deprived neighbourhoods, through effective lobbying, partnership working and community engagement, to create a sub-region where all residents can achieve independent living in good quality, affordable homes that are appropriate to their needs.

7.8 The four priorities listed below have been identified as the key issues for the sub-region:

PRIORITY ONE: To increase the supply of affordable housing to support economic growth and development.

PRIORITY TWO: To make best use of the sub-region's existing housing stock.

PRIORITY THREE: To meet the housing and accommodation-related support needs of the sub-region's most vulnerable residents.

PRIORITY FOUR: To increase the supply of market housing to support continued economic growth and regeneration and to meet local housing needs.

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

8.1 Not applicable.

9.0 Reasons for Recommendation

9.1 The Shadow Authority for Cheshire East should actively promote the 'housing offer' for residents through effective lobbying, partnership working and community engagement to create the conditions where all residents can achieve independent living in good quality, affordable homes that are appropriate to their needs.

For further information:

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Background Documents:

Westfields, Middlewich Road, Sandbach CW1 1HZ



"Final SRHS
210109.doc"



"Draft SRHS V2.9
ACTION PLAN EAST.c"

*Sub Regional Housing Strategy
Cheshire East Action Plan*

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CHESHIRE EAST

CABINET

Date of meeting: 24 March 2009

Report of: Head of HR and Organisational Development

Title: HR Policies

1.0 Purpose of Report

- 1.1 To consider the HR policies which need to be in place for non teaching employees of the Council by Day One. The Council has already agreed some key policies (for example, the Officer Code of Conduct, Flexible and Mobile Working Policies and CRB policies). Reports on the Health and Safety Policy and Mobile and Home Working Policy are included elsewhere on this agenda.
- 1.2 In terms of Teaching employees, the terms and conditions are prescribed nationally. Policies are agreed by School Governing Bodies. These can continue to be applied in Cheshire East and there is no requirement to change these at this time.

2.0 Decision Required

- 2.1 To agree the following policies to apply to all Cheshire East non teaching employees (details attached as Appendices 1 to 7 to this report):

Attendance Management Policy (Appendix 1)
Dignity at Work Policy (Appendix 2)
Disciplinary Policy (Appendix 3)
Grievance Policy (Appendix 4)
Recruitment Policy (Appendix 5)
Workforce Performance Management Policy (Appendix 6)
Equality in Employment Policy (Appendix 7)

- 2.2 To agree the following policies to apply to employees appointed on new Cheshire East terms and conditions of employment (details attached as Appendices 8 to 11 this report).

Attendance & Leave Policies (Appendix 8)
Health Policies (Appendix 9)
Pay Policies (Appendix 10)
Termination Policies (Appendix 11)

3.0 Financial Implications for Transition Costs

- 3.1 There are no transitional costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The policies will not of themselves incur costs.

5.0 Legal Implications

- 5.1 Sound HR policies will help protect the Council from challenge by employees or potential employees.
- 5.2 The issue of TUPE protection has been considered and will apply in some cases. The policies have therefore split into those which can be applied to all Cheshire East non teaching employees and those which, because of TUPE considerations, can only be adopted for employees appointed on Cheshire East's new terms and conditions. In these cases employees transferring from existing Councils will continue to have their existing policies to them.

6.0 Risk Assessment

- 6.1 It is important for the new Council to have key HR policies in place from Day One so that management of attendance, conduct, performance management, the approach to valuing diversity, etc, are in place to enable any issues to be dealt with.
- 6.2 Harmonising as many terms and conditions of employment as possible on Day One will help to minimise confusion. However, where this would lessen the provisions for some employees, TUPE could apply and an attempt to impose change could lead to challenge at Employment Tribunal.

7.0 Background and Options

- 7.1 The trade unions have been consulted on the approach to be taken on the development of policies and procedures for Day One and it has been agreed that, given the timescale within which this has to be achieved, most policies will be updated to incorporate consequential changes rather than being totally rewritten. Agreement has also been reached about the principle of adapting those policies and procedures that currently apply to the majority of employees provided these are in line with best practice.
- 7.2 Such an approach will mean that there will need to be a fundamental review of terms and conditions and policies and procedures during the early life of Cheshire East in order to ensure they are fit for purpose and reflect the culture and values of the new authority.

8.0 Trade Union Consultation

- 8.1 As indicated above the Trade Unions have been consulted on the general approach and the draft policies attached have been shared with them. They recognise the benefits of having policies which apply to all Cheshire East staff which will avoid confusion and make life easier for managers, employees and the unions themselves.

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

- 9.1 There remain other less crucial areas where work is required to harmonise policies in Year One. In addition, as indicated in paragraph 7.2 above, a more

fundamental review of all HR policies will be required during Term One to ensure they are fit for purpose.

- 9.2 It will be important to ensure that these Day One policies are accessible to both staff and managers on the intranet and to inform employees of the changes.

10.0 Reasons for Recommendation

- 10.1 To ensure that key HR policies for Cheshire East are in place on Day One.

For further information:

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Background Documents:

Documents are available for inspection at: County Hall, Chester

APPENDIX 1

ATTENDANCE MANAGEMENT POLICY

1 INTRODUCTION

1.1 Cheshire East Council is committed to a culture of high attendance, which will be reinforced in a number of ways:

- Training for line managers on managing attendance and the requirements of the Disability Discrimination Act;
- Genuine concern and interest in the health and well being of employees;
- Proactive promotion of good health; and
- Provision of high quality Occupational Health services.

1.2 Managing attendance and absence is essential. Unnecessary or avoidable absence affects the Council's ability to meet value for money expectations and can present a poor image to the customer.

2 SCOPE

2.1 This policy and attached procedure will apply to all non teaching employees of the Council, except those appointed by schools.

3 OBJECTIVE

3.1 The Council's aim will always be to seek to help and support employees with genuine health problems which affect their ability to work as required, whilst fostering a culture of full attendance and taking firm action against any abuse of the sickness provisions. All reasonable assistance will be provided to employees experiencing either short term or prolonged periods of ill health to help them to regain their health and return to work and do their job.

3.2 The Council's objective is to safeguard the health and safety of employees, to help and support those with problems – especially through family friendly practices. At the same time, firm action will be taken against those who abuse the sickness absence provisions.

4 PRINCIPLES

4.1 All employees have a duty to take reasonable care of their own health and fitness, to attend to work if they are fit and to follow the correct reporting procedures if they are ill.

4.2 Monitoring attendance and the control of absence levels is a management function and it is the responsibility of managers to create a culture where employees know that attendance does matter, that they are missed if they are absent and that attendance is important to:

- The work group;

- The level and quality of service provision, and;
- The performance and image of the Council.

4.3 The attendance management procedures will ensure that all employees are treated fairly. If it becomes clear that the health problems of an employee cannot be addressed through the Attendance Management Procedures, the Workforce Performance Management Procedures will be applied (either Route B or C as appropriate). If the issues causing absence are not health related action may be taken under the Disciplinary Procedure.

APPENDIX 2

DIGNITY AT WORK POLICY

1 SCOPE

1.1 The Dignity at Work Policy and Complaints Procedure apply to all non teaching employees of the Council, except those appointed by schools.

2 PURPOSE AND INTENT

2.1 The Council recognises the complex personal and interpersonal relationships that exist amongst a large and diverse workforce. It also recognises that organisational culture and tensions can contribute to an atmosphere in which unacceptable forms of behaviour are tolerated. The Council believes that all men and women at work are entitled to be treated with dignity and respect at all times. It understands the need for acceptable standards of behaviour in the workplace to enable all employees to fulfil their maximum potential and to protect their health, safety and welfare. These standards of behaviour should apply in all relationships involving Members, Managers, employees and others e.g. Service Users, Consultants, contractors and volunteers.

2.2 The Council regards any form of bullying and harassment as unacceptable and will deal seriously with instances of such behaviour should they arise. The Council will give effect to its position on dignity at work by:-

- adopting this Policy statement;
- providing a clear process for dealing with complaints;
- setting standards of behaviour for employees through induction and appraisal;
- providing training for managers and investigating officers involved in handling complaints;
- providing access to support and counselling to individuals who consider that their dignity at work is compromised by the behaviour of others.

2.3 In formulating this policy account has been taken of other relevant legislation and policies including the Human Rights Act and the Council's Whistleblowing Procedure.

3 ACCEPTABLE BEHAVIOUR

3.1 The fundamental principle underpinning this policy is the right that each individual has to respect and personal dignity within the workplace. Individual employees have a responsibility to recognise and preserve this right, to uphold the personal dignity of others, and to recognise and that other people's beliefs and culture differ.

4 UNACCEPTABLE BEHAVIOUR

4.1 The most common descriptions of unacceptable behaviour in the workplace are harassment and bullying, although the lack of a label should not deter an employee from asserting their right to be treated in an acceptable manner. The terms bullying and harassment are used in this Policy to describe any form of behaviour that offends against an individual's dignity.

4.2 Bullying and harassment are complex and sensitive issues because they can take so many different forms. They can be isolated or repetitive behaviour and can be directed at individuals or groups. Standards of behaviour are inevitably very personal things and what is acceptable to one person may be deemed harassment or bullying by another. It is often, although not always, the case that the alleged harasser or bully is in a position of power which enables them to undermine another individual. Whatever judgements are made about the validity of one individual's perception of another's behaviour, the Council's underlying principle is that the feelings of all individuals should be respected and solutions sought which maintain personal dignity.

4.3 There are a number of definitions of harassment and bullying which could be adopted. None of these is definitive nor will they provide prescriptive descriptions of what constitutes unacceptable behaviour. They do however describe in general terms the types of behaviour which the Council believes to be unacceptable.

Harassment is defined as:

Any unwanted attention or behaviour that a person finds objectionable or offensive and which makes him or her feel threatened or uncomfortable leading to a loss of dignity and self-respect.

Bullying is a distinct and specific form of harassment which has been recognised in employment law under Health and Safety and other legislation. It is defined as:

Offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or use of unfair sanctions, which is persistent and makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self confidence and which may cause them to suffer stress.

4.4 The Council accepts that the key to feelings of harassment and bullying are that the behaviours encountered by the individual are unwanted and /or unwarranted, viewed as demeaning by, and unacceptable to, them as individuals. However it also recognises that in a large and diverse organisation, behaviours which one individual finds unacceptable may be considered justified and acceptable by others. In some circumstances the Council may apply the test of reasonableness in determining the acceptability of particular behaviours. However in responding to and managing complaints under this procedure, the Council will seek to promote outcomes which recognise the feelings and respect the dignity of all those involved.

4.5 Some of the reasons why harassment and bullying takes place and examples of behaviours which offend against peoples' personal dignity are given in Annex 1 of the Complaints Procedure. This list is not exhaustive.

5 PRINCIPLES

5.1 The Council expects all its Members and employees, whatever their position, to respect each individual's entitlement to dignity at work. The Council will maintain a safe and healthy working environment and will ensure that any allegation of bullying or harassment is taken seriously, is properly investigated and dealt with effectively.

5.2 This procedure incorporates and supports the rights of an employee to be accompanied at meetings, have access to relevant information, have an opportunity to explain their position, and have a right of appeal if they are not satisfied with the outcome. Managers are provided with guidance on the relevant legislation and a clear understanding of their roles and responsibilities.

5.3 Complaints will be investigated swiftly and confidentially, while ensuring that the rights of individuals are protected. Matters can often be handled without the need for a formal investigation and this procedure recognises and provides for both formal and informal channels of resolution. It is preferable for complaints to be handled internally and informally as solutions can often be reached speedily with minimum embarrassment and risk to confidentiality. Such an approach is likely to be less stressful for all parties and result in outcomes with a high degree of mutual acceptability. In cases where there is a need for formal proceedings these will be kept confidential and any witness statements and records will be kept confidential to those proceedings.

5.4 Any incident that is perceived to be racist will be recorded and investigated.

5.5 The Council also recognises that employees subject to Grievance, Disciplinary and Workforce Performance Management procedures will be under great pressure. It recognises the potential for such staff to interpret the actions of their managers as bullying or harassing. The Council expects all its managers to apply these procedures appropriately and adopt sensitive and professional behaviours towards staff subject to proceedings. It also expects employees to take responsibility for contributing to the resolution of performance and conduct issues and to reflect on the causes of the stress they will be feeling.

If an employee is being taken through Disciplinary or Workforce Performance Management procedures, the Dignity at Work Procedure cannot be used to register concerns about action under those procedures. Any concerns must be made formally, in writing, and will then be appropriately dealt with as part of those procedures. Where appropriate, consideration may be given to the suspension of proceedings whilst such concerns are addressed.

6. STANDARDS

6.1 Managers are expected to:-

- Demonstrate respect for staff as individuals in all managerial/supervisory matters;
- Reflect on their own approach and style, recognising the inherent power their position bestows;
- Undertake relevant training in people management skills (appraisal, performance management, recruitment and selection) as part of their management /supervisory development;
- Ensure that all employees are aware of the Council's policies on Valuing Diversity and Dignity at Work and that they know how to complain if they become victims of harassment and bullying;
- Deal with complaints of harassment and bullying promptly, sensitively, confidentially and in accordance with the Procedure;
- Invite and encourage constructive feedback from subordinates and within teams about standards and styles of behaviour to promote an open and honest culture of respect for diverse opinions;
- Ensure that matters of conduct and performance are dealt with sensitively and professionally, recognising the stress experienced by employees in these situations and the potential for feelings of victimisation to emerge;
- Give sensitive consideration to external and domestic influences which might be affecting an employee's performance or behaviour at work e.g. caring responsibilities, health or bereavement, relationship difficulties or domestic violence.

6.2 Employees are expected to:-

- Behave towards each other and their managers with respect at all times;
- Help prevent harassment and bullying by challenging and reporting Colleagues whose behaviour appears to be causing distress to others;
- Encourage colleagues to be open with each other and to resolve differences informally and at an early stage to avoid excessive stress being experienced;
- Recognise that managers often have a difficult job to do which will sometimes involve making decisions and giving instructions and feedback which are not always popular but which cannot necessarily be construed as harassment or bullying;
- Avoid making judgements and taking sides in the course of a complaint being investigated.

6.3 Members are expected to:-

- Promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They will respect the impartiality and integrity of the authority's statutory officers, and its other employees;

- Uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them;
- Not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority;
- Promote and support these principles by leadership and by example and will act in a way that secures or preserves public confidence.

These obligations are in accordance with the Members Code of Conduct and regulations made under the Local Government Act 2000.

7. COMPLAINTS

7.1 The Council has adopted a specific Dignity at Work: Complaints Procedure to recognise the particular nature of complaints of bullying or harassment or other forms of unacceptable behaviour. This Procedure provides for both formal and informal resolution of complaints. While every employee has the right to ask for a formal investigation to be undertaken, the Council recognises the considerable strain such investigations can in themselves generate and would wish to promote and facilitate informal resolution as much as possible.

7.2 A Modified Dignity at Work: Complaints Procedure has been developed for use in limited circumstances.

7.3 Allegations involving employees having acted contrary to this Policy will be dealt with under the Dignity at Work: Complaints Procedure.

7.4 Allegations involving Members will not be channelled through the Council's formal Complaints Procedure but will be dealt with in accordance with the Council's Code of Conduct for Members and in accordance with the relevant provisions of Part III of the Local Government Act 2000.

7.5 Allegations involving Service Users, Consultants, contractors or volunteers will be dealt with under the Council's Complaints Procedure or any Service specific arrangements agreed for this purpose.

DISCIPLINARY POLICY

1 SCOPE

1.1 The Disciplinary Policy and Procedure will apply to all non teaching employees of the Council, except those appointed by schools. A modified procedure applies to employees in their Probationary Period.

2 DEFINITION

2.1 Circumstances that may lead to an employee being subject to the disciplinary procedure are deliberate (wilful or negligent) breaches of discipline/acts of misconduct, which are considered sufficiently serious to warrant formal investigation

2.2 Such breaches may be single events (which may or may not amount to gross misconduct), or persistent minor breaches which the normal management process has failed to prevent or to rectify.

2.3 It is impossible to prescribe a common set of disciplinary standards covering all aspects of employment but the following examples may, depending on the circumstances, be considered as gross misconduct, and may therefore result in dismissal. This list is neither exclusive nor exhaustive.

- Violence or the threat of violence to another employee/client.
- Harassment and bullying.
- Theft of Council or another employee's property.
- Deliberate falsification of any document.
- Criminal conduct at work.
- Corrupt or improper practice in breach of the Code of Conduct
- Discrimination against another employee, an applicant for employment or any other person associated with the Council on the grounds of race, ethnic origin, colour, nationality, sex, sexual orientation, marital status, age or disability.
- Breaking the Council's safety rules.
- Reporting for, or being at, work while adversely affected by drink or non prescribed drugs.
- Unauthorised use of, or misuse of, a Council owned vehicle, Council equipment, property or facilities, including communication and information technology.
- Knowingly disclosing confidential information in breach of the Confidential Reporting Procedure (Whistleblowing).
- Neglect of duty or behaviour liable to bring the Council into disrepute.
- Breaching standards of professional conduct.

2.4 Gross misconduct is misconduct serious enough to destroy the employment contract between the employee and the employer and to make trust and a further working relationship impossible.

3 OBJECTIVE

3.1 The objective of this policy is to ensure that an employee acts in accordance with the standards of conduct required by the Council. Its primary purpose is to help employees to improve rather than just to provide a means of imposing punishment.

4 PRINCIPLES

4.1 At all stages of the procedure account will be taken of the need to satisfy the tests of reasonableness and natural justice.

4.2 Employees will be informed of the complaint against them and will be given an opportunity to state their case before a decision is reached.

4.3 Employees will have the right to be accompanied at disciplinary and appeal hearings by their trade union or a work colleague employed by the Council and to call their own witnesses.

4.4 No disciplinary action will be taken against an employee until the facts of the case have been established and consideration has been given to the reasonableness of the proposed action in all the circumstances.

4.5 No employee will be dismissed for a first disciplinary offence unless it is a case of gross misconduct.

4.6 Employees will be given a written explanation for any disciplinary action taken and informed of the improvements that are required of them.

4.7 There will be a right of appeal.

4.8 Issues will be dealt with thoroughly and as promptly as possible, within agreed and appropriate timescales.

4.9 Proceedings, witness statements and records will be kept confidential and in accordance with the requirements of the Data Protection Act 1998.

4.10 If disciplinary action is being considered against an accredited official of a recognised trade union, the case will be discussed, after obtaining the employee's agreement, with a senior trade union representative or permanent union official.

4.11 The Authority will respect employees' rights to privacy in their private and family life and will take action in this context only where the right conflicts with their explicit or implicit obligations as an employee of the Council.

4.12 Reasonable adjustments will be made to enable employees with a disability or from ethnic minorities to fully participate in hearings and respond to any allegations made against them.

5 STANDARDS

5.1 Manager's responsibilities:-

5.1.1 The day to day monitoring and counselling of employees forms part of the normal supervisory/management process and does not form part of the formal procedure. Except in the case of potential gross misconduct, where there are shortcomings in an employee's overall conduct the employee should be made aware of the standards that are required and possible remedies should be considered before any formal steps become necessary.

5.1.2 The responsibility for the application of this procedure lies with the appropriate Head of Service who will have the authority to impose any of the sanctions laid down in the procedure. The Head of Service may on occasion nominate another appropriate Manager to act on their behalf.

5.2 Employee's responsibilities:-

5.2.1 Employees should fully understand the standards of conduct and performance expected of them in their jobs and to seek to fulfil those expectations.

5.2.2 Employees should seek advice and support when personal circumstances impair their ability to do the job.

5.2.3 Employees should ensure that their private life does not interfere with the proper performance of their duties and responsibilities with the Council.

6 MINUTES AND RECORDS

6.1 Copies of meeting records will be given to the employee, including copies of any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) the Council reserves the right to withhold some information.

6.2 The following written records will be kept on the employee's personal file:

- the complaint against the employee
- the employee's defence
- findings made and actions taken
- the reason for the actions taken
- whether an appeal was lodged
- the outcome of the appeal
- any grievances raised during the disciplinary procedure; and
- subsequent developments.

7 RELATIONSHIP WITH GRIEVANCE AND WORKFORCE PERFORMANCE MANAGEMENT PROCEDURES

7.1 If at any stage in this procedure it becomes apparent that the matter is actually one of capability rather than discipline, it is appropriate to switch to the application of the Workforce Performance Management Procedure.

7.2 If an employee raises a grievance related to the disciplinary case, consideration will be given to suspending the disciplinary procedure for a short period whilst the grievance is dealt with.

7.3 It will normally be appropriate to deal with a grievance related to the case at the disciplinary hearing or a part of the appeal. However if the employee's grievance is that the action taken or contemplated is or would be unlawfully discriminatory, or that it is being taken for other reasons than that which has been asserted, the Grievance Procedure should apply.

8 HEARINGS AND APPEALS

8.1 Where possible, the employee's trade union representative or work colleague will be consulted about the date and time of the hearing to ensure that this is convenient for them. If either cannot attend on the proposed date, the employee can suggest an alternative time and date so long as it is reasonable and is not more than 5 days later than the original date, or both sides may agree an alternative date beyond this period.

8.2 If an employee is unable to attend a meeting for reason outside their control and unforeseeable at the time the meeting was arranged (e.g. illness), a further date will be arranged. Where absence due to illness continues the Occupational Health Unit will be asked for advice on whether or not the employee is fit to attend a hearing.

8.3 If the employee fails to attend without good reason, a decision may be taken in the employee's absence.

8.4 Sufficient time will be given to enable the employee to prepare their response to the allegations. The hearing will be a minimum of 5 working days (unless otherwise agreed) after they have been notified of the date of the hearing and the details of the management case. In more serious and complex cases there will be a minimum of 15 working days unless the employee requests an earlier hearing.

8.5 In the case of appeals where the evidence has already been presented there will be a minimum of 5 working days between the written notification of the date and the date of the hearing.

9 CONFIDENTIALITY

9.1 All parties have a responsibility to deal with disciplinary issues in a sensitive and confidential manner.

9.2 Information shared as part of the disciplinary process is confidential and must not be used or published for any other purpose. Failure by the employee or manager to observe this requirement could, of itself, lead to further disciplinary action.

GRIEVANCE POLICY

1 INTRODUCTION

1.1 The Council actively seeks to promote a harmonious working environment and positive working relationships but acknowledges that there may be instances where employees may have problems or concerns about their work, working environment or working relationships that they may wish to raise and have addressed. The Grievance Procedure supports the right of employees to raise legitimate grievances and provides a mechanism for these to be dealt with fairly and speedily before they develop into major problems or potential collective disputes.

2 SCOPE

2.1 The Grievance Policy and Procedure applies to all non-teaching employees of the Council, except those appointed by schools.

2.2 It may be used by a group of employees who have a grievance if they wish to pursue it collectively.

2.3 Grievances will be heard by the appropriate Head of Service, Director, Chief Executive or Staffing Appeals Special Sub-Committee depending upon the nature of the grievance.

3 DEFINITION

3.1 A grievance is 'a complaint by an employee about action which their employer has taken or is contemplating taking in relation to them'. Such grievances may relate to terms and conditions of employment, health & safety, relationships at work, new working practices and organisational change for example.

4 APPLICATION

4.1 EXCLUSIONS FROM ACCESS TO THE GRIEVANCE PROCEDURE.

There are instances where the application of the Grievance Procedure is not appropriate. Employees are excluded from using the Grievance Procedure in the following circumstances:

4.1.1 Where they fail to comply with the relevant time limits within the procedure, unless management agrees in advance to a particular time limit being extended.

4.1.2 Where an employee attempts to restart the procedure in respect of a grievance which has been heard under the procedure within the previous six month period.

4.1.3 Where an employee has been notified of the date of an interview or disciplinary hearing concerning an alleged act of misconduct by them and whose declared grievance is connected with that matter.

4.1.4 Where an employee has been notified of the date of an interview or formal hearing concerning alleged unsatisfactory performance by them and whose grievance concerns, or is connected with, that matter or the arrangements for that interview or hearing.

4.1.5 Where an employee seeks to express grievances about matters over which the employer has no control e.g. health & safety legislation.

4.1.6 Where an employee has grievances which are the subject of, or appropriate to, any collective disputes procedures agreed between the Council and a recognised trade union.

4.2 LINKS WITH OTHER PROCEDURES

4.2.1 If an employee is being taken through the Disciplinary, Workforce Performance Management or Dignity at Work procedures, this procedure cannot be used to register concerns about action under those procedures. Any concerns must be made formally, in writing, and will then be appropriately dealt with as part of those procedures. Where appropriate, consideration may be given to the suspension of proceedings whilst such concerns are addressed.

4.2.2 Complaints which relate to harassment and bullying will be dealt with under the Dignity at Work Procedure.

4.2.3 If an employee has a grievance about an unrelated matter, this may be pursued simultaneously but arrangements under Disciplinary/ Workforce Performance Management procedure will take precedence over those relating to a grievance.

4.2.4 The grievance procedure does not apply where an employee makes a protected disclosure under the Confidential Reporting Procedure, unless the employee actually indicates that the making of the disclosure constitutes the raising of a grievance. An employee can choose whether to raise a concern as a grievance OR as a protected disclosure.

4.3 MODIFIED GRIEVANCE PROCEDURE

4.3.1 The full Grievance Procedure will apply in all cases where the employee is still employed by the Council, and in cases at the end of employment unless it is not reasonably practical to do so in which case the Modified Grievance Procedure will apply instead.

5 OBJECTIVE

5.1 To enable an employee to raise a grievance relating to their employment and receive a timely and appropriate response from management, with a view

to reaching a satisfactory outcome.

5.2 If the relevant manager finds that an employee has knowingly misused the procedure, the employee concerned may be subject to disciplinary action.

6 STANDARDS

6.1 Manager's responsibilities:-

6.1.1 To provide for the employee's rights to:-

- be accompanied at meetings by their trade union or a work colleague of their choice;
- have access to relevant information;
- have an opportunity to explain their position; and
- a right of appeal.

6.1.2 To provide for appropriate assistance and for reasonable adjustments to be made to enable employees with a disability or from ethnic minorities to fully participate in hearings and present their grievance.

6.2 Manager's and Employee's joint responsibilities:-

6.2.1 To ensure that grievances are dealt with efficiently and within agreed timescales.

6.2.2 To ensure that the proceedings will be confidential, and any witness statements and records will be kept confidential to those proceedings.

7 PROCEDURAL TIMESCALES

7.1 Employees should raise grievances on a timely basis in order to ensure that the matter can be fully investigated and resolved satisfactorily. Any grievances which are not raised within 3 months of the event occurring, or final event where there is a sequence of events, will be considered out of time, unless there are exceptional circumstances e.g. in cases of sickness.

7.2 Time limits are specified at each stage of the procedure. These are intended to ensure their speedy resolution and to avoid delays. However, there may be exceptional circumstances where both management and the employee's representative agree that speed is not essential, (this may be necessary where further investigation is required), in which case timescales may be extended by mutual agreement.

7.3 If a grievance is not dealt with by an appropriate manager within a specified time limit, the employee will have the right to proceed to the next stage of the procedure. Where an employee or their nominated representative fails to comply with a time limit the application of the procedure will cease and the grievance will be considered settled or withdrawn, unless it is agreed that the failure was not the fault of the employee or their nominated representative. This will not apply if the relevant manager and the employee agree that the time limits should be extended.

7.4 The timing and location of meetings should be reasonable and the

employee must take all reasonable steps to attend. If the person accompanying the employee cannot attend on a proposed date, the employee can suggest a suitable alternative date/location. This must not be more than 5 working days after the date originally proposed by the manager. Managers may agree an alternative date if this timescale cannot be met but they are not required to do so.

8. RECORDS

8.1 Records should be kept detailing the nature of the grievance raised, the employer's response, any action taken and the reasons for it. These records should be kept confidential and retained on the employee's personal file in accordance with the Data Protection Act 1998. Copies of records should be given to the individual concerned although in certain circumstances some information may be withheld (e.g. to protect a witness).

APPENDIX 5

RECRUITMENT POLICY

1 Advertisement of Vacancies

1.1 All vacancies for jobs will be circulated throughout the Council in a weekly Staff Vacancies List prepared by Human Resources. An exception may only be made by a Head of Service after consultation with the appropriate union. A copy of every vacancy to be filled must in any event be sent to Human Resources.

1.2 An appointment of an external candidate (other than for a casual appointment) may only be made after an external advertisement. A vacancy essentially similar to one advertised within the previous six months, need not be re-advertised, if one of the original applicants is to be appointed

2 Relatives of Elected Members and Employees and Use of Improper Influence

2.1 All employees will observe the Council's Code of Conduct.

3 Probation

3.1 Every new employee of the Council with less than six months continuous local government (RPMO) service will be subject to a 25 weeks probationary period. At the end of this period their appointment will be confirmed provided their performance and conduct have been satisfactory.

3.2 At the beginning of their employment with the employee will receive an induction into the Council and the unit in which they are working. Their manager will identify any training or development needs they may have and make arrangements for these to be met. They will inform the employee of the standards of performance and conduct that are required.

3.3 During the probationary period the normal supervisory arrangements will apply. Additionally the manager will meet with the employee at the end of two, four and six months to formally review their progress. A note will be made of these discussions which will be shared with the employee and placed on their personal file.

3.4 Neither the full disciplinary or workforce performance management procedures will apply during the probationary period (see Appendix ?? Procedure for addressing problems of performance or conduct during the Probationary Period.)

3.5 Any concerns will be discussed with the employee, appropriate support and training will be provided, but if at the end of five months the employee's performance or conduct does not meet the required standards they may be dismissed. In cases of gross misconduct the dismissal may take place at an earlier point.

3.6 The employee will be entitled to appeal against any such decision.

3.7 The employee will be entitled to be represented by their trade union or work colleague employed by the Council.

4 Promotion

The appointment of an employee will be on merit and in accordance with the requirements relating to qualifications and experience as specified in the job description and person specification for the appointment.

5 Temporary Employees

The terms in this document will apply to employees on temporary contracts as detailed in their Written Statement of Particulars.

6 Medical Report

All permanent appointments to the Council are subject to the Occupational, Health Unit certifying that the individual is medically acceptable for employment. This requirement may be applied at the discretion of a Head of Service for casual appointments.

7 Period of Continuous Employment

7.1 For statutory rights, other than the right to claim a redundancy payment, continuous employment dates from the date of continuous service with Cheshire East Council. However, if the employee is employed in two or more separate jobs, continuous service in respect of each additional job dates from the start in each additional job.

7.2 For redundancy payment purposes, continuous service with an organisation covered by the Redundancy Payment (Local Government) (Modification) Orders [RPMO], which covers local authorities and related bodies, counts as continuous service with the Council. If an employee does not have such service, the effective date is the start of their employment with Cheshire East Council. However, if the employee is employed in two, or more, separate jobs, continuous service in respect of each additional job dates from the start in each additional job.

7.3 If an employee has previous continuous service with an organisation covered by the RPMO, this is included in the entitlement to

- annual leave
- sickness allowance
- maternity schemes

Where an employee returns to local government service following a break for maternity reasons, or reasons concerned with caring for children or other dependants, he or she will be entitled to have previous service taken into account in respect of the sickness and maternity schemes provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened. For the purpose of the entitlement to annual leave, the eight years time limit does not apply provided that no permanent full time employment has intervened.

7.4 A TUPE transferred employee returning to local government employment (since 1 April 1997) preserves their continuous service provided there has been no break in service and the return is within 5 years of the original transfer. All previous continuous service, including service with the private contractor, is recognised for the purposes of calculation of entitlements to annual leave, occupational maternity leave/pay and occupational sick pay. (Where there have been a series of TUPE transfers, the five-year service limit applies from the date of the initial contract)

7.5 From 1 May 2005, previous continuous service with the National Health Service is recognised for the purpose of calculating entitlements to annual leave, sick pay and maternity leave. Entitlement to redundancy payments is not affected.

APPENDIX 6

WORKFORCE PERFORMANCE MANAGEMENT POLICY

1 SCOPE

1.1 The Workforce Performance Management Policy and Procedures apply to all non teaching employees of the Council, except those appointed by schools.

1.2 The Council will encourage and assist all employees to achieve and maintain their competence and to meet required local and professional standards through supervision and appraisal. However, there will be occasions when an individual's skill, aptitude, health or other physical or mental well being, may affect their ability to do their job. In these circumstances, where it is not clear that ill health retirement is appropriate, one of the following three procedures will be followed. These procedures will only be applied where all other relevant approaches have failed:

Route A : Unsatisfactory work performance, not health related

Route B : Unsatisfactory levels of attendance due to health related problems

Route C : Inability to do the job due to continuous / extended sickness absence

2 OBJECTIVE

2.1 The objective of the policy and procedures is to assist the employee to return to work to the required standard or if this cannot be achieved to resolve the situation, preferably by agreement, by finding alternative options which take account of the abilities of the employee and the needs of the Council and/or by making reasonable adjustments.

2.2 In applying the procedures the Council will ensure that the dignity of the individual is respected and will act fairly and sensitively.

2.3 Termination of employment will only be considered as a last resort and where this is necessary will be on the grounds of ill health or other incapability. In cases of ill health the Council's Occupational Health Unit will need to recommend ill health retirement based on the appropriate pension scheme regulations. In other cases of incapability the employee will not have any entitlement to compensatory payments or early access to any pension benefits.

2.4 If at any point it becomes clear that the issue is one of discipline rather than capability, the manager may switch to applying the Disciplinary Procedure.

3 PRINCIPLES

3.1 The Council will act firmly but always fairly and with sensitivity and respect for the dignity of the individual.

- The rules of natural justice will be observed.
- All situations will be thoroughly examined (taking expert advice where necessary): decisions will never be taken arbitrarily.
- Managers will ensure they allocate the necessary time to ensure the review periods and timescale are applied firmly and are only extended with the agreement of the appropriate Head of Service and the HR Delivery Manager.
- The individual will be given every opportunity to put their side of the case and express their feelings.
- Managers will make their intentions, expectations and actions clear and always confirm them in writing.
- An employee may be accompanied by a trade union or other representative of their choice at any formal interview or appeal stage within the procedure (but will always be expected to answer questions personally). Arrangements will take account of the availability of all parties.
- The confidentiality of information will be respected in accordance with Council policies and the law.
- Reasonable adjustments will be made and appropriate assistance provided to enable employees with a disability or from ethnic minorities to ensure that they are able to fully participate in meetings under these procedures.

4 THE COUNCIL'S STANDARDS

4.1 The Council will aim to prevent any performance difficulties by:

- The use of relevant and thorough recruitment and selection processes.
- Induction of employees.
- Rigorous, but sensitive application of probationary periods.
- Ensuring employees are clear about their roles, duties and the standards expected of them.
- Keeping job descriptions, person specifications and key tasks current and relevant to their role.
- Ensuring appraisal is applied and that managers are trained appropriately.
- Actively encouraging employees to develop their skills and knowledge and to take full advantage of training and development opportunities available.
- Acting quickly and decisively against all inappropriate behaviour towards employees.
- Promoting the health, safety and welfare of all employees with managers taking an active interest in employees and their well-being.
- Ensuring all employees with a disability or from ethnic minorities are not unfairly discriminated against.
- Consistent application of the Workforce Performance Management procedures.
- Development and application of family friendly policies.
- Ensuring that managers are trained to assist employees to achieve optimum performance and on how to approach and resolve difficulties.

5 EMPLOYEES' RESPONSIBILITIES

5.1 Employees are expected to:

- Take full advantage of training and development opportunities.
- Participate fully in appraisal.
- Attend work when fit to do so.
- Discuss any problems at work, or at home which are affecting their performance at work, with their manager (or HR or Occupational Health if they difficulty sharing confidential and sensitive information with their manager.
- Where management believes there is a problem, to endeavour to understand the position and co-operate with efforts to find a mutually acceptable solution.

5.2 If the employee does not accept the problem as perceived by their manager, attitudes may harden, and the situation become more intractable. It may become necessary to move to the formal procedure at an earlier stage than otherwise would be required. There is a joint onus to explore the situation and seek to define it through rational and dispassionate discussion. But if this cannot be achieved, the manager must take the decisive action that the circumstances require. The Disciplinary Procedure may be appropriate if the employee refuses to co-operate in a joint examination of the situation.

6 PERFORMANCE AND DISABILITY

6.1 The Council will make every reasonable effort to maintain employment for an employee with a recognised disability. It will make all reasonable adjustments to premises, facilities or terms to enable this to happen.

6.2 Under the Disability Discrimination Act 1995 (DDA), an employee has a disability if they have a physical or mental impairment which has a substantial and adverse effect on their ability to carry out normal day to day activities (long term means continuing for at least 12 months after first occurrence). The law requires that people must not be treated as less able or suitable simply because they have a disability. It does not mean that employers have to retain, regardless, employees who are not able or suitable. It would be justifiable to terminate employment where disability makes it impossible for the employee to perform the main functions of their job and adjustments to this job or redeployment to a vacant job elsewhere in the Council are not practicable or otherwise not reasonable. Managers will always give careful consideration to disability, in accordance with the requirements of the DDA, and will ask Occupational Health or other agencies for advice, especially where disability and ill-health are linked, and work together with the employee.

7 REDEPLOYMENT AND OUTPLACEMENT

7.1 The Redeployment Procedure will be applied actively to help employees who need to leave their existing job. There may be some very limited circumstances when this will not be appropriate, e.g. very specialist jobs and certain ill health cases. Pay protection will be applied if it is appropriate. Any alternative work must not risk a recurrence of the original problems. Where redeployment is attempted, at least three months will be allowed for the suitability of the alternative job to be assessed.

7.2 If redeployment has been tried but been unsuccessful and termination is inevitable, outplacement help may be offered by the Council where this is

appropriate. A specialist agency may be used (details from HR) but the costs must be met by the employing service.

8 TERMINATION ON HEALTH GROUNDS WITHOUT PENSION

8.1 This will happen where the Occupational Health doctor cannot be reasonably certain (and therefore certify) that the ill health will prevent the employee from working until their normal retirement age. Without this certification, the ill-health pension cannot be paid. It will also happen where the employee meets the ill-health retirement criteria but is not entitled to a pension.

8.2 In either of these cases, the employee could be dismissed for lack of capability and would not be entitled to a pension or any compensatory payments.

9 OPTIONS

9.1 The possible outcomes in relation to each of the route are as follows:

Option	Route A	Route B	Route C
Reasonable changes to duties, terms, environment	Yes	Yes	Yes
Redeployment	Yes	Yes	Yes
Termination with notice	Yes	Yes	Yes
Termination with pay in lieu of notice (pay is taxable)	Yes	Yes	Yes
Outplacement	Yes	Yes	Yes
Reduction in hours	Yes	Yes	Yes
Flexible retirement	No	Yes	Yes
Pension Scheme Regulation 31 (Rule of 85)	No	Yes	Yes
Termination on extended notice	No	Yes	Yes
Options for re-engagement	No	Yes	Yes
Ill health retirement	No	Yes	Yes

10 APPEALS

10.1 There are appeal provisions for use by employees dissatisfied with the application of this procedure or a manager's decision.

10.2 Depending on the circumstances, review or appeal will involve either the Grievance Procedure or a separate right of appeal to a manager who has not been involved in a decision. The procedures to be used will be as agreed with the trade unions. The appeal provisions are shown at the end of the Workforce Performance Management procedures.

10.3 An employee who wishes to appeal against a decision not to grant them ill health retirement has access to the Internal Disputes Resolution Procedure

under the Local Government Pension Scheme Regulations. The employee must write to the Head of Human Resources & Organisational Development to register their appeal and the grounds for it within six months of the decision being notified to them.

APPENDIX 7

EQUALITY IN EMPLOYMENT POLICY

Purpose and Intent

- 1.1 Cheshire East Council's values “ **ASPIRE** “ set out the behaviours expected from employees within the Council as follows:
 - **Action** – take responsibility for making the right things happen
 - **Support** – work and learn together in order to succeed
 - **People** – put customer and community needs at the heart of what we do
 - **Integrity** – be open, honest and fair, expecting the same of others
 - **Recognition** – value all views, efforts and achievements
 - **Excellence** – strive to improve all that we do
- 1.2 Two of these values are particularly relevant to equality and diversity. The value “**Integrity**” states that we will “***Treat everyone with dignity and respect.***” This means that the Council is committed to treating everyone whether currently employed in the Council or an applicant for a post fairly, respecting their achievements and contributions and ensuring equality of opportunity. This will be seen both in the way that potential employees are encouraged to seek and gain employment within the Council, and in the way that existing employees are treated.
- 1.3 The value “ **Recognition** “ states that Cheshire East Council will “***value all views, efforts and achievements***” . It recognises that it can only deliver high quality services through its employees. It values and welcomes the perspectives and contributions that a large and diverse workforce brings to their jobs, and will endeavour to secure a workforce that is representative of the wider community.
- 1.4 The Council will therefore strive to ensure that no discriminatory practices either direct or indirect will take place, and that human resource policies and standards will enable managers and employees to be clear about their legal responsibilities and their responsibility within the Council's overall policy and planning framework.
- 1.5 The Council will ensure that those seeking employment within the Council, and its current employees will at all times be afforded equal opportunities in employment, irrespective of disability, gender, race, religion, age, sexuality, marital status, parental status, caring responsibilities and hours of work. This will include equal and fair treatment in recruitment and selection, learning and development, pay, promotion and terms of employment.
- 1.6 The Council will monitor and publish these policies and practices regularly to consider where areas for improvement and further positive action may be required.

APPENDIX 8

ATTENDANCE & LEAVE POLICIES

1 Hours of Work

1.1 The normal working week is 37 hours per week for full time employees.

1.2 Employees are expected to fully utilise their working hours and both employees and management are expected to cooperate through consultation to agree jointly means to achieve maximum output and efficiency. Employees engaged to work less than full time will work those hours specified in their contract of employment.

Evening Meetings

1.3 Employees who work normal office hours and who are required regularly to attend evening meetings in connection with the Council will be given compensatory time off as agreed by their manager or within the agreed parameters of the flexible working provisions applied in the Service. The entitlement to compensatory leave will not apply where evening attendance is a specific feature of the employee's terms. Where by mutual agreement compensatory time off is not applied, and evening attendance is not included in the terms of employment, the normal additional payment provisions will apply.

1.4 The Council agreement on the application of the Working Time Regulations is detailed in Annex 1.

2 Flexible Working Hours

2.1 The Flexible Working Hours (FWH) Scheme applies to some employees. Where flexible working hours are not applied, the 'official opening hours' as defined in the FWH Scheme will constitute the normal office hours for staff unless other hours are included in the employee's terms of employment.

3 Leave

Annual leave

3.1 The paid annual leave entitlement for an employee with less than five years continuous employment (as defined below) is: 25 working days (or pro-rata to hours in the case of a part-time/job share employee).

The paid annual leave entitlement for employees who, immediately prior to 1 April in the year, have at least five years continuous employment with an organisation to which the Redundancy Payments Modification Orders apply is: 30 working days (or pro-rata to hours in the case of a part-time or job share employee).

The entitlement to this additional leave starts as soon as the five years criterion is met and will be calculated pro rata for that year only on the completed months remaining in that annual leave year.

3.2 Leave taken in hours

Leave (subject to the exigencies of the service) may be taken in hours as well as full/half days as follows:

a. Convert the annual leave entitlement into hours:-

For a full time employee:

25 x 7 hrs 24 mins (or 7.40 decimal mins) = 185 hours

30 x 7 hrs 24 mins (or 7.40 decimal mins) = 222 hours

To calculate decimal minutes divide actual minutes by 6 and multiply by 10.

For a part time employee the calculation is:

Annual leave entitlement	x	<u>hours per week</u>
		5

regardless of how many days per week the employee works

e.g. i) 25	x	<u>18.5 = 92.5 hours (employee works 5 half days per week)</u>
		5

ii) 30	x	<u>28.5 = 171 hours (employee works 4 days per week)</u>
		5

b. For each full day's leave the employee takes they deduct the number of standard hours worked on that day.

- for a full timer – 7hrs 24 mins (7.40 hrs) & a half day 7hrs 12 mins

- for a part time worker in the examples above

i) 3.7 hours

ii) 7.12 hours	<u>(i.e. 28.5) (a half day would be 3.56 hours)</u>
	4

c. If an employee needs to attend an appointment for an hour during normal working hours they need only take the time needed to attend and not be absent for the whole day. They would deduct from their leave entitlement the hours they were away from work.

d. If an employee is taking a full day or half day away from the work they must deduct the usual standard full/half day. To deduct less they would need to

attend the office for the difference between the hours deducted and the normal standard day.

e.g. full time employee absent from 10am to 4pm would need to be at work for at least 1.40 hours.

e. Employees may take a combination of flexi time and annual leave.

f. For employees who work less than five days per week, the Bank Holiday formula applies.

3.3 Leave accrual

Where an employee has a period of long-term sickness absence he/she will continue to accrue leave and will not lose any leave they have already accrued, regardless of the normal carry over arrangements.

3.4 See guidance on calculating continuous service for annual leave entitlement.

Maternity Leave and Absence

3.5 An employee who leaves employment for maternity reasons and subsequently returns will have previous continuous service recognised when calculating annual leave entitlement, provided no permanent, full-time employment occurred during the break. Maternity or adoption leave (including authorised unpaid maternity leave) will not affect the leave entitlement during the leave year(s) in which the maternity leave falls.

Parental Leave

3.6 See Annex 4.

General National Holidays

3.7 Employees are entitled to paid leave on all public holidays. There is a formula for calculating the public holiday entitlement for part time employees who work less than five days each week.

Annual Leave Period and Carry-over

3.8 The annual leave year is normally from 1 April to 31 March each year. However, the leave year for employees in some areas of the Council may be varied to meet operational and/or contractual requirements. The trade unions should be consulted before any change to the leave year is implemented. Arrangements will be made to ensure that employees who transfer from one service to another where the leave year is different, do not suffer a disadvantage.

3.9 Employees are entitled to carry forward from the previous leave year or bring forward from the subsequent leave year, up to five days' leave to be added to the current entitlement. Heads of Service may agree carry/bring forward of more than five days in exceptional circumstances (subject to the

requirements of the Working Time Regulations being met), in consultation with HR.

New Entrants

3.10 New entrants to the Council are entitled to annual leave proportionate to the completed months of employment during the leave year of entry.

Annual Leave on Termination of Service

3.11 If an employee dies having taken leave in excess of the entitlement, the excess will be disregarded. Where there is an outstanding entitlement at the time of death, a payment in lieu will be made for the remaining entitlement.

3.12 An employee terminating their service should be encouraged to take leave due before leaving where practical. When an employee is not required to work during the period of notice, any outstanding leave entitlement should be offset against the notice period.

3.13 A payment in lieu for outstanding leave for the current year (only) including any days authorised to be carried forward, may be agreed by the Head of Service if, having taken the provisions of paragraphs 3.12 and 3.14 into account, there is still an outstanding entitlement to annual leave.

3.14 An employee leaving the authority will have an annual leave entitlement proportionate to their completed service during the leave year. If an employee has taken more than their entitlement, this will be recovered from their final pay.

Normal Pay During Leave

3.15 Normal pay during leave will include all earnings that would be paid during a period of normal working, but excluding any payments not made on a regular basis.

4 Special Leave

Heads of Service may allow up to six days special leave with pay in any leave year (in addition to leave agreed for other purposes (para 8 below) or normal paid leave). As a help to those who have to care for dependents, special leave may be agreed in units of an hour e.g. where it is necessary to take a child to the doctor. If a significant amount of special leave is requested to care for a sick relative, a medical certificate in confirmation may be required and the Head of Service may wish to be satisfied that it is desirable that the employee provides the care.

5 Time Off for Dependants

5.1 An employee with a dependant, defined as:

- Child
- Parent
- Spouse

- A person who lives in the same household as the employee (except a lodger tenant, boarder or employee)
- Any person who reasonably relies on the employee either for assistance on any occasion when the person falls ill or is injured or assaulted, or to make arrangements for the provision of care in the event of illness or injury
- And, where the time off relates to unexpected disruption or termination of care arrangements, any person who reasonably relies on the employee to make arrangements for the provision of care

is entitled to reasonable unpaid time off during the working day:

- To provide assistance when a dependant falls ill, gives birth or is injured or assaulted
- To arrange care for a dependant who is ill or injured
- In consequence of the death of a dependant
- Where the arrangements for care of a dependant are unexpectedly disrupted or terminated
- To deal with an incident involving the employee's child which occurs unexpectedly when he/she is in school

5.2 The employee must notify their manager of the reason for their absence as soon as is reasonably practical and for how long they expect to remain absent. The duration of the time off is defined as such as is reasonable in order to take the necessary action to deal with one of the specified events.

5.3 Head of Service may authorise up to six days a year special paid leave (see paragraph 4 above). However in the event that the request for special paid leave for such circumstances being refused, the employee can ask for reasonable unpaid leave, which cannot be refused.

6 Paternity Leave/Maternity Support Leave

The Council's Paternity Leave/Maternity Support Leave schemes are set out in Annex 5.

7 Unpaid Leave

Head of Service may grant up to 12 months unpaid leave in any leave year. Pay to be deducted will be calculated on the basis of a day's pay for a day's leave except that five working days unpaid leave will result in a deduction of seven days pay. Requests for unpaid leave in excess of 12 months require Member approval.

8 Leave for Other Purposes

Magisterial Duties and Membership of Another Local Authority

8.1 The normal maximum additional paid leave which may be granted is 18 days each year, except for employees working in schools and having long holidays, where the maximum will normally be 12 days. Heads of Service may agree more paid leave, but must take into account the effects on the employee's work if the outside interests are likely to be extensive.

8.2 In the case of membership of another local authority, the employee must pay to the Council 75% of any attendance allowance claimed, provided that the amount paid does not exceed the salary equivalent of the leave taken.

Leave for National Negotiating Bodies, Other Public Bodies, Professional Associations

8.3 Heads of Service may grant reasonable additional paid leave for these activities. "Other public bodies" includes school governors, but in this case the maximum amount of leave that may be granted is 12 days.

Leave for Jury Service

8.4 Additional paid leave (less the amount of the loss of earnings allowance under the Jurors' Allowance Regulations) will be allowed for jury service.

Leave for Territorial & Army Volunteer Reserves

8.5 Additional paid leave of one week will be granted, and a second additional paid week will be at the manager's discretion.

Leave for Interview

8.6 Heads of Service may agree additional paid leave for a job interview. In the interests of staff mobility, no general restriction is placed on the amount of interview leave an employee may be allowed.

Leave for Election Work

8.7 Paid time off for an employee to undertake election duties will be given subject to the employee gaining approval from their line manager for the leave to be taken.

Leave for Trade Union Duties

8.8 Accredited trade union stewards are allowed time off for trade union activities in accordance with the ACAS Code of Practice 3 and the time-off agreement between the Council and trade unions.

9 Maternity Leave

9.1 The Council's Maternity Schemes are set out in Annex 6.

10 Adoption Leave

10.1 The Adoption Leave Scheme is at Annex 7.

11 Job Share Scheme

11.1 The Job Share Scheme is at Annex 8.

12. Health Appointments

Managers will advise employees over the timing of Health appointments which, where appropriate and necessary, may be within working time.

13. Flexible Working Arrangements

Details of the Flexible Working Arrangements Scheme are shown in Annex 2. ??.

14. Mobile & Homeworking

Details of the Mobile & Homeworking policy are shown in Annex ??.

Annex 1

WORKING TIME REGULATIONS

Policy Statement

Introduction

1. The Working Time Regulations 1998, are a health and safety at work measure implementing the European Working Time Directive 1993. The Regulations came into force on 1 October 1998 and include basic entitlements and limitations concerning the organisation of working time. The Council supports the implementation of the Regulations as part of its general obligations to ensure the health and safety of all employees.

Scope

2. This policy applies to all workers (as defined under the Regulations) who have a contract with the Council, excluding teachers for whom a separate policy document will be drawn up.

This document outlines the Council's position on the Working Time Regulations together with those areas that have been agreed with the trade union. It relates to cross Directorate and Service issues. Separately agreements on specific Directorate or Service arrangements will supplement this where necessary.

Note

3. This agreement is based on the DTI guidance on interpreting the Regulations. If there is a successful legal challenge to the DTI guidance, this agreement will be modified to ensure that the Council meets its legal responsibilities.

General

4. The Regulations provide for special circumstances in which the provisions relating to breaks in the working day, daily rest, weekly rest and night working do not apply. The exceptions which relate to the Council are as follows:

- where there is a need for continuity of service or production
- where there is a need to provide security or protect persons or property
- where there is a foreseeable surge in activity
- where there are unusual or unforeseen circumstances beyond the Authority's control
- where an employee's place of work is distant from their home or the different places of work are distant from one another.

Similarly, employees entitlements to daily and weekly rest can be disapplied in the following circumstances:

- where shift workers change shifts at the end of the cycle and cannot take the full rest between the end of one shift and the start of another

- where workers activities are split up over the day.

Directorate and Service agreements will specify the circumstances when these exemptions apply. Where this does occur compensatory rest will be afforded in accordance with the Regulations. Times when an employee is not normally at work count towards such rest. If it is not possible to give compensatory rest, unpaid time off in lieu can be taken at a time agreed by the employee's manager.

Working week

5. There is no expectation that any employee of the Council should work more than 48 hours per week on average. Where there appears to be circumstances when the average is likely to be exceeded either the employee's working arrangements will be changed to ensure they do not exceed 48 hours on average or the employee will be asked to sign the attached agreement to disapply the Regulations.

Individual employees will be asked to inform the Council if they have a job with another organisation and of the hours they work for them. This is to enable the Council to meet its health and safety obligations under the Working Time Regulations and other legislation. If it is likely that in total the hours worked will exceed 48 per week on average they will be asked to sign the attached agreement to disapply the Regulations.

In accordance with the Regulations extensions to the 17 week average will be applied either in accordance with the specified circumstances derogation or by reaching a collective agreement with the recognised trade unions.

Working Time

6. Official travel during working hours will constitute working time. In addition, as specified in the Flexible Working Hours Scheme, when an employee begins and/or ends an official journey at some point other than their work base, time actually spent on the journey or the time that would have been spent had the journey begun or ended at their work base, whichever is the less, will constitute working time.

If a manager agrees that an employee will work at home either during specific hours or to complete a task, this will constitute working time. Time worked at home without the manager's agreement will not constitute working time.

Time spent attending agreed training courses or authorised attendance at conferences will constitute working time.

Employees accompanying clients or pupils on holidays etc, will agree in advance with their manager what will constitute working time taking account of the particular circumstances.

For employees attending conferences or other business trips that include an overnight stay(s) only time spent actively participating in the business activity will be treated as working time.

"Social" activities which an employee is attending as the Council's official representative may be regarded as working time if it is one of the requirements of the employee's job. Those which an employee attends for other reasons, e.g. networking or because refusal might cause offence will not be.

Where paid time off is agreed for trade union duties, such work will be deemed to be working time. Where trade union duties are undertaken in the employee's own time they will not be regarded as working time.

Leave

7. Arrangements for booking annual leave vary between Services according to local needs. In almost all cases these work satisfactorily. No central procedures have therefore been designed and local arrangements will apply. However the provisions of the Regulations in respect to this may be invoked by either the manager or employee in cases of disagreement, and it is agreed that this will be adopted as a fallback provision.

The Regulations state that an employee is required to give twice as much notice of their intention to take leave as the period they are asking off (e.g. four week's notice for two week's leave). The employer can give counter notice which must be as long as the period of leave asked for (e.g. two week's notice of refusal for two week's leave).

Night Workers

8. The definition of night time will be 11pm until 6am unless a collective agreement applying to a particular service/establishment is reached which varies this.

In accordance with the Regulations, extensions to the 17 week averaging period will be applied either under the specified circumstances derogation or by collective agreement with the recognised trade unions.

The following groups of employees are deemed to be night workers:

- Employees on waking night duty in Community/Children's Services establishments
- Employees on waking night duty in Residential Special Schools
- Night Security Attendants in Property Services
- Computer Team Leaders, Senior Computer Operators and Computer Operators in IT.

Health Assessments

9. In accordance with the Regulations, all night workers will be offered a free health assessment both before they commence night work and at regular (normally annual) intervals thereafter.

The health assessments will be provided by the Council's Occupational Health Unit (OHU).

The assessment will be in the form of a confidential questionnaire completed by the employee and returned to the OHU. If appropriate a follow up appointment will be arranged with an occupational health nurse or a specialist occupational physician. Any medical information will be treated on a strictly confidential basis.

In accordance with normal good working practice, any employee who considers that their work is affecting their health may request an appointment with OHU. Employees are encouraged to discuss their concerns with their line manager and request a referral.

Annex 2

FLEXIBLE WORKING ARRANGEMENTS POLICY

WHAT ARE FLEXIBLE WORKING ARRANGEMENTS?

The Council's policy on flexible working allows for many different patterns of working. There can be variations in the

- Start and finish times to the working day
- Number of days in the working week
- Number of weeks worked in the year

The Council wants to provide better integrated and more responsive services to the customers. For any particular service, there may be more demands at certain times of the day or week. Some services may be busier at certain times of the year.

If employees work flexibly, there is better opportunity of providing services at a time and place that suits the service and customers. Flexible working arrangements allow the Council to be more effective and efficient, reducing the need for overtime and temporary staff.

Flexible working arrangements support diversity, assisting in the recruitment and retention of employees, improving staff commitment and reducing absenteeism. The arrangements can allow an employee to have a better life balance between work and other demands.

Who does this apply to?

The policy applies to all employees in agreement with Service Managers and may be a temporary or permanent working arrangement.

Legislation

The Employment Act (2002) gives employees with children under six or disabled children under eighteen the right to request a flexible working pattern. In April 2007 the Flexible Working (Amendment) Regulations came into force and extended the right to request flexible working to carers of certain adults and it is likely that extended provision will happen from April 2009.

The legislation requires the employer to consider such requests seriously and may only refuse where there is a business case for doing so.

DIFFERENT OPTIONS

A number of different flexible working arrangement options are available as listed below. In all cases, the employee and the manager must have a clear agreement about the precise pattern of working.

Part time

Part time working is when an employee is contracted to work less than 37 hours per week. This is agreed when first taking up the appointment. The employees salary and annual leave is pro-rata in accordance with the number of hours worked.

Annualised hours

The employee has a contract to work a given number of hours in the year, rather than the traditional number of hours in the week. The employee works when the demand is greatest. The employee and the manager agree the precise working pattern.

Term -Time working

The employee works only in school terms. Depending on the number of hours and weeks worked, there will be a pro-rata reduction in salary.

Flexi-time scheme

The Council has a flexible working hours scheme, known as flexi time. The employee is able to choose the start and finish times of their working day provided that business needs are met and has the option of taking time off to compensate for working in excess of their normal working hours. (See *separate Flexi-time Policy*)

Job Sharing

Two people may share one full-time post. The individuals agree their precise pattern of working with their manager and each other, both having an obligation to ensure work priorities are met. A job sharer has the same rights as a full-time employee.

Reduced working hours

An employee may ask to reduce their working hours and the employee's salary and leave will reduce by a proportionate amount.

Occasional temporary arrangements

An employee may request either a change in working hours or work patterns for an agreed period of time in order to manage personal circumstances. The employee's salary may reduce by a proportionate amount during this time should less hours be worked with a review of circumstances taking place with the manager on an agreed frequency. Annual leave may be affected should the temporary arrangements of reduced hours continue for any long period of time.

Compressed hours

This allows employees to work their total number of hours in fewer working days. In this situation more often than not a 10 day fortnight is compressed into 9 days, although in more rare cases, 5 days have been compressed into a 4 day week.

SUMMARY

The various options will be reviewed regularly with future developments of new arrangements being added as the Council evolves. For further guidance

on Flexible Working Arrangements, refer to the guidance section within the F&MW framework. To end or change any working arrangements, discussion with the line manager must take place to consider the implications both to the individual and the team and, therefore, the impact on business needs.

Annex 3

FLEXI-TIME POLICY

What Is The Flexi-Time Policy?

The policy has been developed to allow for enhanced flexible working hours to be operated enabling a degree of flexibility to accommodate employees' commitments whilst always ensuring the needs of the Council and its services as key priority. Council services are increasingly provided around the clock and traditional 9 to 5 working hours may no longer be appropriate.

The Flexi-time policy is an arrangement whereby, employees may choose when to begin and end work in agreement with their manager. To be successful the policy requires trust and co-operation of staff, giving them greater control of their working hours whilst maintaining service delivery. Messages need to be balanced in terms of some staff choosing to work say during the evening and weekends but this is not an expectation unless a core part of the job.

Employees are expected to cooperate with the need to ensure minimum staffing levels are maintained during required working hours, this is fundamental to ensure that the efficiency of the Council and the delivery of services are maintained.

The policy aims to:

- Improve service delivery – providing services over an extended day
- Provide where possible maximum flexibility in when an employee chooses to work during the day, whilst maintaining high standards of service delivery
- Demonstrate a commitment to implementing the Government's and Council's family friendly policies
- Promote a well motivated, flexible and responsive workforce, dedicated to providing services when they are required.

Who does this apply to?

The policy applies to all employees subject to the requirements and priorities of the service. This will mean that certain posts or groups may be excluded where attendance for the standard working day is imperative. However, exceptions should be limited as the policy should be applied as widely as possible. Where the flexi-time policy cannot be applied, Flexible Working Arrangements may be a more suitable option.

How Does The Policy Work?

The Council guarantees to provide services within different establishments between certain times depending on customer needs. It is essential for managers/supervisors and teams to work together to plan the levels of cover required in order to provide an effective service. The manager/supervisor will ultimately be responsible for the efficient operation of the service. In agreeing the operation of the Flexi-time policy, managers/supervisors must ensure:

- There is cover for the service
- There is work available
- Start and finish times do not disrupt the efficient running of the service

The policy operation

The policy is based on a twelve week period broken down into 3, 4 week sections. Employees generally are able to carry forward no more than 5 hours debit and 30 hours credit per 4 week period. They are able to take a maximum of 2 days flexi-leave within that 4 week period.

It is recognised that some services have significant peaks and troughs in workload and a wider twelve week view can be taken. This enables up to 6 days flexi-leave to be taken nearer the end of the twelve week settlement period if planned and agreed by the manager. Managers should monitor Flexi-time records every 4 weeks and work with the employee to ensure hours credited do not become unmanageable. Any credit above 30 hours at the end of the twelve week period must be written off (*pro rata for part-time employees to ensure manageability of number of days 30 hours would equate to for part time employees*).

Where employees regularly have 30 hours in credit at the settlement period the manager may need to consider alternative Flexible Working Arrangements to meet the service and individual needs. Consideration must also be taken of the individual's work load.

Where appropriate an employee makes choices about when they start and finish work and can claim the time that they actually work, including evenings and weekends. This does not suggest however, that all employees need to work in this way. By recording time in this way, time off in lieu (TOIL) and overtime would be the exception and would need to be agreed in advance by the manager.

In managing their time an employee must be mindful of the Working Time Directives ensuring a minimum break of 20 minutes is taken within a 6 hour period.

Other considerations

Employees leaving the Council with a debit of hours will lose a proportionate amount of pay.

Credit Leave

Credit leave may be taken subject to the needs of the service and with the prior approval of the manager/supervisor. Subject to agreement, time accumulated can be used by either taking complete or part days leave, or by working a shorter working day.

Debit

Any debit hours in excess of the allowed 5 hours should be agreed by the manager/supervisor and if remaining at the end of the twelve week settlement period will result in time deducted from annual leave or the employee's salary. If a consistent pattern of debit hours exceeding the agreed allowance occurs, the employee will be placed on fixed working hours.

Authorised Absences

Authorised absences including holiday, sickness, hospital and emergency medical appointments and special leave are credited at the standard hours the employee would work on that day. Wherever possible, routine appointments should be arranged for a time that causes least disruption to the service. Credit hours are not given for medical appointments apart from the following exceptions:-

- Ante-natal care (excluding relaxation classes unless this is specifically advised by a medical practitioner to address a medical issue)
- Cervical smear tests or mammogram
- Prostate gland tests
- Urgent medical/dental treatment
- Appointments with the Council's Occupational Health Unit

Hospital Appointments where the timing is out of the employee's control, i.e. Consultant appointments or specialist treatment, the employee will receive credit to the actual time spent away from work up to a maximum of a standard day. Managers / Supervisors must be informed of appointments and employees must begin work before or after the appointment wherever possible.

For the purposes of time recording the standard times are as follows:

Week	37 hours
Day	7hrs 24mins (7.4 hours)
Half Day	7 hrs 12 mins (3.7 hours)

Work Visits, Seminars, meetings etc

Employees attending seminars, conferences and meetings at a distance from the Council premises record time credits for the hours involved up to a maximum of 10 hours in agreement with the manager / supervisor. Adjustments for the time spent away from the work base should include travelling time between the work base and the place of business.

Adverse weather conditions or transport delays

In the event of adverse weather conditions or transport delays the employee should where possible consider alternative working locations dependent upon whether relevant equipment is available. If the Council decides to close a building due to adverse weather conditions, or a Council emergency, and no alternative work place can be found, credit up to a standard day will be given.

Recording Arrangements

To ensure the smooth operation of the Flexi-time policy it is the employee's responsibility to maintain accurate records either manually or electronically in line with local practice. Deliberate falsification of entries with the intent to deceive will be subject to the disciplinary procedure.

Time off in Lieu / Overtime

Time off in lieu and overtime can only be agreed in exceptional circumstances and when all other Flexi-time options have been utilised.

Annex 4

PARENTAL LEAVE

1 Eligibility

The employee must

a) Be:

- the mother of the child
- the father of the child if he was married to the mother at the time of the birth or he is registered as the child's father
- the father (if not covered above) if he has acquired parental responsibility under the Children's Act 1989*. (This is done either by court order or an agreement between the mother and the father which complies with certain legal requirements)
- a guardian appointed under s.5 of the Children's Act 1989*
- an adoptive parent.
- foster parents.
- adoptive parents prior to placement.
- grand-parents with a significant parenting role.
- step parents.

* or its Scottish equivalent

The manager may ask to see evidence that the employee is entitled to take parental leave, e.g. child's birth certificate, adoption papers, record of disability living allowance payments.

b) Have at least one year's continuous Local Government service.

NOTE

If there are compassionate grounds for requesting parental leave in the first year of service, this could be considered by the manager who would have discretion to agree it under the existing unpaid leave provisions. The terms of this should be no more generous than those applying to staff who have a direct entitlement to parental leave.

2 Entitlement

2.1 Up to 13 weeks unpaid leave in respect of each child who qualifies, pro rata for part time staff. For employees with a child who is entitled to a disability living allowance, the entitlement rises to 18 weeks. This is the total entitlement not an annual entitlement. It is a separate right for each parent.

2.2 This entitlement must be taken before the date of the child's eighth birthday. In the case of an adopted child the entitlement dates from the date of placement until eight years have elapsed from that date, or the child's 18th birthday if this is earlier.

2.3 In the case of a child who has a disability for which the Disability Living Allowance is awarded, the entitlement is for 18 weeks unpaid leave in total for

each child who qualifies and the entitlement continues until the child's 18th birthday.

NOTES

- The entitlement is not job specific (it follows the employee around) so records will need to be kept by managers and checks be done to see if the employee has taken the entitlement previously elsewhere in the Council. If a manager wishes to check whether an employee has taken parental leave with a previous employer they should contact HR for advice. (There is no requirement for employers to keep records of parental leave so such information will not necessarily be available.)
- Again requests on compassionate grounds for leave outside these parameters would be discretionary and considered under existing unpaid leave provisions.

3 Notice to Take Leave

3.1 An employee should give as much notice as possible with a minimum of 14 days notice in writing, specifying when the leave is to begin and end, except in the following two circumstances.

3.2 If the leave is to be taken by a father immediately after the child's birth, the notice must specify the expected week of childbirth, the amount of parental leave to be taken and be given at least 7 days before the beginning of the expected week of confinement.

3.3 If the leave is to be taken immediately after a child is placed for adoption the notice must specify the expected week of placement, the amount of parental leave to be taken and be given at least 7 days before the expected week of placement, or as soon as is reasonably practical.

NOTES

The manager has the discretion to agree a shorter period of notice and such discretion will not be unreasonably withheld. In the case of an emergency urgent time off for dependants may be requested.

The manager may request to see reasonable evidence of the child's date of birth, of the employee's responsibility for or expected responsibility for the child and, if applicable, to the child's entitlement to a disability living allowance.

4 Postponement of Leave

4.1 The manager may not refuse to grant the leave but may defer the start date for genuine business reasons, unless the leave is to be taken immediately after a child is born or placed for adoption, following maternity support/paternity leave or following maternity leave, in which case the leave cannot be postponed.

4.2 Where it is not possible to grant the leave requested, as an alternative to postponement the manager should discuss other leave arrangements, e.g. a different pattern of leave (e.g. part-time rather than full-time), a shorter or longer period of leave; alternative dates within the three month period.

4.3 A manager who wishes to postpone a period of leave must notify the employee, in writing, within seven days of the request for leave, stating the reason for the postponement. In addition the manager must agree to grant the leave within three months and specify in writing, the date upon which the leave may be taken after consultation with the employee. If no agreement can be reached after consultation the employer may determine the appropriate dates. A manager may not postpone a period of parental leave in respect of a child beyond the date of the child's eighteenth birthday.

4.4 Parental leave may follow on immediately after maternity or adoption leave.

5 How the leave can be taken

Employees can take parental leave:

- as a single block of up to 13 weeks, (or 18 weeks for a disabled child);
- as a number of shorter periods of a minimum of a day;
- in patterns which provide a part time or reduced hours arrangement for a period of time equivalent to taking 13 weeks leave as a single block (or 18 weeks for a disabled child), e.g. 26 weeks at half-time.

6 Conditions applying during the unpaid leave period

- No pay.
- Car user allowance will continue, as will the car lease scheme (HR will advise on how car lease deductions will be made).
- Annual leave entitlement will not be reduced.
- Leave will not break continuous service and will count towards future entitlements.
- Pensions - for those employees in the Local Government Pension Scheme – automatic deductions will be made from either the concurrent pay period (for a short period of absence) or the subsequent pay period (for longer periods) to cover contributions for the unpaid leave.

7 Right to return

The employee will return to the job in which they were previously employed. The potential exceptions to this are where the period of parental leave taken is more than 4 weeks OR where parental leave immediately follows additional maternity leave. The right is then that the employee will return to the job in which they were employed, unless that would not have been practical, in which case they return to a job which is suitable and appropriate to their circumstances.

8 Records

The manager will ensure a record of the parental leave is kept detailing when and how it was taken.

Annex 5

PATERNITY LEAVE SCHEME / MATERNITY SUPPORT LEAVE

The Paternity Leave Scheme set out below applies to employees whose babies are expected to be born (or adopted), OR who are born (or adopted) on or after 6th April 2003, even if their baby is born earlier than expected.

PATERNITY LEAVE

1. Eligibility

To be eligible for Paternity Leave the employee must be either:-

- the biological father of the child or be married to or be the partner of the child's mother and expect to have responsibility for the upbringing of the child;
- married to or be the partner of an individual adopting a child or one member of a couple jointly adopting who is not taking adoption leave.

If an employee is not eligible for Paternity Leave they may be entitled to Maternity Support Leave, (see below).

2. Entitlements

There are different levels of entitlement depending upon length of continuous service.

2.1 For Employees With 26 Weeks Continuous Service

If an employee has at least 26 weeks continuous service by the end of the Qualifying Week, (i.e. the 15th week before the expected week of confinement) OR by the week in which they are notified of being matched with a child for adoption they are entitled to:

- Paternity Leave

Two weeks leave to be taken:

- from the date of the baby's birth/adoption placement (whether this is earlier or later than expected); OR
- from a chosen number of days or weeks after the date of the baby's birth/adoption placement (whether this is earlier or later than expected); OR
- from a chosen date.

- Paternity Pay

Week One: Full Pay.

Week Two: Statutory Paternity Pay, (SPP). This is the same as lower rate Statutory Maternity Pay which is a fixed amount or 90% of average earnings if this is a lower amount.

If average weekly earnings are below the Lower Earnings Limit for National Insurance purposes an employee will not qualify for SPP. However, they may be entitled to Income Support whilst on paternity leave.

The two weeks leave must be taken as a block, not as separate days or separate weeks.

2.2 For Employees With Less Than 26 Weeks Continuous Service

If an employee has less than 26 weeks continuous service by the end of the Qualifying Week, (i.e. the 15th week before the expected week of confinement) OR by the week in which they are notified of being matched with a child for adoption, they are entitled to:

- Paternity Leave

One weeks leave to be taken:

- from the date of the baby's birth/adoption placement (whether this is earlier or later than expected); OR
- from a chosen number of days or weeks after the date of the baby's birth/adoption placement (whether this is earlier or later than expected); OR
- from a chosen date.

- Paternity Pay

One week at full pay.

Paternity leave should be taken as a block, not as separate days.

3. General Conditions

Paternity Leave cannot start until the birth of the baby/commencement of the adoption placement. Leave can start on any day of the week on or following the baby's birth/adoption placement but must be completed:

- within 56 days of the actual date of birth of the baby/adoption placement; OR
- if the baby is born early, within the period from the actual date of birth up to 56 days after the expected week of birth.

Only one period of leave will be granted irrespective of whether more than one baby is born as a result of the same pregnancy. Where more than one child is placed for adoption as part of the same arrangement paternity leave must be taken within 56 days of the first child being placed. Only one period of leave will be granted even if more than one child is placed for adoption as part of the same arrangement.

If the employee is a member of the Local Government Pension Scheme, contributions will be deducted from the pay they receive during the period of paternity leave.

4. Notification Requirements

The employee must notify their manager, in writing, that they intend to take paternity leave by the fifteenth week before the baby is due or as soon afterwards as is reasonably practicable. In the case of adoption, the notification of the intention to take paternity leave should be submitted within the 7 days after the date on which the adopter is notified of having been matched with a child or as soon as is reasonably practicable. In either case the employee will need to confirm:

- the week the baby is due/adoption placement is expected to commence;
- how much leave they wish to take;
- when they want the leave to start – this does not have to be a specific date, e.g. could be starting the day after the baby is born.

If the employee changes their mind about the date on which they want the leave to start they must give at least 28 days advance notice in writing (unless this is not reasonably practicable) of the new date they wish to start the leave.

They will also need to complete a self-certification form to confirm their entitlement to SPP – available from HR.

5. Return to work - Flexible Working Arrangements

The Council has developed some flexible working arrangements that may assist employees following paternity leave.

The schemes available are:

- Job Share Scheme
- Right to Request Flexible Working
- Parental Leave
- Time Off for Dependants

For further information contact HR.

MATERNITY SUPPORT LEAVE

1. Eligibility

To be eligible for Maternity Support Leave the employee must be the nominated carer of an expectant mother, i.e. they have been nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.

If an employee is entitled to Paternity Leave they will not be eligible for Maternity Support Leave as well.

2. Entitlement

An employee is entitled to take up to five days special paid leave (pro rata for part-time employees) at or around the time of the birth. The way in which the leave is taken must be agreed with the manager, and will be subject to the needs of the service. Reasonable notice must be given of the need for the leave.

Annex 6

MATERNITY SCHEME

ELIGIBILITY

1 This scheme is applicable to all employees.

2 Reference in this scheme to the payment of Statutory Maternity Pay (SMP) is dependent on:

You having been continuously employed by the Council for at least 26 weeks continuing into the 15th week before the week the baby is due. The 15th week is known as the qualifying week (QW);

Your average weekly earnings being not less than the lower earnings limit for the payment of National Insurance contributions. (As a general rule earnings are averaged over eight weeks up to and including your last pay-day before the end of the fifteenth week before your expected week of confinement);

You still being pregnant at the beginning of the eleventh week before your expected week of confinement;

You having started your maternity leave;

You having given at least 28 days notice, in writing of your intention to stop work because of pregnancy; or as much notice as was reasonably practicable;

You having produced a MAT B1 form.

SMP will be paid by the Council on behalf of the relevant Government Department.

3 If you cannot satisfy any of the conditions under 1 and 2 above or would like clarification please consult HR.

POINTS TO CONSIDER

4 To qualify for BOTH occupational maternity pay (OMP) from the Council and SMP you must continue to be employed by the Council until immediately before the beginning of the eleventh week before your EWC.

5 You will be eligible for SMP if you remain at work until immediately before the beginning of the fourteenth week before your EWC. If however you start your maternity absence before the beginning of the eleventh week before your EWC you would NOT be entitled to occupational maternity pay from the Council or the right to return to work. Therefore, you are advised not to commence your maternity leave until after the beginning of the eleventh week before your EWC, or from the time of childbirth if that is earlier.

6 Provided you are medically fit to remain at work the date you actually start

your maternity leave will be at your discretion. If however you become absent with a pregnancy-related illness at any time after the beginning of the 4th week before the EWC the maternity leave period must start from day after the first full day of absence. This applies even if the day of absence is before the date you originally specified as the date on which you intended your leave to start.

7 You must notify HR, in writing, at least 28 days before your absence begins stating:

the date on which your absence will begin.

your expected date of confinement. A certificate from your doctor or midwife (this will normally be on form MAT B1) confirming this date should also be enclosed or submitted as soon as it is available.

If you are able to give more than 28 days notice this would be helpful.

IF YOU INTEND TO RETURN TO WORK

8 If you have complied with the requirements set out in the paragraphs above and intend to return to work you are entitled to the following:-

A Maternity Pay/Salary

1. Employees who have at least 12 months' continuous Local Government Service at the beginning of the 11th week before the baby is due.

(i) Who have been employed by Cheshire East Council continuously for at least 26 weeks continuing into the 15th week before the baby is due:

A combination of Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) for a period of 39 weeks made up as follows:-

For each of the first 6 weeks of absence, 90% of a week's pay less normal deductions (i.e. income tax, national insurance, pension etc.).

For each of the next 12 weeks of absence you will receive half a week's pay less normal deductions plus payment of SMP at the "standard rate", (or 90% of average weekly earnings if this is less than SMP).

Note: The payment of the half pay plus the SMP must not exceed full pay, if this situation occurs an amount equal to full pay will be paid for the remaining 12 weeks.

For each of the next 21 weeks of absence you will receive SMP at the "standard rate", (or 90% of average weekly earnings if this is less than SMP).

Note: The standard rate of SMP is updated annually by the Department for Work & Pensions. The entitlement to the 12 weeks at half pay only applies if you declare your intention to return to work for at least three months' at the

end of your maternity leave period.

(ii) Who have not been employed by Cheshire East Council continuously for at least 26 weeks continuing into the 15th week before the baby is due but who have at least 12 months continuous local government service there is no entitlement to statutory maternity pay but there is an entitlement to occupational maternity pay:

Occupational Maternity Pay for a period of 18 weeks paid as follows:-

For each of the first 6 weeks of absence, 90% of a week's pay less normal deductions (i.e. income tax, national insurance, pension etc.)

For each of the next 12 weeks of absence you will receive half a week's pay less normal deductions.

You may be entitled to Maternity Allowance – contact your local Jobcentre Plus for details.

2. Employees with less than 12 months' continuous Local Government Service at the beginning of the 11th week before the baby is due.

(i) Who have been employed by the Council continuously for at least 26 weeks continuing into the 15th week before the baby is due.

There is no entitlement to occupational maternity pay but statutory maternity pay is payable for up to 39 weeks at the following rate:-

For the first six weeks, the equivalent of 90% of your normal weekly earnings

For the remaining 33 weeks, SMP at the "standard rate" (or 90% of average weekly earnings if this is less than SMP)

(ii) Who have not been employed by the Council continuously for 26 weeks continuing into the 15th week before the baby is due.

Because of your length of service you will have no entitlement to Occupational Maternity Pay, or Statutory Pay. You may be entitled to Maternity Allowance - contact your local Jobcentre Plus for details.

B. Payment of Salary

Your SMP will be paid at the same intervals as you currently receive your wage/salary and will be paid at the same time as your half-pay referred to above. Please note that SMP is subject to normal deductions, (e.g. tax, National Insurance).

For salaried (monthly paid) staff occupational maternity pay is converted into complete weeks, the number of weeks paid at any one time will depend upon the number of complete weeks that fall within each of the months for which payment is due relative to the day of the week on which maternity leave starts.

Example - If maternity leave starts on a Thursday the number of weeks paid will depend on the number of Wednesdays that fall within each of the months for which payment is due.

As an alternative to receiving 1/2 pay (less deductions) for 12 weeks, you may request to have the equivalent sum (i.e. 6 weeks at full pay) over a different timescale within the Ordinary Maternity Leave period, e.g. 3/10 ths over 20 weeks, subject to agreement.

C. Additional Maternity Leave Period (Unpaid)

There is an entitlement to 52 weeks maternity leave in total. The amount of which is unpaid will depend on your entitlement to maternity pay (see above).

WHAT YOU THEN HAVE TO DO

9 It will be assumed that you will return to work at the end of your full entitlement to maternity leave, i.e. 52 weeks. HR will write to you within 28 days of receiving your notification of your intention to take maternity leave to confirm the expected date of your return.

10 Many women choose not to take their full entitlement to maternity leave which is acceptable subject to a minimum period of two weeks being taken immediately following the birth. If at the start of your maternity leave you confirm the date upon which you will be returning, you do not need to take any further action. However if you are not able to do this or decide at a later stage that you wish to change the date of your return to work, you should note that you need to give at least 8 weeks notice in writing to HR.

11 If you do not give the necessary notice, your Head of Service may postpone your actual return to ensure the required notice period elapses but not beyond the end of the maternity leave period.

12 Your return must be at the latest on the first day following the expiry of the 52 week period after your maternity leave commenced unless there is a medical reason which prevents this. In these circumstances, the normal notification and certification procedures apply (a doctor's certificate will be required after 7 days absence).

13 You must return to work for a period of at least three months. If you do not do this, the Council will require you to refund the maternity pay you received from the Occupational Maternity Scheme i.e. 12 weeks at half pay.

THE RIGHT TO RETURN TO WORK

14 (a) If you have satisfied the above conditions, you have the right to return to the same or an equivalent job to the one in which you were employed before your maternity leave. This would be on terms and conditions not less favourable than those which would have applied had you not been absent.

(b) Where it is not practicable by reason of redundancy for the Council to permit you to return to work in your existing job as defined in (a) above, you will be entitled to be offered a suitable alternative vacancy where one exists. This is provided that the work to be done in that vacant post is suitable to you

and appropriate to the circumstances, and that the capacity and place in which you are to be employed and the terms and conditions of employment are not substantially less favourable to you than if you had been able to return to the job in which you were originally employed.

(c) Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if you had not been absent, necessitate a change in the job in which you were employed prior to your absence. The work to be done should be suitable to you and appropriate to the circumstances and the capacity and place in which you are to be employed and the terms and conditions of employment should not be less favourable to you than if you had been able to return to the job in which you were originally employed.

. IF YOU DO NOT INTEND TO RETURN TO WORK

15 If you do not intend to return to work following your confinement it will be necessary for you to resign your appointment.

16 Provided you do not resign earlier than the beginning of the fourteenth week before your EWC, you will still be eligible to receive SMP at the appropriate rate provided you satisfy the conditions set out in paragraphs 1 and 2. The amount and method of payment will be as set out in paragraph 8.

17 If you resign later than the eleventh week before your EWC you will become entitled to occupational maternity pay, the amount of your six weeks at 90% will be at the higher rate between the occupational maternity scheme and the appropriate SMP rate.

A FURTHER OPTION

18 If you would prefer not to make a decision on your return to work at this stage, then the Council has agreed that you may reserve the right to return to work and postpone making a decision. Under this option you would receive payment on the same basis as if you had resigned your appointment as set out in paragraph 16 above. You would not receive 12 weeks at half pay under the occupational maternity scheme at that stage although you would receive standard rate SMP for this period.

19 If you then subsequently return to work, the 12 weeks at half pay will be paid on your return to work. This will then avoid the situation that could occur where you may receive 12 weeks at half pay, decide then not to return to work, and as a result be faced with owing the Council money.

20 If you choose this option, you should inform HR as soon as is possible after the birth, whether or not you will be returning to work. This must be done within the 52 week maternity leave period.

21 The notice required in relation to your return to work (should you decide to do so) is as stated in paragraph 10 above.

22 If you decide not to return to work you must give notice of your resignation in accordance with your terms and conditions of employment. Your date of leaving will be the date on which you last worked.

HOW TO MAKE YOUR INTENTIONS KNOWN

23 You will be asked to state in writing (on a maternity option form) which of the above options you wish to take. You may however require some further advice on this and if this is the case you should consult HR.

PENSION POSITION

24 This is only applicable to those employees who pay local government pension contributions.

A If you intend to return to work

Contributions will be deducted from all the pay you receive during the period of maternity leave. On your return to work, if you have a period of unpaid leave you may either:-

(i) Pay full contributions for the whole period of unpaid absence on a notional figure as if you had continued to receive maternity pay. This election must be made within 30 days of returning to work.

(II) Any contributions not paid during your absence will be recovered by a lump sum from your pay when you return to work.

OR

Elect not to pay contributions for the period of unpaid leave and therefore, the remainder of the absence would, for pension purposes, be a break in service and would not count towards future benefits.

B If you do not intend to return to work

You would still pay pension contributions on any SMP you receive. If you have less than three months' pensionable service, you may opt for a return of contributions. However, you should note that once a refund of contributions has been made, the relevant service will never again count in the calculation of your pension benefits. If you are eligible for a refund of contributions you are advised to withhold your application for these until you are certain that you will not be recommencing employment. In other cases (i.e. more than three months' pensionable service) your benefits will be preserved and will normally become payable when you reach retirement age.

C If you reserve your right to return to work

In the event of you reserving your right to return to work and this opportunity is taken, you will have the same options as in the paragraph above. Payment of outstanding contributions will be recovered by a lump sum from your pay when you return to work.

WORK DURING MATERNITY LEAVE ('Keeping in Touch' or 'KIT' days)

25 You may undertake up to 10 days work during your maternity leave with out bringing your maternity leave to an end or losing your SMP. Please note that work for part of a day will count as a full day. This can be used for

Training, Keeping Skills up to date, team away day sessions etc.

You cannot be required to work, nor can you insist that you are given work; the arrangement is by mutual agreement. If you do work it will not extend your maternity leave.

Depending on its nature and the length of the work undertaken you may be paid. If so your SMP will be offset against your pay. This will need to be agreed in advance of the work being undertaken.

REASONABLE CONTACT

26 You and your manager are encouraged to make reasonable contact with each other during the period of maternity leave to discuss issues such as your return to work, keeping in touch with developments etc. This will not constitute work as defined above.

OTHER POINTS TO NOTE

27 Continuous Service

Maternity leave counts as continuous service and therefore all your entitlements under your conditions of employment are maintained i.e. if you return to work you will be entitled to annual leave, annual increments, salary/wage awards.

28 Annual Leave

You should also consider your position in relation to annual leave where your period of maternity leave runs from one leave year to the next, as your conditions of employment only entitle you to carry forward one week's annual leave to the following leave year. If you do not return to work you will be required to repay any annual leave that has been taken in excess of your entitlement.

N.B. where the timing of maternity leave makes it difficult to arrange annual leave to be taken within the current leave year, (e.g. where maternity leave covers the whole leave year), managers should use their discretion to allow the bring forward/carry over annual leave to ensure that the employee is not disadvantaged.

29 Ante Natal Care

During the period of your pregnancy, whilst you are still at work you are entitled to paid time off for antenatal care. This includes time off for antenatal appointments and medical examinations as well as classes recommended by your Doctor/Midwife, e.g. relaxation classes, parentcraft classes. You must make the necessary arrangements for this with your manager/supervisor.

30 New and Expectant mothers at work

The Health and Safety of new and expectant mothers whilst they are at work is governed principally by regulations 16 -18 of the Management of Health

and Safety at Work Regulations 1999. Under these regulations, your manager will ensure that the normal risk assessments for tasks undertaken by employees take account of the particular circumstances of pregnant or nursing mothers and their unborn or breast feeding children.

Corporate Health and Safety Note 194 "New and Expectant Mothers at Work" provides a summary of Health and Safety Executive guidance on identifying possible risks. Because the risk assessment obligation extends to any time in the pregnancy, all female staff of child bearing age need to be aware of any specific hazards identified which could cause difficulty if they were to become pregnant.

After being informed by you of your pregnancy, if your manager identifies serious risks that cannot be otherwise controlled, they will consider:-

Adjusting your working hours

Offering alternative work

In extreme cases, suspension from your normal duties on full normal pay.

31 Premature Birth

If your baby is born prior to the commencement of your maternity leave you must notify your HR Officer immediately, or as soon as is reasonably practical, in order that your maternity leave and/or pay is triggered.

32 Death of a Baby or Still Birth

In the unfortunate event of your child not living after a pregnancy lasting less than 24 weeks, you are advised to contact HR. They will advise you on any entitlements you may have regarding pay and/or leave. Special consideration will be given to individual circumstances and where necessary special leave or a period of sickness may be granted. This decision will be made having regards to individual needs which should be supported by medical opinion. You are strongly advised to discuss the position with HR.

In the unfortunate event of a still birth after a pregnancy lasting at least 24 weeks or your child not living, you will be entitled to all the provisions specified in the schedule.

You will need to follow the notification of return to work arrangements.

33 Notional Deductions

In calculating your entitlement to Occupational Maternity Pay account will only be taken of the amount of SMP or Maternity Allowance actually received. If you are not entitled to SMP, you may be eligible to receive Maternity Allowance. The Council will issue you with an exclusion form SMP1, which you must send to your local Jobcentre Plus/Social Security Office. You will be obliged to both claim and declare your entitlement to maternity allowance.

34 Return to work - Flexible Working Arrangements

The Council has developed some flexible working arrangements which may assist you in your return to work.

The schemes available are:

Job Share Scheme

Right to Request Flexible Working

Parental Leave

Time Off for Dependants

If you think you might be interested in taking advantage of one of these schemes please discuss the matter with your Line Manager or contact HR for further advice.

Annex 7

ADOPTION LEAVE

ELIGIBILITY

1 Adoption leave is available to:

- an individual who adopts a child OR
- one member of a couple where a couple adopt jointly, (the couple may choose which partner takes adoption leave).

The adoption should be in accordance with UK Law and the child being adopted must be aged 18 or under at the time of the adoption.

To qualify for adoption leave an employee must:

- be newly matched with a child for adoption by an approved adoption agency;
- have worked continuously for the Council for at least 26 weeks OR have at least 2 years Local Government service.

2 Reference in this scheme to the payment of Statutory Adoption Pay (SAP) is dependent on:

- You having been continuously employed by the Council for at least 26 weeks continuing into the week in which you are notified of being matched with a child for adoption (the “Matching Week”);
- Your average weekly earnings being not less than the lower earnings limit for the payment of National Insurance contributions;
- You having started your adoption leave;
- You having given 28 days notice of your intention to take adoption leave;
- You having produced an adoption matching certificate.

SAP will be paid by the Council on behalf of the relevant Government Department.

3 If you cannot satisfy any of the conditions under 1 and 2 above or would like clarification please consult HR.

NOTIFICATION REQUIREMENTS

4 You must inform HR, in writing, that you intend to take adoption leave within 7 days of being notified by your adoption agency that you have been matched with a child for adoption.

5 You must notify HR, in writing, at least 28 days before you intend to take adoption leave stating the date on which you expect the child to be placed with you and the date on which you want your adoption leave to begin. Leave can start on any day of the week. You must also submit your adoption

matching certificate which should be supplied by your adoption agency. If you are able to give more than 28 days notice this would be helpful.

6 You may change your mind about the date on which you want your leave to start provided you give at least 28 days notice of the new date.

ADOPTION PAY & LEAVE

Leave

7 Subject to the eligibility requirements in paragraphs 1 and 2, you are entitled to a total of up to 52 weeks leave.

Pay

8 Adoption pay is dependent upon your length of service as follows:

- More Than 2 Years Service

Employees with at least two years continuous local government employment and 26 weeks service with Cheshire East Council will be entitled to up to 39 weeks adoption pay as follows:-

- For each of the first 12 weeks half a weeks pay less normal deductions;

NOTE: Where half a weeks pay (less normal deductions) is less than the statutory provision then Statutory Adoption Pay or 90% of average weekly earnings, if this is less than SAP, will apply.

- For each of the next 27 weeks Statutory Adoption Pay (SAP) or 90% of average weekly earnings if this is less than SAP.

The entitlement to the 12 weeks at half pay only applies if you declare your intention to return to work for at least three months at the end of your adoption leave period. If you do not return to work for a period of at least three months the Council will require you to refund the adoption pay you received from the Occupational Adoption Scheme i.e. the difference between 12 weeks at half pay and SAP.

- Less Than 2 Years Service

Employees with at least 26 weeks service with Cheshire East Council will be entitled to up to 39 weeks Statutory Adoption Pay (SAP) or 90% of average weekly earnings if this is less than SAP.

Note: The rate of SAP is the same as the standard rate of Statutory Maternity Pay and is updated annually by the Department for Work & Pensions.

9 Your SAP will be paid at the same intervals as you currently receive your wage/salary. Please note that SAP is subject to normal deductions, (e.g. tax, National Insurance).

10 For salaried (monthly paid) staff occupational adoption pay is converted into complete weeks, the number of weeks paid at any one time will depend upon the number of Saturdays that fall within each of the months for which payment is due.

RETURN TO WORK

11 It will be assumed that you will return to work at the end of your full entitlement to adoption leave, i.e. 52 weeks. HR will write to you within 28 days of receiving your notification of your intention to take adoption leave to confirm the expected date of your return.

12 If you choose not to take your full entitlement to adoption leave you may confirm your actual date of return before commencing adoption leave. If you are unable to do this or decide at a later stage that you wish to change the date of your return to work, you must give 8 weeks notice in writing to HR of the date you intend to return to work.

13 If you do not give the necessary notice, your Head of Service may postpone your actual return to work to ensure the required notice period elapses but not beyond the end of the adoption leave period.

14 Your return to work must be, at the latest, on the first day following the expiry of the 52 week period after your adoption leave commenced unless there is a medical reason which prevents this. In these circumstances, the normal notification and certification procedures apply (a doctor's certificate will be required after 7 days absence).

15 If you have satisfied the above conditions, you have the right to return to the same or an equivalent job to the one in which you were employed before your adoption leave. This would be on terms and conditions not less favourable than those which would have applied had you not been absent.

16 Where it is not practicable by reason of redundancy for the Council to permit you to return to work in your existing job as defined above, you will be entitled to be offered a suitable alternative vacancy where one exists. This is provided that the work to be done in that vacant post is suitable to you and appropriate to the circumstances, and that the capacity and place in which you are to be employed and the terms and conditions of employment are not substantially less favourable to you than if you had been able to return to the job in which you were originally employed.

17 Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if you had not been absent, necessitate a change in the job in which you were employed prior to your absence. The work to be done should be suitable to you and appropriate to the circumstances and the capacity and place in which you are to be employed and the terms and conditions of employment should not be less favourable to you than if you had been able to return to the job in which you were originally employed.

IF YOU DO NOT INTEND TO RETURN TO WORK

18 If you do not intend to return to work following your adoption leave it will be necessary for you to resign your appointment giving the appropriate contractual notice.

19 Provided you do not resign earlier than two weeks before the adoption placement date, you will still be eligible to receive SAP provided you satisfy the conditions set out in paragraph 2.

HOW TO MAKE YOUR INTENTIONS KNOWN

20 You will be asked to state in writing (on an adoption option form) which of the above options you wish to take, i.e. to take adoption leave or resign. You may however require some further advice on this and if this is the case you should consult HR.

PENSION POSITION

21 This is only applicable to those employees who pay local government pension contributions.

22 If you intend to return to work
Contributions will be deducted from all the pay you receive during the period of adoption leave. On your return to work, if you have a period of unpaid leave you may either:-

- Pay full contributions for the whole period of unpaid absence on a notional figure as if you had continued to receive adoption pay. This election must be made within 30 days of returning to work.
- Any contributions not paid during your absence will be recovered by a lump sum from your pay when you return to work.

OR

- Elect not to pay contributions for the period of unpaid leave and therefore, the remainder of the absence would, for pension purposes, be a break in service and would not count towards future benefits.

23 If you do not intend to return to work
You would still pay pension contributions on any SAP you receive. If you have less than three months pensionable service, you may opt for a return of contributions. However, you should note that once a refund of contributions has been made, the relevant service will never again count in the calculation of your pension benefits. If you are eligible for a refund of contributions you are advised to withhold your application for these until you are certain that you will not be recommencing employment. In other cases (i.e. more than three months pensionable service) your benefits will be preserved and will normally become payable when you reach retirement age.

WORK DURING ADOPTION LEAVE ('Keeping in Touch' or 'KIT' days)

You may undertake up to 10 days work during adoption leave without bringing your adoption leave to an end or losing your SAP. Please note that work for part of a day will count as a full day. This can be used for training, keeping skills up to date, team away day sessions, etc.

You cannot be required to work, nor can you insist that you are given work; its arrangement is by mutual agreement. If you do work it will not extend your adoption leave.

Depending on the nature and the length of the work undertaken you maybe paid. If so your SAP will be offset against your pay. This will need to be agreed in advance of the work being undertaken.

REASONABLE CONTACT

You and your manager are encouraged to make reasonable contact with each other during the period of adoption leave to discuss issues such as your return to work, keeping in touch with developments etc. This will not constitute work as defined above.

OTHER POINTS TO NOTE

24 Continuous Service

Adoption leave counts as continuous service and therefore all your entitlements under your conditions of employment are maintained i.e. if you return to work you will be entitled to annual leave, annual increments, salary/wage awards.

25 Annual Leave

You should also consider your position in relation to annual leave where your period of adoption leave runs from one leave year to the next, as your conditions of employment only entitle you to carry forward one week's annual leave to the following leave year. If you do not return to work you will be required to repay any annual leave that has been taken in excess of your entitlement.

N.B. where the timing of maternity leave makes it difficult to arrange annual leave to be taken within the current leave year, (e.g. where maternity leave covers the whole leave year), managers should used their discretion to allow the bring forward/carry over annual leave to ensure that the employee is not disadvantaged.

26 Termination of Adoption Placement

If the adoption placement ends for any reason during the adoption leave period, you will be able to continue adoption leave for a further eight weeks provided this does not extend beyond the adoption leave period, i.e. leads to adoption leave in excess of 52 weeks.

27 Return to work - Flexible Working Arrangements

The Council has developed some flexible working arrangements which may assist you in your return to work.

The schemes available are:

- Job Share Scheme
- Right to Request Flexible Working
- Parental Leave
- Time Off for Dependants

If you think you might be interested in taking advantage of one of these schemes please discuss the matter with your Line Manager or contact HR for further

Annex 8

JOB SHARE SCHEME

1 Introductory note

Any scheme of this type will be necessarily detailed, to cover most eventualities and ensure fairness of application across the Council. This should not be taken as implying rigidity. At all times, the Scheme should be operated sensitively and flexibly, in the best interests of the Council and individuals.

2 Purpose

The purpose of the Scheme is threefold.

- a. To provide one means of implementing the Council's intention to practice and extend equality of opportunity for all employees.
- b. To increase the numbers and types of candidate available for recruitment and help to retain existing staff.
- c. To increase the efficiency and effectiveness of the Council through such benefits as increased flexibility; better cover during absence and leave; a wider range of skills and aptitudes; continuity of service; and a more contented work force (leading to lower absenteeism and wastage).

3 Job sharing and part time working

3.1 Job sharing is fundamentally different from **part-time employment**. In part-time employment, employees are individually responsible for allocated parts of the job duties and responsibilities. Their hours may not overlap and there may be no need for contact between them. The loss of one part-timer will not concern the other. In job sharing, the whole job is the responsibility of the job sharers, who will be held jointly to account for output. This is the quid pro quo for the considerable flexibility of working that job sharing allows the job holders.

3.2 However, there will be circumstances where straightforward **job splitting** (which is distinct from job sharing) into part-time portions will be preferable to the more involved job share arrangements. This is a management decision that will be made on the basis of the job concerned and the circumstances of individuals. But, an employee does not have a right within this Scheme to change hours of work to part-time if they wish.

4 Involvement and commitment of managers

Job share arrangements carry many advantages for the employer and staff, but will involve managers in more planning and control. For this reason, managers should be fully briefed on the purposes, advantages and obligations of applying job share, and their concerns explored. The use of job sharing is not simply an equal opportunities issue. It is one means, among many now being introduced, of enabling the Council to acquire and keep staff of the calibre needed to provide public services.

5 Application to staff

5.1 The Scheme applies to all non teaching staff employed by the Council (see Introduction - paragraph 2 for position in relation to schools).

5.2 Application of the Scheme will be considered by the Head of Service either at the time a job is proposed to be filled or on application from one or more employees. There is a general presumption that the Scheme will be applicable to all jobs, unless exceptionally there are aspects of the duties, responsibilities or working arrangements of the job, or the competences of employees involved which, in the opinion of the Head of Service, would render a job share arrangement operationally impracticable. Where the Head of Service feels this to be the case, the matter will be discussed with a HR Officer, before further action is taken. Where a job is felt not to be suitable for the Scheme, the relevant trade union will be told and given the opportunity to comment.

5.3 An application for conversion of contractual status to job share, may be made by two employees. However, to be eligible to be considered, they must be occupying comparable jobs on the same grade and undertaking similar work activities in the same work area. Agreement will be given provided that in the opinion of the Head of Service the job is suitable for sharing and that both employees are acceptable for job sharing within the terms of this Scheme.

5.4 An application for job sharing may be made by an individual employee. Agreement to a single application will only be given if the job is considered suitable for sharing and the remaining part of the job can be filled within a reasonable period of time. If the individual is on maternity leave, the application must be made at least three months before the expected date of return to work.

5.5 There is no formal process for applications from individuals, but a request should be in writing to the Senior Manager, specifying the reasons and giving details of preferred working arrangements. The Senior Manager should discuss the application with HR before a decision is taken, or the matter referred to the Head of Service.

5.6 If an individual is refused a job share arrangement, they may pursue the matter through the Grievance Procedure. A joint case is permissible.

6 Key Considerations

The following are the key considerations to be taken into account when an application or proposal for job share is being considered.

- a. The nature of the work and the physical arrangements.
- b. The hours of work to apply to each sharer. These should be of a practicable number.
- c. The working arrangements to apply (see below).
- d. The allocation of responsibilities. Job sharing implies that the full duties and responsibilities will be shared without specific aspects being handled by one or the other job sharer. It may be though that the individuals bring to the job, specific skills that may justify some

differentiation in the responsibilities of each. This should not negate the general principle that job sharers are jointly responsible for getting the job done as required.

- e. The timing of the arrangement. The start date for any agreed arrangement will be at the discretion of management but will not normally be longer than three months after the date of agreement in writing to an arrangement.

7 Filling vacancies

7.1 All job details will specify that the vacancy is available for job share (unless an exception has been agreed between the Head of Service and HR).

7.2 Applications from potential job sharers will be considered on an equal basis with those from other candidates and the decision made solely on the basis of the candidate's suitability to meet the requirements of the job description and person specification.

7.3 A potential job sharer need not apply with a 'partner' but joint applications will be helpful in the recruitment process. In the case of a joint application, the Council may offer an appointment (on job share terms) to only one of the candidates. The remaining part of the job would then be filled by one of the other applicants or readvertised. These circumstances may require the Council to delay the start date of the first appointee beyond what would normally be the case.

7.4 Interviews and other parts of the selection process will be conducted on the normal basis but joint discussions with candidates involved in the job share proposal, will probably be appropriate after the interview stage. This will be particularly relevant in ensuring that potential appointees are compatible for job sharing. A job share involves close and co-operative working between the partners; mutual trust and support are essential, as is a 'common approach' with staff supervision and other matters involving judgement and discretion. All appropriate methods should be used by recruiters to assess compatibility and methods of approach and judgement. Psychometric tests may be particularly valuable and HR is able to offer help in this respect.

7.5 In all cases, where there is difficulty or delay in filling one part of a job share vacancy, the other applicant may be offered the appointment subject to the remaining part being filled within a reasonable period of time.

8 Working arrangements

8.1 The job sharers will agree with their manager, regular arrangements for total hours of work (for a specified period i.e. week or month), attendance at work and the ways in which the job duties and responsibilities will be shared (all this within the framework to be specified by the manager). All arrangements should recognise a mutual accommodation of needs, and hence should not be inflexible. Not infrequently, the needs of management or the individuals will be best served by a variation in the normal working arrangements. Flexibility of working will be encouraged and expected and for

the job holders, will provide a welcome means of accommodating personal needs whilst ensuring job requirements are met.

8.2 The usual patterns of working hours within a job share are as follows.

- a. Split day - one sharer works mornings and the other afternoons.
- b. Split week - one works part of the week and the other the remaining part (this may be a constant or alternating pattern).
- c. Alternate weeks - week on, week off.
- d. Alternate days - day on, day off.

8.3 Other patterns of work are possible (within the total hours available for the job) if mutually agreed and acceptable to management. The following factors will always be applicable.

- a. Allocation of duties and responsibilities i.e. distinct components or shared responsibility for all aspects.
- b. Need for communication between the job sharers and between the job sharers and the supervisor (see below).
- c. Office accommodation available. Normally only one work station will be necessary. Duplication in this respect would simply increase costs.
- d. Personal and domestic circumstances.

8.4 The working arrangements should also be quite clear on such matters as how satisfactory management and supervision will be arranged; how job sharers will supervise subordinate staff, and how appraisal will be carried out (probably by a mix of individual and joint sessions).

9 Communications

9.1 Well-defined and understood communication arrangements are crucial in a job sharing arrangement. If the job sharers and their supervisor are not aware of each other's activities and how they impinge each upon the other, confusion and disruption of services will occur. There is a heavy responsibility on the job sharers, within the framework set by management, to ensure this cannot happen. The framework specified by management should concentrate particularly on the **handover period** and arrangements, which will be determined both by the needs of the service and those of the job sharers. Job sharers must meet face to face for a part of their working time, at least once a week. The duration of this meeting is for management to decide, but it should be borne in mind that an overlong period of joint working may reduce the extent of cover for the total hours of the job. Job sharers should meet jointly with the supervisor at frequent intervals. All communication arrangements must be agreed in detail with the supervisor and recorded.

9.2 Face to face communication will be backed-up by written information, both for satisfactory communication and as a record of actions taken. A 'day book' system may be appropriate. Written records will become most important if, for example, a complaint is made by a client.

9.3 All job sharers are expected to receive occasional phone calls at home.

9.4 All means of communication should cover social matters and as far as possible, the job sharers should brief each other in this respect. It is important

that job sharers know what is going on, but if at all possible, not through colleagues having to repeat themselves to each sharer.

10 Staff change - resignation of one job sharer

10.1 Although a job share arrangement carries a large degree of mutual dependence, it is a fact that one partner in a sharing team may resign at any time. In this event, the contractual terms of the remaining employee will stay unchanged in the first instance. The loss of one sharer does place the services provided at risk of disruption. Consequently, the manager will discuss with the leaving partner the termination date (to seek to agree one which is mutually acceptable) and will talk to the remaining partner about the best ways to cope with the situation, if necessary, temporarily. The Head of Service is not bound to fill the remaining part of the job. For example if the other half will stand by itself and is sufficient to cover service requirements no further action need be taken, other than to notify formally the remaining job sharer of the changed position (which leaves them as a part-time employee).

Reversion to full time working

10.2 If on the resignation of one partner, the remaining sharer wants the job full-time, the decision will be that of the Head of Service, who will take into account the attributes of the individual and any constraints imposed by general Council policies. The Head of Service should also weigh the effects on the application of job sharing within the Department, of losing a potential job share opportunity, if the job is made full-time.

10.3 If it is agreed to appoint the existing job sharer, this will be done without further advertisement. If the remaining part of the job is to be advertised and there will be a gap between incumbents, the existing sharer will be expected to co-operate, as far as reasonably practical within their current contractual agreement, in arrangements to cover all or part of the duties temporarily. Payment for extra hours will be at plain time rates (within the normal working week) but other conditions of service for the existing sharer e.g. leave entitlement, may be affected by longer-term acting-up.

11 Terms of Employment

11.1 As a general rule, the principle of proportionality will apply to the application of terms of employment to job sharers.

Grading and Other Payments

11.2 The evaluated grade for the job will apply to each sharer (pay pro-rata to hours), with starting point and incremental progression/acceleration normally being the same for each job sharer. There might however, be circumstances where the incremental point is necessarily different. In this case it will be most important, in view of the possibility of an equal pay claim, that the grounds for the difference could not support a claim that the Council had failed to observe equal pay requirements.

Overtime and Other Special Payments

11.3 Overtime will be subject to the normal rules and premium rates will not apply until the total hours worked during the qualifying period by an individual job sharer have reached 37 hours. Plain time off in lieu may be given. The fact that enhanced rates will not be paid until 37 hours have been worked should not lead to an abuse of the willingness of staff to work, in exceptional circumstances, beyond their normal working week. Appropriate rates for other non-standard working hours will be paid for in accordance with the conditions of employment.

Promotion

11.4 Applications for transfer or promotion from job sharers may be made either singly or with the partner, and will be treated in the normal way.

Sick Leave and Maternity Schemes

11.5 The normal provisions will apply.

Annual and Special Leave

11.6 Entitlement to annual leave will be pro-rata to hours worked. Calculation and recording by means of hours may be more satisfactory than using days.

Public Holidays

11.7 Public Holidays should be shared between the job holders pro rata to hours worked, by mutual consent and with management agreement. Arrangements and calculations in this respect can become involved. The guiding principles are that the job requirements are fully covered; that the leave arrangements are fair to the job holders; and that Council conditions of employment are observed.

Training

11.8 The normal training and development facilities will be made fully available to job sharers. Entitlement to time off will be calculated pro-rata. Where a job sharer attends for training outside their normal times of work, time off in lieu will be given for those hours spent training, that are within the total working hours for the job as a whole.

Car Allowances

11.9 The type of car allowance to be attached to the job will be determined by applying the normal criteria to the total job.

11.10 Occasional user - normal mileage rate to apply to each job sharer.

11.11 Regular user - the essential user scheme will be applied to each job holder individually i.e. the lump sum will be paid in full to each.

Hours

11.13 Flexible Working Hours, if applicable, will apply with the Standard Working Hours (normally for the week but exceptionally for a month) replaced by the agreed number of working hours. The entitlement to FWH leave will be reduced to the pro-rata figure.

Pension

11.14 Pension Scheme will apply to job sharers as it does to all employees.

Disciplinary & Workforce Performance Management Procedures

11.15 These Procedures will be applied, if necessary, either individually or jointly to the job sharers, depending on the circumstances. In the case of joint application, any treatment or sanctions applied under the procedures may be the same or may be different for each of the job holders.

Grievance Procedure

11.16 A grievance may be pursued individually or jointly, through the Grievance Procedure. If pursued individually, management reserves the right to involve the other job share partner, if felt appropriate. The Council will do everything to ensure that grievances are dealt with expeditiously.

12 Monitoring

HR will be responsible for monitoring the operation of the Scheme.

APPENDIX 9

HEALTH POLICIES

1 Sickness Scheme

Sick pay entitlement

1.1 Subject to the qualifying conditions being met, the entitlement to sick pay for an employee absent from work because of illness, injury or disability, is as follows (see para. 1.22 in respect of injuries at work).

During 1st year of employment 1 month full pay and (after completing 4 months employment) 2 months half pay.

During 2nd year 2 months full pay and 2 months half pay.

During 3rd year 4 months full pay and 4 months half pay.

During 4th and 5th years 5 months full pay and 5 months half pay.

After 5 years employment 6 months full pay and 6 months half pay.

1.2 A month is deemed to be equivalent to 26 working days. Saturday is deemed to be a working day. Statutory Sick Pay is operated on the basis of seven qualifying days.

1.3 All continuous employment with any Redundancy Payment Modification Order (RPMO) employer counts as qualifying employment. This includes all temporary and part-time employment.

Calculation of Allowance

1.4 The period during which sick pay will be paid and the rate of sick pay (full or half) in respect of any period of absence will be calculated by deducting from the employee's entitlement on the first day of absence and the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence.

Extension of Sick Pay

1.5 The sick pay allowance may be extended in individual cases, according to the particular circumstances. An extension at the half rate may be agreed by the Head of Service for a maximum of three months, provided that the Occupational Health Unit considers that the employee is likely to return to work at the end of the extension. Such an extension is without prejudice to an extension of full or half pay by the Executive Member for the relevant Department. An extension at the full rate can only be agreed by the Executive Member for the relevant Department.

Definitions of Full and Half Pay

1.6 'Full pay' allowance will be of an amount, which when added to Statutory Sick Pay (SSP) and Incapacity Benefit receivable gives the employee the equivalent of full normal earnings.

Half Pay Allowance

1.7 In the case of half pay allowance, the amount is a sum equal to half pay plus an amount equivalent to the Statutory Sick Pay entitlement and Incapacity Benefit receivable.

Calculation of Normal Pay

1.8 'Normal pay' will include all earnings that would be paid during a period of normal working, but excluding payments not made on a regular basis.

National Insurance Exceptions

1.9 Widows and married women exercising their right to be exempted from the payment of full rate NI contributions will be deemed to be insured in their own right for all NI benefits. They are entitled to receive SSP.

1.10 Where a widow or married woman has opted out of paying the full NI contributions, the amount taken into account when calculating sick pay allowance will be equal to total state benefit and SSP receivable, had full contributions been paid.

Declaration of Benefits

1.11 All employees must declare all entitlements to benefits detailed above and any subsequent changes in circumstances on which entitlement is based. If this is not done, the Council will be entitled to determine sickness allowance under these conditions, by assuming the maximum benefits obtainable have been claimed.

1.12 When sickness pay is assessed, account will be taken of the insurance benefit actually received as distinct from the normal benefit receivable. This is subject to the employee complying with the regulations covering the payment of contributions and the claiming of insurance benefit, to the extent to which he or she is required to do so by the Council.

1.13 Widows and widowed mothers - when calculating the amount of sickness payment, only that part of the sickness benefit received that is in excess of the amount received from the Department for Work and Pensions (DWP) in weeks of full normal employment, will be taken into account.

Public Holidays During Sick Leave

1.14 Sick pay will be paid for a public holiday occurring during sick leave, unless the employee has exhausted his or her entitlement to sick pay, in which case no payment can be made (except for SSP, if applicable).

Victims of Crimes of Violence

1.15 Sickness payments following from an injury in respect of which a claim will lie to the Criminal Injuries Compensation Board, will not be subject to refund from any compensation received from the Board. Where an award has been made by the Board, the Head of Service concerned and the HR may agree to disregard, according to the circumstances of the case, part or all of the sick leave taken, when calculating future entitlement.

Notification of Sickness and Certification

1.16 An employee who cannot attend work because of illness must inform their manager, as soon as possible, in accordance with local arrangements, together with an indication of the likely duration of the illness. The manager should complete Part 1 of the "Sickness Absence Reporting Form" and send it to the Employee Service Centre on the first day of the employee's absence. If the absence continues after the seventh day, a medical certificate from a qualified medical practitioner (or Christian Science practitioner) must be sent to the manager or other specified person. Subsequent doctor's certificates will be submitted at the intervals required for national insurance/SSP purposes. The Council may exceptionally, require certificates to be issued more frequently. If the first certificate is for more than 14 days, or more than one certificate is submitted, a final certificate from the doctor certifying fitness for work may be required by the Head of Service before the employee returns to work.

1.17 Medical certificates will normally be those required for National Insurance purposes.

1.18 Once the employee has exceeded their entitlement to SSP/sickness benefit (normally after 28 weeks), and has taken the DWP "All Work" test, or been exempted from it, the DWP will no longer require doctor's certificates. Medical certification will then be provided by the Occupational Health Unit's medical staff (doctor's notes will no longer be required or accepted). At this stage:

i) the employee must immediately notify HR of the outcome of the "All Work" test, or that they have been exempted from it, and send a copy of the decision to HR.

ii) arrangements will be made for the employee to see one of the Occupational Health Unit's medical staff, who will provide a medical certificate as appropriate.

NB If an employee fails to keep an appointment with the Occupational Health Unit without a reasonable explanation, their entitlement to occupational sick pay may be affected.

iii) Further appointments will be arranged as necessary so that medical certificates can be provided as appropriate.

1.19 On the day the employee returns to work, the line manager should ensure that Part 2 of the "Sickness Absence Reporting Form" is completed. This serves as notification of return to work and as a self certification.

1.20 Sickness absence in hospital (or similar institution) - a doctor's statement on entry and discharge will substitute for the normal medical certificates although the completion of Part 2 of the "Sickness Absence Reporting Form" will be required on return to duty.

Abuse of Sickness Absence

1.21 If an employee abuses the sickness scheme or is absent on account of sickness due or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer, sick pay may be suspended. The employee will be advised of the grounds for suspension and the employee will have a right of appeal. Repeated abuse of the sickness scheme will be dealt with under the Disciplinary Procedure.

Injuries at Work

1.22 A period of sickness resulting from the performance of official duties and not caused by the employee's negligence, will not count against the normal entitlement. It will count against a separate entitlement which will be of the same amount as the normal entitlement.

Damages from a Third Party

1.23 If absence results from an accident that may result in damages being received, sickness payments are made subject to an undertaking from the employee that they will refund, from damages, the amount of sick pay or the proportion represented in the amount of damages received. In the case of a full refund, the period of absence will not count against the entitlement. In the case of a partial refund, the Head of Service and HR will agree what proportion of the leave should be disregarded.

Medical Examination at the Council's Request

1.24 The Council may at any time and at their expense, require an employee who is unable to perform their duties because of illness, to be examined by one of the Occupational Health Unit's medical staff or medical practitioner nominated by the Council. This is subject to the provisions of the Access to Medical Reports Act 1988, where applicable.

Screening

1.25 Paid time off will be given for medical screening agreed as appropriate by the Occupational Health and Safety Unit.

Contact with Infectious Diseases

1.26 If an employee is prevented (under the National Insurance Acts) from working by virtue of contact with an infectious disease, the employee must immediately notify their manager. The employee will be entitled to full pay, less any National Insurance benefits. The period of absence will not count against the sick pay entitlement. In the case of infectious or contagious diseases not covered under the National Insurance Acts, an employee who

feels well, should not stay away from work, but must report the facts to their manager immediately.

Cost of Doctor's Statements

1.27 The Council will pay for any doctor's statement provided at its request.

Retirement

1.28 See Section ??

Attendance Management

1.29 The Council has agreed with the trade unions detailed procedures for the management of attendance. These form part of the terms of employment to be applied as appropriate.

Appendix 10

PAY POLICIES

1 Grading Structure

The Council's grading structure is shown in Annex 1.

2 Job Structures and Attachment of Grades

Every job will be part of an organisational structure within each Service and will be described in a properly compiled job description. The job description will be the basis of the authorised grade to be attached to the job through the agreed grading procedures. Directors and Heads of Service will ensure that all jobs and structures are kept under continual review to ensure the effective and efficient provision of services and that necessary changes are made, after consultation with job holders with the aim of reaching agreement. A review of the structure of a service or establishment should be the subject of consultation with the relevant trade unions before changes are implemented.

3 Grading Processes

The National Joint Council (NJC) Job Evaluation scheme (as customised for Cheshire East Council in agreement with the trade unions) has been adopted for use for all jobs up to and including Grade 12. Jobs graded above this are graded under the HAY Job Evaluation scheme. Special arrangements have been agreed for jobs at the interface between the NJC scheme and HAY. Details of job evaluation processes are available from HR.

4 Starting Salaries

4.1. The starting salary for an appointee to a job with a grade of more than one point, is at the discretion of the Head of Service, having regard to any guidance issued by HR and observing the requirements of equal pay law and regulations (after taking account of qualifications and experience).

4.2 A Head of Service may offer an appointment on less than the full grading range where the employee will not be undertaking, initially, the full duties and responsibilities of the job. If such an arrangement is agreed with the successful applicant, the written notification should specify clearly the reasons why the full range is not being applied and the date when the situation will be reviewed, with a view to the full grading being applied. Application of the full grading will not entitle the employee to a pay increase under the regrading provisions (unless they are currently paid below the minimum of the full grade).

5 Increments

Definition of an Increment

5.1 An increment is the next point on the spinal column range as shown in Annex 1. (See separate scales for employees paid on Soulbury grades.) No increments above grade maximum can be paid.

Annual Increment

(for employees on grades of more than one spinal column point)

5.2 Annual increments are paid on the anniversary of starting the job (or the regrading of the job if this applies subsequently), subject to satisfactory service.

5.3 Transfer between local authorities on the same grade does not affect the payment of the annual increment.

Accelerated Increment

(for employees on grades of more than one spinal column point)

5.4 An employee may be paid one or more accelerated increment(s) within the grade for the job at any time, without prejudice to the normal annual increment, at the discretion of the Head of Service.

Salary on Promotion or Regrading

5.5 On regrading or promotion to a grade with a higher maximum salary, an employee should be paid a salary on the new grade which is at least one increment above the salary that they would have received in the former grade on the date of grading change. An increase of more than one increment may be justified in the case of a promotion but should be exceptional where the job is regraded. The level of the starting salary is at the discretion of the Head of Service.

6 Acting Up Allowance

An employee who is asked to undertake all or part of the duties and responsibilities of a higher graded job for a continuous period of at least four weeks, is entitled to receive an appropriate extra payment. This provision does not apply if the employee is covering for someone on annual leave. Where the full duties and responsibilities are being done, the payment will be the salary in the higher job that would apply were the employee acting-up to be promoted to that job. If the full duties and responsibilities are not being done or if they are done by more than one employee, the amount of payment will be at the discretion of the Head of Service. It may consist of a monthly addition to salary or one or more lump sums to be paid at the end of, or during, the acting-up period. Payment will be made for the whole period of acting-up, once the qualifying period of four weeks is completed.

7 Grading Review and Grading Appeal Procedures

There are three reasons why a job would need to be evaluated:

- Where a new job has been created;
- Where a job has taken on new duties and responsibilities or has changed significantly over time;
- Where a job has been amended as a result of a reorganisation.

A request for the evaluation of a job in any of these circumstances should be submitted to HR by the line manager using the appropriate grading forms and providing the necessary information.

New Jobs

When a new job is created the line manager should produce a job description, person specification, structure chart and job evaluation information in the appropriate format. It may be possible to identify an existing post which is sufficiently similar to the new post for this grading to apply – HR can provide advice on this. Otherwise, an evaluation of the new post will be undertaken. Prior to submission for evaluation, appropriate authorisation should be gained from the necessary committees/managers. This authorisation must be submitted with the request for evaluation.

Substantial Change to an Existing Job

The line manager should identify if there have been significant changes to a job as a result of the allocation of new job duties and responsibilities.

A substantial change in the duties or responsibilities is necessary because a job may change over time but without altering its general character. The request should be made on form ???, available from HR. The effective date of any regrading under this provision would be the date of submission of the grading form.

The line manager should take responsibility for completing the job evaluation documentation but if there is an existing job holder they should also be involved in compiling the relevant information and should sign the grading form to confirm that they agree with the facts that are being presented.

Prior to submission for evaluation, appropriate authorisation should be gained from the necessary committees/managers. This authorisation must be submitted with the request for evaluation.

An employee may request that the grading of their job is reviewed at any time where a prima facie case can be made that there has been a substantial change in the principal responsibilities or duties of the individual's job since it was last graded or filled (whichever was the later). The manager should respond to this request and take forward the grading review or explain why this is not appropriate.

Should the line manager fail to respond to an employee request for a grading review or if the employee is unhappy with the manager's response, the employee may formally request such a review following the procedure outlined in Section 2 below.

Following Organisational Review

New/amended jobs may be formed as part of an organisational review. If, after a period of time, (a minimum of 6 months but not more than 12 months), following an organisational review in which the employee was directly involved, they consider that the grading of their job does not properly recognise the duties or responsibilities being undertaken, they may request a grading review where:

- the grading of the job in which they were confirmed as continuing in employment had been formally reviewed prior to confirmation OR
- as an internal candidate, they were appointed through a special restricted selection procedure e.g. work group ring fence (not in response to an open internal advertisement).

Employee Request for a Grading Review

An employee who considers their job has changed sufficiently to warrant a grading review should raise this with their manager identifying why they believe this. The line manager should respond to this within 4 weeks of the employee raising the matter. If a manager refuses or fails to respond to a grading request the employee may request a grading review by submitting form ?? within 4 weeks of the refusal/failure to respond.

The form must give full reasons for the request, the date of the original request to the manager, identify which responsibilities on their job description have changed and in what way they have changed (if they are in the union they may wish to consult their union about this). The form should be sent to the manager and copied to the relevant HR Officer.

The manager should respond in detail stating why they do not support the request. This must be completed within 3 weeks. If on consideration the manager considers the job should be reviewed the normal processes will be followed and this procedure ceases to apply. Should the employee be satisfied with the response from the manager the procedure will come to an end and the job grade will not be reviewed.

Should the employee remain dissatisfied, the form and the response from the manager will be considered by a joint trade union and management panel made up of one management or HR representative and one trade union representative. They will decide whether or not there are grounds for a grading review. The only grounds being that the responsibilities of the job have changed and are likely to affect the grading of the job.

The employee and/or their representative is not required to be present. The panel will consider the written paperwork that has been submitted and any other information they consider relevant, e.g. details of other jobs.

If the panel decides there are no grounds for a review that decision is final and the employee will be given reasons for the refusal. The employee can not submit a further request for regarding within 12 month of the last one being made (a request supported by the manager may be submitted).

If the decision of the panel is that there are grounds for a review the manager and employee will develop and agree the appropriate job evaluation information for evaluation under the normal agreed process. This must be completed within 4 weeks of the decision of the Filter Panel.

NOTE: The decision of the panel that a job grade should be reviewed does not mean that the job will necessarily be upgraded. It is merely an indication

that the job has changed. It is also possible that the grade of the job may go down.

If the manager and employee fail to agree a revised job description and there is therefore no agreed job description to be evaluated, the grandparent manager should mediate and make arrangements for appropriate job description/job evaluation information to be drawn up by an independent management representative.

The effective date of any grading change would be the date of the submission of the form requesting a grading review.

Grading Procedure

NJC

Posts subject to the NJC Conditions of Service, (up to Grade 12), will be evaluated using the NJC job evaluation scheme as adapted for use by Cheshire East Council.

Full information about the job role will be submitted by the line manager in an agreed format in order to capture all of the necessary details about the role.

An initial evaluation of the role will be undertaken by HR. The draft evaluation will then be forwarded to the relevant trade union representative(s) to ascertain their view. Where the trade union representative(s) agree with the evaluation proposed, HR will confirm the evaluation score.

Should there be no response from the trade union(s) within 10 working days, HR will confirm the evaluation score as determined by them.

Should the trade union representative(s) not agree with the evaluation proposed by HR they should notify the appropriate HR Officer as soon as possible (within the 10 working day period) informing them in writing of their proposed score for the job or requesting additional information as appropriate.

Where it is not possible for the HR Officer and trade union representative to reach agreement on the grading of the job a full job evaluation panel should be convened.

The panel should be made up of a minimum of one management representative, one HR representative and two trade union representatives. Where necessary, further information about the post should be sought and in some circumstances the line manager of the post should be asked to attend the panel in order to provide further information.

Where the panel are unable to make a unanimous decision on the grading of the post the majority decision will apply. In the event that a majority decision cannot be reached, the status quo position will apply and no change to the grading will be applicable.

Hay

Posts subject to the JNC conditions of service, (Grade 13 and above), will be graded using the Hay job evaluation scheme as applied by Cheshire East Council.

Full information about the job role will be submitted by the line manager in an agreed format in order to capture all of the necessary details about the role.

Hay evaluations will be undertaken by either:

- an in-house panel of at least 2 officers made up of trained senior managers and/or HR Officers OR
- an independent external Hay consultant.

Hay evaluations will be reported to the relevant trade union(s) as they are evaluated for information.

Interface between NJC & Hay

As a result of the agreement to use both NJC and HAY Job Evaluation Schemes, there needs to be a clear set of principles which determine the treatment of jobs at the interface. These are outlined below.

Any job will be initially evaluated using the scheme which appears to be the appropriate one for the job.

The interface between the two job evaluation schemes is the junction between Grade 12 and Grade 13.

Where it is uncertain which scheme should be used, the paperwork to enable an NJC job evaluation to take place will be completed (thus avoiding the need for two forms to be completed) and the job will be evaluated using the principles described below.

Where a job evaluated under HAY is attributed with a total fewer than 732 HAY points, it will then be evaluated under the NJC scheme to determine the grade which will be applied to the job. If a job scores less the 689 points under the NJC scheme, the appropriate grade will apply. If it scores 689 or more points then the following paragraphs below apply.

Any job scoring a total of between 689 and 748 (inclusive) NJC points will be attributed Grade 12. The job will then also be evaluated under HAY and the most favourable outcome will be applied.

Where a job evaluated under NJC is attributed with a total NJC points score of 749 or more, then that job will be attributed to Grade 13 as a minimum. The job will then automatically be evaluated under HAY to determine the grade which will be applied to the job - which will not be less than Grade 13.

There will be a regular (at least bi-annual) audit of outcomes for all posts which have been placed in the grades at the interface to ensure that they are generally fair, as well as specifically non-discriminatory.

Grading Appeals Procedure

Cheshire East Council believes that grading appeals or other requests for review can be minimised by the careful application of fair, relevant, non-discriminatory and transparent job evaluation methods. Nevertheless, there will be occasions when an employee's dissatisfaction cannot be resolved through normal management channels (involving trade union representatives as appropriate) and the following procedure will then be available. Nothing in these arrangements will prejudice the legal rights of an employee or the Council.

The procedure will be available for use by an employee covered by the NJC for Local Government Services and JNC for Chief Officers in Local Authorities.

Appeals will be heard solely within the Council. There is no right of grading appeal outside Cheshire East Council.

An employee considering an appeal is entitled to have access to grading information, including other job descriptions, which management agree is relevant.

Grounds for Appeal

Ground 1: Following grading review

Where the employee (or group of employees) is not satisfied with the outcome of a grading review (undertaken for whatever reason) they may appeal against any aspect of the decision, with or without trade union representation. For this purpose, the appeal form must be received by management within 20 working days of the date of notification of the Council's decision.

Ground 2: Equal pay/equal value

An employee or group of employees should use this appeals procedure to pursue an equal pay/equal value complaint about grading or related terms, provided this is adequately justified by reference to relevant law or the Code of Practice on Equal Pay and satisfaction cannot be achieved through normal channels. An appeal on this ground may be submitted at any time.

Submission Procedure

An appeal must be submitted on the relevant form which should be sent to the HR office for the Service concerned. The form must be fully completed to give concise reasons for the dissatisfaction, and be submitted within the defined timescale (see above). Any form received that does not detail reasons for dissatisfaction will be returned to employees for completion, and must still be submitted within the original timescales. HR, working with the manager(s) concerned, will enter on the form (or will attach) a concise response to the appellant's case. A short response from one of the original job evaluators detailing the rationale for their evaluation will also be included.

A copy of the appeal form, the management response and the job evaluation rationale will be returned to the appellant. It is important that paperwork is properly completed at this stage because the appeal form together with relevant job descriptions will normally be the only documentation for the appeal hearing. However, there may exceptionally be cases where the complexity of the case justifies further written representations for the appeal hearing. These may include statements of case and statement of agreed facts. The need for such information will be agreed between management and the appellant (or representative).

Any information produced at the appeal hearing which was not known to both management and the appellant in reasonable time before the hearing may only be considered with the consent of the chair of the panel.

Where an appellant is represented, all communication and discussions from the initial receipt of the form will continue to be with the appellant, unless otherwise advised.

Appeal Hearings

There may be two stages of appeal:

Stage 1

The appellant and/or their representative is not required to be present at the stage 1 hearing. The appeal panel will consider the written paperwork that has been submitted and any other information they consider relevant, e.g. details of other jobs.

The appeal panel will consist of one management or HR representative drawn from a Department other than that of the appellant and one representative of a recognised trade union. All panellists will be selected so as to respect the impartiality and independence of the appeals process and, as far as practicable, meet equal opportunities expectations. All panellists must be present for the appeal to be considered. A Council legal adviser will be present in equal pay cases.

All panellists will have been trained in the application of the job evaluation scheme used for the appellant's job.

An appeal will normally be heard within two months of the form being received by HR. An extension may be agreed between the parties where detailed investigations of circumstances or the need for further professional advice should be required e.g. in the case of an appeal on equal pay grounds.

The panel will review the overall job evaluation score for a job as well as the specific issues raised by the appellant and as such the score and/or grade for a job could increase, decrease or remain the same.

Stage 2

If the appellant is dissatisfied with the outcome at stage 1 or the panel fails to come to a decision, the appeal will, on the written request of the appellant, progress to a hearing before a Stage 2 panel. The written request must be

received by management within 20 working days of the date of notification of the outcome of stage 1.

The appeal panel will consist of two management or HR representatives drawn from Departments other than that of the appellant and two representatives of recognised trade unions. Again, all panellists will be selected so as to respect the impartiality and independence of the appeals process and, as far as practicable, meet equal opportunities expectations. All panellists must be present for the appeal to be considered. A secretary will be provided by HR and a Council legal adviser will be present in equal pay cases.

All panellists will have been trained in the application of the job evaluation scheme used for the appellant's job.

The panel will consider the case on the same information as was presented at the first stage and only on this information. Its decision will be final.

Where the panel are unable to make a unanimous decision on the appeal the majority decision will apply. In the event that a majority decision cannot be reached, the status quo position will apply and no change to the grading will be applicable.

The panel will review the overall job evaluation score for a job as well as the specific issues raised by the appellant and as such the score and/or grade for a job could increase, decrease or remain the same.

A stage 2 hearing will take place as quickly as possible.

Procedure for Stage 2 Appeal Hearing

Present at the hearing will be:

- members of the panel
- appellant (with or without representative)
- management representative (with or without a HR Adviser)
- job evaluator *
- secretary
- HR adviser
- legal adviser (equal pay only)

*In agreement with the panel, a written submission may be submitted by the job evaluator giving reasons for the original result, in which case the job evaluator would not attend the Appeal unless requested to do so by the appellant or a member of the Panel.

If, exceptionally, any other representative (on either side) is required to contribute to the hearing, they will have the status of a witness. They will be present only to provide information and be questioned in the same way as other parties present. The names of any witnesses will be notified to the secretary at least five working days before the hearing.

The procedure will be:

- i. A member of the Panel will be appointed Chair of the Panel.
- ii. Both parties will enter, i.e. the employee and their representative and the management representatives (manager, HR adviser, where present, and job evaluator). Witnesses will not be present at this stage.
- iii. The Chair will introduce those present and satisfy themselves that both parties are familiar with, and understand, the procedure to be followed at the hearing.
- iv. The employee (or their representative) will state the grounds of their grading appeal and may call witnesses in support. Witnesses will only attend for the duration of their evidence.
- v. Members of the Panel and the management representatives may then ask questions of the witnesses through the chair.
- vi. The management representative and the job evaluator respond to the grading appeal and may call witnesses. [The role of the job evaluator is to explain the evaluation, that of the manager to explain and comment on matters of fact about the job and its context]. Witnesses will only attend for the duration of their evidence.
- vii. Members of the Panel, the employee/their representative may then ask questions of the witnesses through the Chair.
- viii. Members of the Panel ask questions of either party. The parties may cross-question each other through the Chair.
- ix. The management representative and job evaluator then sum up. No new material may be included at this stage.
- x. The employee (or their representative) then sums up. No new material may be included at this stage.
- xi. Both parties withdraw. The Panel (with Secretary, and legal adviser if appropriate, present) consider their decision. The decision of the Panel will be notified in writing to both parties. The decision of the Panel is final. There is no further right of appeal.

NOTES:

- The panel may ask clarification questions of those present at any stage of the procedure.
- An appellant may present their case or this may be done by or in conjunction with a representative.

Effective date for decisions

The effective date for a decision which changes the grading will be decided by the panel. The date will always have regard to the timing of changes in duties and responsibilities that are cited in the appeal. Where an appeal is against a grading decision, the effective date will normally be that used for the original decision. Where an appeal is entered on other grounds the effective date will be decided by the panel but will not normally be earlier than the date on which the appeal form is accepted by management

8 Premium Payments

8.1 General Provisions

- The provisions listed below will apply to employees graded up to the maximum of NJC grade 8. Where employees on NJC grades 9-12 regularly work significant patterns of unsocial hours working, recognition will be agreed based on the framework of the following provisions and taking account of the overall responsibilities recognised through job evaluation.
- Only one enhancement (the highest) will be payable at any one time.
- No other entitlements apart than those stated below will be paid.
- The agreed arrangements for replacement cover will apply.

8.2. Overtime

- Although the Council discourages employees working overtime, where there is a requirement the provisions below will apply:-

- For employees working less than 37 hours per week, either:
 - time off in lieu if requested by the employee and if it can be managed by the service

or

- payment at the rate applicable for the time when the additional hours were worked.

Note - if the hours in any one working week exceed 37 (or equivalent for those with contract hours spread over a longer period, e.g. 74 hours in a fortnight), for those hours worked above 37 the provisions below apply.

- For employees working 37 hours per week (or equivalent for those with contract hours spread over a longer period), either
 - time off in lieu on an hour for hour basis if requested by the employee and if it can be managed by the service

or

- payment at time and a half for all hours worked.

Note - only completed half hours worked on each day will qualify for payment.

8.3. Weekend Working

Payment for all hours worked on a Saturday or Sunday at what ever time will be at time and a half.

There will be no additional payments for working on a 'rest' or 'free' day where these are other than Saturday or Sunday (unless this brings the employee into the overtime provisions - see above).

8.4. Night/Evening Work

For those employees who work a night shift (i.e. a shift which covers a minimum period of 3 hours between 10pm and 6am) all hours worked Monday to Friday will be paid at time and a third. For work on a Saturday or Sunday payment will be at time and a half.

For employees working after 7pm but who do not meet the definition for a night shift worker, hours worked after 7pm will be paid at time plus a tenth.

For employees who are called out after 10pm, payment will be at time plus a third on all hours worked (time plus a half on Saturday or Sunday or if the overtime provisions apply).

8.5. Shift Allowances

These will only be paid to employees who work alternating/rotating shifts covering both day and night work (for definition of night work see above) - the payment will be time and a quarter on all hours worked (there will be no change to the rate for hours worked at night or at the weekend). Where other alternating/rotating shift patterns are currently worked these will be stopped unless it suits employees to work them, in which case no additional payment will accrue.

8.6. Split Shift

Split shift working will be eliminated where possible. Where it cannot, there will be a payment of £1 per day on which each split shift is worked.

8.7. Bank Holidays

Contractual hours worked will be paid at time and a half (double time on Christmas Day and Boxing Day) with time off in lieu for the hours worked (i.e. there will be no minimum level of payment or time off in lieu)

Where additional hours are worked on a Bank Holiday, payment will be at time and a half (double time on Christmas Day and Boxing Day) for all hours worked with no time off in lieu.

8.8. Call-ins

The hours worked, including travelling time, will be paid at the rate appropriate for the period (e.g. time and a third after 10pm, time plus a half on Saturday or Sunday) with a minimum payment of 30 minutes.

8.9 Standby and Sleep-Ins

The national rates apply.

Where standby duty arrangements are used, the following provisions apply:

(a) Where an individual post is not graded above NJC grade 8 and the employee does not live at his/her place of work and is on the rota to work on standby duty after normal working hours and at weekends to deal with

emergencies as they arise, he/she shall be paid on the following sessional basis to cover the duties and responsibilities involved:

(i) Where the occupied time during a standby session spent on telephone calls and/or call out and for documentation is 10% or less, an allowance as set out in Appendix 2.1.

(ii) Where the occupied time during a standby session is longer than 10% of a session, such additional time to be paid at the appropriate overtime rate, except that occupied time in excess of 10% should not be aggregated for each calendar month - rather each session should stand on its own.

Notes

(1) The scheme of payments is intended to relate to the full range of duties associated with standing-by, including dealing with telephone calls, and of being called out and documentation.

(2) A session of duty on weekdays (Mondays to Fridays) shall be at the period of the closing of an office on one day and its opening the following morning. At weekends and public holidays a session shall comprise 12 hours on a Saturday, Sunday or public holiday using national starting times e.g. 9am or 9pm on Saturdays shall constitute a session.

(3) In determining the normal pay of an officer during annual leave or sick leave, payments made to officers under (a) (i) are included.

(4) Standby Duty on a Bank or Public Holiday - Officers who are required to undertake a standby duty on a bank or public holiday shall in addition be granted compensatory leave of absence.

9 Payment of Salaries

9.1 Arrangements for pay vary between different services and are as stated in the employee's written particulars of employment, as amended from time to time. Employees must have their salary paid by direct credit to their bank or other financial institution acceptable to the County Council.

9.2 Monthly salary is calculated by dividing the annual amount by 12. Odd days are calculated by dividing the monthly sum by the number of days in the particular month.

9.3 An hourly rate is calculated by dividing the annual salary by 365, multiplying by 7 and dividing by 37.

10 Replacement Cover

1. An employee who is asked to work an additional shift to cover the absence of a colleague and who then falls sick will not be paid for that additional shift.

2. An employee who is asked to cover the work of a colleague who is absent for a period of time (i.e. they are in effect temporarily increasing their hours) and who falls sick and is unable to work all the additional shifts, will be paid

basic rate for the additional shifts they do not work (i.e. they will not receive any enhancements).

APPENDIX 11

TERMINATION POLICIES**1 Notice****1.1 To be Given By The Employee:**

- 3 calendar months notice - employee paid on NJC grade 12* and above;
- 2 calendar months notice - employees paid on NJC grades 8-11*
- 1 calendar months notice - all other monthly pay employees;
- 1 weeks notice - for employees paid weekly
- or equivalent pay grade.

1.2 A calendar month is the period from the date on which notice is given, to the day before the corresponding day in the following month.

1.3 Where an employee's pay grade falls into more than one of the above bands, the notice which applies will be the lesser of the two.

1.4 The following notice requirements are in accordance with employment legislation.

<u>Length of continuous employment</u>	<u>Period of notice</u>
Less than 4 weeks	No entitlement to notice
Four weeks but less than two years	1 week
Two years but less than 12 years	1 week for each year of continuous employment
12 years or more	Not less than twelve weeks

1.5 More than the statutory period of notice may be given, at the Head of Service's discretion

1.6 For assessment of continuous service see associated guidance.

2 Resignation to go to Another Local Authority

An employee who leaves to work for another local authority, will be paid for the Saturday, Sunday and any public holiday immediately following the last day of service, by Cheshire East Council.

3 Definition of Retirement

When an employee:

- Leaves the Council at the age of 65 or above (or 60 for those in the protected group)

- Takes early retirement with agreed early release of pension
- Leaves prior to age 65 (or 60 for those in the protected group) in circumstances when, had they been a member of Local Government Pension Scheme or Teachers Pension Scheme, they would have been entitled to receipt of a pension (e.g. they would have qualified for ill health retirement or they have been made redundant).

4 Retirement and Extension of Employment

The normal retirement age is 65. All employees have the right to request to continue to work beyond 65. As an employee approaches retirement age, they will receive a letter informing them of the intended retirement date and providing details of how to make this request.

5 Ill Health Retirement

Once an ill health retirement certificate has been issued by the Occupational Health Unit, notice of termination will normally be given immediately, subject to the employee receiving appropriate counselling and also to the condition that termination will not take effect before the entitlement of sick pay at the full rate (up to six months) has expired. In cases where an employee has a terminal illness, discretion will continue to be exercised to ensure that arrangements are made in the employee's best interests. Any outstanding leave entitlement for the current year (including any carry-over - up to five days - from the previous year) will be added to the notice period, i.e. it will be recognised by full pay.

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CHESHIRE EAST

CABINET

Date of meeting: 24 March 2009
Report of: Head of HR and Organisational Development
Title: Pension Discretions

1.0 Purpose of Report

- 1.1 To consider the approach to the use of the Pension Discretions in relation to the Local Government Pension Scheme for Cheshire East.
- 1.2 At a later date the Council may wish to review the Teachers Pension Scheme discretionary provisions. However, as currently only the County Council employ teachers, there is only a policy in place which can continue in the new Council. In relation to the Local Government Pension Scheme [LGPS], there are different arrangements in place and the Council needs to agree a way forward for new employees and for staff transferring into Cheshire East.

2.0 Decision Required

- 2.1 To agree the adoption of the Pension Discretions for the LGPS to apply to all non teaching employees of Cheshire East, as set out in Appendix 1 to this report.

3.0 Financial Implications for Transitional Costs

- 3.1 There will be no financial costs in 2008/9.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The main cost driver relates to redundancy provisions and these have already been agreed by Cheshire East. The proposals will avoid additional costs being incurred where possible. The exception to this relates to the proposal to adopt a more generous approach to flexible retirement. The reason for this is to facilitate the relocation of staff to Cheshire East. As it is not possible to predict the number and type of cases which may occur in relation to pension discretions, it is not possible to provide a financial estimate of the impact of the proposals. It is therefore recommended that they should be kept under regular review.

5.0 Legal Implications

- 5.1 There is a legal requirement to publish a policy statement on the Council's approach to the certain specified pension discretions.
- 5.2 There is some lack of clarity around whether TUPE covers some of the application of pension discretions adopted by the existing Councils. In the end it is an issue for an Employment Tribunal to decide if a case is raised.

- 5.3 In reality it is unlikely to be a major issue as Crewe, Macclesfield and the County Council's current provisions are very similar (and what the new proposals are based on) so the question should not arise in relation to those employees. In terms of Congleton, their policy statement is out-of-date (pre age discrimination legislation and pre all the recent changes to the LGPS) - so most could not be applied and would have to be up dated. So again an argument for TUPE to apply would be difficult.
- 5.4 In any case, the proposals do allow a degree of discretion which should enable the new Council to honour any TUPE requirements should this prove necessary.

6.0 Background

- 6.1 The new Council will be required to publish a policy statement on:
- the power to increase total membership of active members (augmentation of service);
 - the power to award additional pension (of up to £5,000 per year);
 - flexible retirement ; and
 - choice of early payment of pension.
- 6.2 There is no requirement to publish a policy statement on the following discretions, but it is advisable to have an agreed approach:
- contributions payable by active members (banding policy);
 - re-employed and rejoining deferred members;
 - applications to make absence contributions;
 - inward transfer of pension rights;
 - final pay: fees;
 - early leavers – ill health; and
 - early payment of pension – ill health.
- 6.3 There are different approaches in the four existing Councils to some of these provisions. Some have set arrangements whilst others decide each individual case on its merits. There is therefore a need for the new Council to decide its policy.

7.0 Proposals and Options

- 7.1 As 85% plus of the workforce are covered by the County Council's policy on early retirement and pension discretions, using these as the basis of the new provisions has much to recommend it. It is possible to build in a discretion to vary in exceptional circumstances which should enable any TUPE related issues to be addressed should this prove necessary.
- 7.2 Attached as Appendix 1 is a suggested approach based on the County Council's approach to the discretions outlined in Paragraph 6 above.
- 7.3 As stated above, the provisions in Macclesfield and Crewe and Nantwich Borough Councils are very similar. Congleton have not reviewed their policy since the Age Discrimination legislation was passed or in the light of the changes to the LGPS in 2008. They are therefore out of date and potentially discriminatory and would require change in any case.

8.0 Trade Union Consultation

- 8.1 The trade unions have been consulted on the proposals. They have indicated that they will support the proposals provided that there is a facility to address any TUPE issues which may be deemed to apply.

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

- 9.1 The above approach would ensure that the Council complied with the requirements to publish a policy statement and would provide an approach to dealing pension questions until a more detailed review is carried out.

10.0 Reason for recommendation

- 10.1 To ensure appropriate pension provisions are in place in the new Council.

For further information:

Portfolio Holder: Councillor F Keegan

Officer: Elizabeth Squires

Tel No: 01244 972134

Email: e.squires@cheshire.gov.uk

Background Documents:

*Documents are available for inspection at:
Westfields, Middlewich Road, Sandbach
Cheshire CW11 1HZ*

APPROACH TO USE OF PENSION DISCRETIONS**1. Power to increase total membership of active members (augmentation of service)**

The Council has agreed separately to adopt this provision to enable redundant employees to purchase additional service with their additional redundancy payment.

It is recommended that the power to increase total membership is not used in any other cases (for example retirement on the grounds of the efficiency of the service) except in exceptional circumstances.

2. Power to award additional pension (of up to £5,000 per year)

It is recommended this provision is not adopted, except in exceptional circumstances.

3. Flexible retirement

It is recommended that the following is adopted

Employees aged 55 and above (age 50 for employees in the scheme prior to 31 March 2008, who retire before 1 April 2010) may apply to have their hours and/or their pay grade reduced and to seek agreement to early release to some or all of their pension.

The request can be considered if;

EITHER their substantive grade reduces by a minimum of 2 grades (e.g. Grade 6 to Grade 4)

AND/OR their contract hours reduce by a minimum of 1/5

AND at the same time, the employee requests early release of their pension.

If agreed they will receive payment of all of their pension on an actuarially reduced basis, unless they are in the protected group of employees covered by what was Regulation 31

4. Choice of early payment of pension.

It is recommended that early release of pension to ex employees is not agreed except on compassionate grounds.

5. Contributions payable by active members.

It is recommend that employees are allocated to a band once a year from 1st April and subsequently only if their contract changes permanently, i.e. promotion or down grading. If an employee receives a mid year grade increment or a late pay award this to be picked up the following April.

6. **Re-employed and rejoining deferred members.**

It is recommended that extensions to the 12 month period for aggregating current membership are not generally considered, except in exceptional circumstances.

7. **Applications to make absence contributions**

It is recommended that extensions to the 30 day period for making applications to pay relevant contributions following absence are not generally considered, except in exceptional circumstances.

8. **Inward transfer of pension rights.**

It is recommended that extensions to the 12 month period transfer pension values are not generally considered, except in exceptional circumstances.

9. **Final pay: fees**

It is recommended that the discretion to allow a fee earner to average all fees in a three year period ending on 31st March in the last ten year period is not adopted and the three years prior to the termination date be used.

10. **Early leavers – ill health**

It is recommended that the following be applied:

First Tier - permanently incapable of any gainful employment but are NOT likely to work before Normal Retirement Age (100% enhancement to accrued retirement benefits).

Second Tier - permanently incapable of any alternative gainful employment within a reasonable period of time, but is likely to be so capable before the age of 65 (25% enhancement to accrued retirement benefits).

Third Tier - permanently incapable of their local authority employment but are judged by an occupational health practitioner to be capable of gainful employment within a reasonable period after leaving employment (pension equivalent to the members accrued benefits at the point of ill health retirement)

Definitions - Reasonable Period of time is defined as a period of 3 years, and,
Gainful Employment is defined as paid employment for not less than 30hrs in each week for a period of not less than 12 months.

11. **Early payment of pension – ill health.**

It is recommend that requests from ex-employees with deferred benefits who seek early release of their pension on the grounds of ill health be considered in accordance with the guidance issued by the Department of Communities and Local Government.

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CHESHIRE EAST COUNCIL**CABINET**

Date: 24 March 2009
Report of: Head of HR and Organisation Development
Title: Flexible and Mobile Working Policy

1.0 Purpose of Report

- 1.1 To consider a Flexible and Mobile Working Policy which will support service delivery and provide benefits for employees in Cheshire East.

2.0 Decisions Required

- 2.1 To agree:
- (i) the Flexible and Mobile Working Policy (Appendix 1); and
 - (ii) the proposed payment of £250 for set up costs and a tax free allowance of £3 per week to employees who are designated home workers.

3.0 Financial implications for transition and 09/10

- 3.1 There will be no transitional costs in 2008/09
- 3.2 Flexible and Mobile Working will be a long-term programme of projects that will require considerable up front investment. Although it will contribute towards achieving major corporate savings for Cheshire East Council, it is envisaged that these savings will not be realised within the first two years of the estimated five year programme.
- 3.3 The long term strategy and business case for Flexible and Mobile working has yet to be developed. There will be up front costs, which should produce later savings, as a result of the Flexible and Mobile Working policy (for example in relation to IT and the proposed allowances), but these should be offset by savings in relocation costs, accommodation costs and potentially by avoiding redundancy costs.
- 3.4 No transitional funding has been allocated.

4.0 Legal implications

- 4.1 The Authority has a legal obligation to consider requests to work flexibly. Employees who have caring responsibilities for a dependent adult, or parents of children aged under 6 (will change to under 16 from April 09) or with a disabled child under 18, have a right to apply to work flexibly. This policy may help to address some requests.
- 4.2 There is also a legal requirement to ensure that Health and Safety is fully considered.

5.0 Background

- 5.1 The Cabinet has previously approved policies on Flexible Working Arrangements and a Flexi Time Policy. The Flexible and Mobile Working Policy is the third and final HR policy on this matter to be brought forward for agreement.

- 5.2 Flexible and Mobile working is a cross cutting project bringing together HR, ICT and Property to deliver improved ways of working in every part of the new Cheshire East authority. This is based on a vision for a Council that is organised around the needs of customers and employees rather than the constraints of building design, fixed hours and location.
- 5.3 Corporately, accommodation costs for Cheshire East Council are likely to be the authorities' second highest cost after staff. It will be essential to maximise the use of these assets through programmes like Flexible and Mobile working in order to help achieve the corporate aims of rationalising and disposing of surplus buildings and negating the need for additional office space.
- 5.4 It is anticipated that the realisation of this vision may take up to five years and will require the development of a long term strategy and business case. The initial focus however is to address the fact that a considerable number of Cheshire East employees currently live and work in and around Chester. Flexible & mobile working approaches may be able to support the organisation and the employees and minimise the impact this will have.

6.0 Flexible and Mobile Working

- 6.1 The following is a summary of the key aspects of the proposed policy.
- **Objective** – to provide flexibility in where an employee works from in order to maximise service delivery, recognising this could be operational or field based, the employees home, partner premises, remote locations or from any Council building.
 - **Key components** – regular home working, occasional home working, equipment and services, insurance, team contact, lone workers, running costs and allowances
 - **Existing Council arrangements** – 2 Districts and the County currently have a home working policy. For most of these Councils regular home working is a relatively new concept and not widely adopted.
 - **Key considerations** – it is anticipated that flexible, mobile and home working will significantly increase in Cheshire East to offset some of the travel and accommodation issues.
 - **Payment of allowances** - consideration has been given to the payment of an allowance to staff working regularly from home. Options and recommendations are summarised below.
 1. As none of the existing Councils pay a regular allowance, continue into the new authority in the same way.
 2. Pay a lump sum allowance to compensate for the use of home utilities
 3. Pay a small tax free weekly allowance for those employees deemed to be regular home workers (have a contract stating their base is at home) and a small one off set up cost allowance to cover furniture for the same employees.

Allowances recommendation - the third option is recommended as a token of goodwill to those employees who no longer have a work base and need to pay increased amounts on fuel and lighting bills. By offering to pay towards furniture, the employee takes responsibility for making sure it meets their personal requirements to fit into the home environment. Alternatively, where the employee does not wish to purchase their own furniture it may be purchased through property services in which case any such furniture would be returnable if and when the employee left or ceased to be a designated home worker.

- 6.2 It is proposed that the set up allowance should be £250 and that designated home workers should be given a tax free allowance of £3 per week to cover costs of additional heating, lighting, etc.

7.0 Trade Union Consultation

- 7.1 The trade unions have been consulted on these policies and are broadly happy with the proposals. They will be monitoring their application to ensure that the policies are not used to change existing working arrangements without agreement.

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

- 8.1 This policy with the others already agreed, will facilitate flexible working but it will need managers and employees to embrace the approach if they are to make a difference to way services are delivered. Truly embracing and embedding Flexible and Mobile working as the way of working within Cheshire East offers significant short and long term benefits. To realise these benefits however will require radical changes to working practices based on trust, co-operation and assessing performance and contribution through outputs and outcomes rather than time served. The HR policies proposed are a first step on this journey and provide a clear signal of the new Authority's commitment to work in this way.

9.0 Reason for Recommendation

- 9.1 To support service delivery and benefit staff by improving work/life balance.

For further information:

Portfolio Holder: Councillor Keegan
Officer: Trish Barnett
Tel No: 01244 972273
Email: Tricia.Barnett@cheshire.gov.uk

FLEXIBLE AND MOBILE WORKING POLICY

POLICY STATEMENT

Cheshire East Council has endorsed Flexible and Mobile Working as an effective way to ensure efficient services can be delivered to our customers, whilst maintaining a good work / life balance for employees. It is the Council's policy to encourage employees to adopt flexible working practices whenever suitable and the policy below states the various options available. Whilst flexible working practices will not be imposed upon existing employees it is expected that teams and individuals will explore the various options available to understand how some of these might be used to improve business processes, work / life balance and enable effective service delivery.

The Flexible and Mobile Working Policy should be read in conjunction with the Council's Flexible Working Arrangements and Flexi Time Policies.

What is Flexible and Mobile Working?

In order to provide better integrated and more responsive services to the customers, and a better work / life balance for staff, a common sense approach to how employees best utilise their time is required. By adopting flexible and mobile working practices, there is a better opportunity for employees to provide services at a time and place that best suits the service and its customers, and also fits in with their own needs.

The Flexible and Mobile Working policy encourages better service delivery by enabling employees to plan their work differently, so becoming more effective and efficient. Through careful planning employees will be able to reduce the need for excessive travel and increase productivity. The policy is not prescriptive but is intended to facilitate safe and effective working arrangements. Flexible and Mobile working arrangements can support diversity, assisting in the recruitment and retention of employees, improving staff commitment and reducing absenteeism.

The policy allows employees to work from many different locations. These options depend upon the requirements of the job role and should be chosen to ensure the most effective use of employees' time. They range from:

- working from one Council building for the majority of the day
- working from a variety of Council establishments throughout the course of the working day
- working from partnership establishments
- starting and finishing work at home and spending the majority of the day out visiting service users in their homes
- working occasionally at home

And for a small number of employees:

- working from home for the majority of the working week

Who does Flexible and Mobile Working apply to?

Flexible and Mobile Working is available to the vast majority of employees whether full-time, part-time, job share and can be either a temporary or permanent working arrangement. There may be times when an individual requests to work more flexibly to support a home situation and there may be times when a manager requests that an employee works in a more flexible way to meet operational requirements. It must be remembered, however that there are some work situations where the demands of that role mean that it cannot be organised on a more flexible basis, but every effort will be made to create the opportunity for all staff to benefit from a more flexible way of working.

Contractual Issues

The Flexible and Mobile Working policy should be read in conjunction with an individual employee's Terms and Conditions of Employment.

Mobile workers official principal place of work should remain a specific establishment location, which is appropriate for their role, and ensures good communication channels. Their contract of employment will indicate that they may be required to work at such other places of employment in the service of the Council as required.

Where an employee is a designated home worker as the majority of their work is carried out from home, the place of work will be recorded as the home on the contract of employment.

All employees must comply with the health and safety, fire etc requirements of the buildings in which they are working, however the council as the employer has a responsibility to ensure the health, safety and welfare of all its employees and this is achieved by the undertaking of suitable and sufficient risk assessments and where necessary taking measures to reduce risk to the lowest achievable level.

KEY ELEMENTS

Designated Office / Establishment Workers

These are employees who spend all or the majority of their working time at one fixed office or establishment. If appropriate they will have access to a desk, a computer and any other equipment deemed necessary to carry out their daily work. They may on occasions and in agreement with their manager, work at home, but this does not mean that they are designated home workers.

Mobile Workers

Employees work from a variety of Council or partnership establishments throughout the course of the working day. They may start and end their day from either a specific work / establishment base or their home. They plan their visits for the day to make best use of their time and resources. Often they complete paperwork, emails etc. prior to going out on their visits or on their return to their chosen base for the day. Some mobile workers will spend most of their day out in the field, visiting service users' starting and finishing the day from the most appropriate location either the work base or home. Sometimes mobile workers choose to work at home, usually to complete a piece of work with little interruption. Mobile workers will have access to appropriate mobile technology to suit their personal requirements. This may include a laptop and appropriate connectivity to the Council's electronic files in order to

be able to continue their work. Mobile workers will also attend their main base for team briefing purposes and to catch up with their line manager and colleagues.

Designated Home Workers

These are employees who spend all or the majority of their time working from home. This option is suitable for employees whose job role allows them to work independent of others. Employees will be provided with suitable furniture, and given access to the relevant technology, equipment and stationary necessary to carry out their daily work including any Personal Protective Equipment (PPE). This will be requested in line with normal ordering procedures.

Alternatively, if preferred by the employee, a one off set up allowance of up to £250, may be paid, (on receipt), towards appropriate furniture of their choice. Should the employee leave within the first 12 months of service, the Authority reserves the right to request that the furniture be given to the Council or made available for another home worker.

The Council contributes a small tax free allowance of £3.00 per week towards the running costs associated with designated home workers e.g. heating, lighting, use of internet services, wear on carpets etc.

Car Allowance, Mileage and Travel Time

Employees attending meetings or working away from their principal place of work are able to claim business mileage and travel time. Home to the normal place of work cannot be claimed unless the employee is a designated home worker.

A journey from home to a different place of work e.g. training course or off-site visit is covered by the following rule:

- If less than the mileage and travel time to the normal place of work no claim can be made
- If it is more than the mileage and travel time to the normal place of work, the officer may claim the additional miles and time only.

Car Parking

Employees may not claim car park charges when parking near their usual place of work. When car park fees are payable during the daily journey for employees who adopt mobile working practices, these may be claimed in the usual manner.

Insurance

Designated home workers must tell their house and contents insurer(s) in writing of the terms under which Home Working is taking place and get written confirmation that this is acceptable under their policy, or have their policy endorsed. A copy must be forwarded to HR for retention on their personal file.

Managers must ensure that Council equipment used at home is properly insured by the Service, particularly portable items. The employee's home insurance is not expected to cover risks to Council equipment.

Health and Safety

Employees who are home working will inevitably find themselves working alone. The employee and their manager are expected to organise and adopt appropriate practices which safeguard the employee, for example a ringing in / checking in procedure etc.

Managers have the same duty of care for all employees no matter where they work.

Employer's Liability

Any accident must be reported in accordance with accident reporting procedures. In the event of an injury at home it may be very difficult to prove negligence on the part of the Council because an employee working at home would be primarily responsible for their working environment in the same way that they are responsible for their working environment on Council premises.

If an employee is injured whilst working at home, either through their own actions or that of a family member and the Council is judged legally liable and negligent, the Council's corporate insurance cover will apply.

If an accident occurs as a result of something the home worker controls e.g. if someone trips over a loose floorboard it is possible a claim could be made against the householder rather than the employer. If no negligence is alleged the Council's personal accident policy will apply to the employee. It is imperative that relevant Health & Safety assessments are carried out prior to working at home as in the council establishment environment.

Ending Designated Home Working

If a designated home worker wishes to terminate their Home Working Agreement, the Council will do all in its power to find an alternative suitable location and / or role, but it must be noted there are no guarantees of alternative employment in these circumstances.

FURTHER GUIDANCE

It is important that staff and managers are aware of and comply with other linked policies such as Health & Safety, Security and Data Protection and suitability of the job, communications with the team etc. For further guidance on Flexible and Mobile Working, refer to the guidance section within the F&MW framework.

The Flexible and Mobile Working policy will be reviewed regularly with future developments being added in consultation with relevant parties, as the Council evolves.

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CHESHIRE EAST**CABINET**

Date of meeting: 24 March 2009

Report of: Head of HR and Organisational Development

Title: Health and Safety Policy

1.0 Purpose of Report

- 1.1 To consider a Health and Safety Policy for Cheshire East and to agree the accountability arrangements.

2.0 Decision Required

- 2.1 To agree the Health and Safety policy attached as Appendix 1.

3.0 Financial Implications for Transition Costs

- 3.1 There are no transitional costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The policy statement will not of itself incur costs.

5.0 Legal Implications

- 5.1 There is a requirement in section 2 of the Health & Safety at Work Act 1974 to have a health and safety policy.

6.0 Risk Assessment

- 6.1 A sound health and safety policy is all about the management of risk.

7.0 Background and Options

- 7.1 The attached policy provides a framework for the new Council. It is split into five sections:

- A general statement, including an introduction, information on application, consultation etc;
- Organisation, identifying the responsibilities of Members, managers, employees, etc;
- Arrangements, such as accident reporting, training, etc;
- Specific issues, for example manual handling, Legionella, working at height, etc; and

- Monitoring and Auditing the policy, identifying how and when this will be done.
- 7.2 The policy refers to a number of supporting policies which are in the process of being developed and finalised. In the short term these will be based on existing policies in the four authorities. These will be subject to review at a later stage and if appropriate will be amended and brought forward for approval at a later stage.
- 8.0 Trade Union Consultation**
- 8.1 The trade unions have been consulted on the draft policy and support the approach which is proposed.
- 9.0 Overview of Day One, Year One and Term One Issues**
- 9.1 As indicated above further work is required to complement this policy and to ensure that a strong health and safety ethos based on risk assessment is embedded within the Council. Development of this work will continue through Year One.
- 10.0 Reasons for Recommendation**
- 10.1 To ensure that the Council has a robust approach to Health and Safety in place from Day One and is compliance with Health and Safety Legislation.

For further information:

*Portfolio Holder: Councillor Frank Keegan
Officer: Graham Coope
Tel No: 01270 529601
Email: Graham.Coope@congleton.gov.uk*

Background Documents:

Documents are available for inspection at: Westfields, Sandbach

GENERAL HEALTH AND SAFETY POLICY



1.0 Statement

The Council recognises that providing good Health & Safety management is fundamental to the delivery of its services to the people of Cheshire East.

Our aim is to create an environment where everyone can work safely and healthily and where all those affected by our work remain safe. The Council accepts its responsibility to do all that is reasonably practicable to ensure the health, safety and welfare at work of its employees.

We will achieve this by:-

- *Identifying the risks in our activities and taking the necessary steps to manage those risks*
- *Compliance with current Health & Safety legislation, guidance and best practice*
- *Ensuring through training and assessment that everyone has the necessary competence to do their job safely*
- *Communicating and engaging with employees to ensure that everyone understands how to keep themselves and others safe and healthy*
- *Competent persons are available to provide Health & Safety assistance and technical advice*
- *A commitment to continuous improvement in our Health & Safety performance by monitoring results and forward planning*
- *A commitment to consult with employees on all work related health & safety issues.*

The Council expects all staff to go about their work with the proper concern for the safety of themselves and others .It also expects the same support and cooperation from contractors, partners, visitors and persons using its facilities.

Erika Wenzel
Chief Executive

1.1 Application

This is the written health & safety policy of Cheshire East Council as required by section 2 of the Health & Safety at Work Act 1974.

This policy applies to all employees, Council Members, contractors, visitors, clients, service users, pupils and partner organisations insofar as the Council has control over their activities. Where agency workers and those on work experience or training schemes are engaged in the workplace, they will be treated as employees for the purposes of health and safety and the same level of care and protection afforded to them as other employees.

1.2 Commitment

The Council is committed to providing and maintaining a safe and healthy place of work with adequate welfare arrangements. The Council will also ensure that all staff receives sufficient training and support in order for them to carry out their work with minimum risks to their health and safety and that of others associated with work activities.

1.3 Health and Safety Management

The provisions contained within this policy will ensure that health and safety is an integral part of the corporate risk management process, and the HSE health and safety management system contained within HS (G) 65 will be followed.

This policy outlines the Council's strategic health and safety management system. Directorates and Corporate Services may produce their own standards and procedures to demonstrate how health and safety will be managed including everyday operational issues. Where necessary, individual Services may produce their own procedures to support the application of the corporate policy if there are specific risks which are not covered in the Directorate or Corporate Service procedures.

In addition to the Health and Safety Policy, specific policies will be introduced e.g. the Smoke-free policy which must be adopted by Directorates and Corporate Services.

1.4 Consultation and Communication

Consultation and communication with trade unions and employee representatives will be maintained and the important role of Trade Union Health and Safety Representatives is recognised and supported.

1.5 Joint Working

The Council will work together with partner organisations and other key stakeholders to ensure that health and safety is taken into account where joint

working takes place. The Council will also ensure there is proper liaison with external organisations such as enforcement and inspection bodies. Where contractors are used to carry out functions on behalf of the Council, they will be appropriately selected, vetted where necessary and subsequently monitored to ensure their work is in accordance with the Council's policy on health and safety.

1.6 Policy Approval

All policies relating to matters of health, safety and welfare will be presented to the appropriate joint consultation body for approval. Such policies will then apply to all Directorates and Corporate Services.

1.7 Review

The Health and Safety Policy will be reviewed on an annual basis.

2.0 Organisation

This section of the Health and Safety Policy sets out the roles and responsibilities of key stakeholders within the Council. It also outlines the Council's expectations of those who are not employees e.g. partner organisations, contractors, service users, visitors and members of the public, where these people have contact with the Council.

The health and safety functions of the persons involved can be generally categorised as ***Policy makers, Planners, Implementers, Assisters and Employees.***

Policy Makers

Policy makers are those who devise and are responsible for approving and monitoring policy on health, safety and welfare at a strategic level. They preserve, develop, promote and maintain the Council's health & safety management system. *Policy makers* also make sure that health & safety matters are taken into account when organisational decisions are made.

The *Policy makers* are: -

2.1 Council Members

It is the responsibility of Council Members to approve and monitor the Council's Health and Safety policy and subsequent corporate policies.

The portfolio holder for Resources is the Council Member with specific responsibility for strategic health and safety matters and will also be briefed by

the *Head of HR and Organisational Development* on operational matters of particular importance e.g. serious accidents.

The portfolio holder for Resources will ensure that Council Members receive an annual health and safety report.

Portfolio holders who have specific responsibility for Directorate and Corporate Services will also be responsible for monitoring relevant health and safety procedures.

Members of the full Council must ensure that sufficient priority is given to the allocation of resources for the provision of health, safety and welfare. Members must ensure that health & safety is an integral part of the procurement process and the Council makes legitimate and relevant health & safety requirements a significant factor in its procurement decisions.

2.2 Chief Executive

The Chief Executive has overall responsibility for the implementation of this policy. The Chief Executive will ensure that there is a suitable system in place for managing health and safety and relevant Members receive recommendations concerning sufficient resources being made available in terms of staffing and finance. It is the responsibility of the Chief Executive to promote a positive health and safety culture within the organisation where health and safety is integrated into all aspects of work and employees are encouraged and supported when dealing with health and safety matters. The Chief Executive will also ensure that the Management Team receive an annual health and safety report which reviews the main health and safety issues and sets priorities for the forthcoming year.

2.3 Directors

Directors and Service Heads in corporate areas are responsible for ensuring that day-to-day health and safety matters are dealt with in their Directorate. This includes the following:

- Ensuring that there is compliance with the Health and Safety Policy and individual service policies if necessary
- Establishing and maintaining the Directorate Health and Safety Committees
- Integrating health and safety into Directorate Service Plans
- Liaison and consultation with Trade Unions on health and safety matters
- Implementation of Directorate policies
- Ensuring that staff are informed about Corporate and Directorate policies & understand their responsibilities for Health & Safety
- Ensuring that a health & safety key contact is identified within their Directorate or Corporate Service

The *Head of HR and Organisational Development* is the named Director with specific responsibility for health and safety and as such has the following responsibilities in addition to those as a Director listed above:

- Liaison with the Health and Safety Executive and other enforcing bodies
- Liaison with the portfolio holder for Resources regarding health and safety matters
- Presenting policies and reports to the Cabinet and joint consultation body.
- Liaison with the Health and Safety Manager on corporate health & safety issues
- Ensuring that each Directorate / Corporate Service has access to sufficient health and safety advice
- Managing the implementation of policies
- Consultation with the Trade Unions

Planners –

are those who develop detailed local plans to achieve corporate health & safety objectives. They contribute to the Council's health & safety management system by concerning themselves with management arrangements for the identification, elimination and control of hazards and risks within their area of responsibility. *Planners* in this sense are; -

2.4 Heads of Service

Heads of service are responsible for health and safety matters under their control including:

- Ensuring that there is sufficient health and safety training for their staff and maintenance of training records
- Liaison with the Directorate Health and Safety Committee and chairing the group if required
- Ensuring that risk assessments are carried out and reviewed as necessary
- Monitoring health and safety systems and procedures and setting targets to
- Improve health & safety performance as part of the business planning process.
- Liaise with the health & safety liaison person within that department

It should also be noted that “*planners*” could also include Head Teachers, Designers and Health & Safety groups and Committees
Schools such as Voluntary Aided Church Schools, Foundation schools and Academy Trusts are not owned and managed by the Council. However it is recommended that such schools adopt this or similar policy in respect of their responsibilities under the regulations.

Implementers-

Are those within the organisation who make sure that the workplace precautions and safe systems of work are developed in order to control hazards and risks within their area of responsibility.

Implementors include **Line managers, Supervisors, Premises managers, Teachers, and Contract supervising officers**

Assisters- are persons that have the authority, independence and competence to advise Directors, Management and employees (or their representatives). They will be the following-

2.6 Health and Safety Manager

The Health and Safety Manager is responsible for the following:

- Liaison with the Head of HR & Organisation Development on health and safety issues
- Devising health and safety policies and procedures for consideration by Council Members
- Providing health and safety advice to Council Members, the Chief Executive, Directors, senior managers and other employees
- Monitoring the Health and Safety Policy
- Ensuring that training needs are identified

2.7 Health and Safety Advisers

Health and Safety Advisers have the following responsibilities:

- Providing health and safety advice to Directors, senior managers and other employees on all matters relating to health safety and welfare
- Advising on and monitoring Departmental health and safety procedures for consideration at Health and Safety committees and other consultation meetings

Assisters may also be technical or specialist employees who have achieved a certain level of health & safety competency within their specialized field

2.7 Employees

Irrespective of their position within the structure all employees have the following responsibilities:

- To take reasonable care for the health and safety of themselves and other people
- To co-operate with the employer regarding matters of health and safety
- To report any matters which could put themselves or others at serious risk to their line manager
- To bring to the attention of their line manager, any defects in property, equipment (or) machinery (or) conditions or working practices which could give rise to harm

- Not to interfere with or misuse any equipment provided for health, safety or welfare
- To report accidents / incidents / near misses

2.8 Agency workers

For the purposes of the Council Health and Safety Policy, agency workers shall be regarded as employees of the Council.

Therefore all references to 'employees' in this policy shall include agency workers.

2.9 Trainees

Under the Health and Safety (Training for Employment) Regulations 1990, trainees, work experience students and others on similar training programmes with the Council shall be deemed to be 'employees' of the Council.

2.10 Trade Union Health and Safety Representatives

Safety Representatives have the same responsibilities as other employees. However, in addition to these responsibilities they also have rights under the Safety Representatives and Safety Committees Regulations 1977 and under agreed arrangements with the Council including:

- Carrying out health and safety inspections
- Undertaking investigations into accidents and near misses
- Receiving information from the employer regarding matters of health and safety
- Being involved in the consultation process on health and safety policies and procedures
- Being allowed reasonable time away from work as necessary to be able to undertake these functions
- Meet and consult with members and others on issues relating to health and safety

2.11 Responsible Persons (in charge of buildings)

Each building shall have a 'Responsible Person' (and a deputy) who is tasked with managing and co-ordinating health and safety issues for the building including

- Control of asbestos
- Management of Legionella
- Fire risk assessment and procedures
- Control of contractors
- Emergency and contingency planning
- Undertake building specific risk assessments and communicate details of risks and hazards as appropriate

Such 'responsible persons' will liaise with Property Management Services (or equivalent) to make sure that maintenance and repairs are undertaken at the required intervals.

The 'responsible person' will also ensure that records are kept and employees informed of the control measures necessary to minimise the risks to health and safety of the building users.

3.0 Arrangements Summary

It should be noted that what follows here is a summary of the arrangements necessary for health & safety management. More detailed Corporate Arrangements and Guidance notes are included in the full Policy. These more detailed arrangements are split into three parts, the Corporate arrangements, Departmental arrangements and Site-specific arrangements.

3.1 Risk Assessment

The health and safety policy of the Council is based on an effective health and safety management system, which aims to minimise risks to employees and others. Where significant risks are present, they will be subject to a formal risk assessment, which will determine the control measures to be used.

Risk assessments can be generic for a particular activity or individual to cover a specific situation. Where significant risks are identified, the results of the risk assessments will be recorded in either a risk assessment format, code of practice, policy document or guidance note.

3.2 Access to Competent Health and Safety Advice

In accordance with the Management of Health and Safety at Work Regulations 1999, the Council has a number of health and safety practitioners who are able to offer advice on all aspects of health and safety including advice on the completion of risk assessments.

Their roles and responsibilities are outlined in paragraphs 2.5 and 2.6 of this policy.

3.3 Training and Information

Health and safety training and information will be provided to employees in the following ways:

- During induction training
- By attendance at formal training courses covering general health and safety
- By attendance at training courses covering job specific topics e.g. manual handling
- By publications such as policy documents, manuals, leaflets, and pocket cards

- By use of intranet health and safety pages

Health and safety training needs will be identified by managers in Departments and services during staff appraisals / supervision sessions and managers must ensure that appropriate training is delivered.

3.4 Consultations and Communication

The Council is committed to the principle of consultation and communication with employees on all matters of health, safety and welfare.

Arrangements for health and safety committees have yet to be finalised.

3.5 Accident reporting

The Council has an accident /incident reporting and recording procedure which applies to all Departments.

Accident/Incident report forms are completed by managers and forwarded to the Health and Safety Team where accidents are reportable to the HSE under the RIDDOR Regulations they will be reported by the Health and Safety Manager.

Accident/Incident report forms are confidential and as such will not be forwarded to any third parties except the injured person, the Trade Union Safety Representative (or Branch Officer), as required by the SRSC Regulations, and the Health and Safety Executive if required.

3.6 Occupational Health

The Council is committed to the prevention of occupational ill health and will take steps to ensure that all incidences of reported occupational ill-health are recorded. The Council will strive to ensure an improvement in these figures each year in the interests of employees' good health.

3.7 Contractors

All contractors will be required to act in accordance with the Council Health and Safety Policy and the policies and procedures of the Department for whom they are working.

Contractors are expected to carry out their own risk assessments to ensure the health and safety of Cheshire East Council employees and third parties who may be affected by the contractor's activities.

Where possible, the health and safety policies and procedures of partner organisations will be similar to those of the Council.

Cheshire East Council will be working together with other agencies (e.g. CHAS - The Contractor's Health and Safety Assessment Scheme) to improve

the standards of health and safety performance of its contractors and all contractors will be expected to cooperate with the Councils vetting scheme when it is developed.

3.8 Partner Organisations

The Council will ensure as far as possible, that the health and safety policies and procedures of partner organisations are harmonised with those of the Council to reduce the risk of conflicting standards.

4.0 Specific issues

4.1 Manual handling

All jobs which include a degree of manual handling tasks will be assessed to determine the degree of risk and control measures put in place to reduce the risk.

These control measure will include reducing the need to carry out manual handling tasks; the use of mechanical aids to assist with moving and handling; maintenance of safe working environments and staff training.

4.2 Driving at Work policy

For many employees, driving at work is one of the most dangerous tasks they will undertake; therefore the Council recognises the need to reduce the risk of accidents to drivers.

The Council's Work-related Road Safety Policy provides information on the hazards associated with driving, and lists the control measures to be taken to reduce the risk.

4.3 Drugs and alcohol

Abuse of drugs and alcohol can have a detrimental effect on the health of the user, and can also increase the risk of accidents. Therefore the County Council has a drug and alcohol policy, which applies to all employees.

4.4 Lone working

Many employees work alone, sometimes in situations where confrontation may occur, or situations where accidents may happen and the employee will need to obtain first aid. It is therefore the responsibility of the manager to assess the risks to the employee and take measures to reduce them.

Examples of situations, which may present a significant risk, include working with machinery (e.g. chain saws), working at height, driving, visiting members of the public or clients at home, and working on the highway.

Each Department will therefore have its own policy on how these particular risks will be reduced.

4.5 Stress at work

The Council is committed to reducing the risk of work-related stress and has a policy and guidance on this topic.

The policy outlines the main causes of stress at work as detailed in the HSE Stress Management Standards and means by which stress at work can be prevented:

- Good recruitment and selection procedures
- Stress risk assessments
- Training courses for managers and staff
- Staff appraisal / supervision sessions
- Return to work interviews
- Staff surveys

4.6 Smoking at work

The Council has a smoke-free policy, which highlights the following points:

- Employees are not permitted to take specific 'smoking breaks'
- Smoking is not permitted in doorways or near open windows
- Council vehicles are smoke-free
- The Council will support employees who wish to give up smoking

4.7 Violence and conflict

The Council will take all necessary measures to minimise the risk of violence and abuse (including verbal abuse) to employees including consideration of prosecution of the perpetrators of such acts of violence.

Training will be offered to all employees in violence and conflict and some Departments will also offer this training for relevant employees.

4.8 Asbestos

Cheshire East Council undertakes the management of asbestos in accordance with the Regulations. Reports are held on each site and it is the responsibility of the 'responsible person' to pass the information to contractors when they visit the site

4.9 Legionella

The risk of contracting Legionnaires Disease is by the inhalation of infected water aerosols. The risk of contracting Legionnaires Disease is reduced by the responsible person at each establishment ensuring that the water systems are managed in accordance with the HSE Approved Code of Practice L8 – The Control of Legionella bacteria in water systems.

The Council has a separate policy for the management of Legionella, which is being developed in conjunction with the facilities management group.

4.10 Display Screen Equipment

All 'users' of display screen equipment (DSE) will be required to undertake an on line assessment of their workstation. Any defects, which are identified during this assessment, must be remedied by the employees' manager.

It is recognised that continual screen use can result in discomfort to computer users' vision therefore users and their managers should take the appropriate measures to ensure that breaks away from the computer monitor are built into the users' working day. It is recommended that all users of Display Screen Equipment (computers) take their eyes off the screen and undertake other work for at least 2 minutes every 20 minutes.

DSE users are entitled, on request, to an eye test and in the event of that examination identifying the need for corrective appliances (spectacles) for the purpose of DSE work, the reasonable cost of these will be met by the Council.

4.11 Fire

The responsible person for each building will ensure that a fire risk assessment is undertaken. The fire risk assessment will consider the following points:

- Presence of flammables; solids, liquids and gases
- Sources of ignition (including the risk of arson)
- Fire spread and smoke travel within a building
- Fire alarms / notification to building users of the presence of fire and/or smoke
- Evacuation procedures for all occupants
- Fire fighting
 - Selection of staff
 - Training
 - Equipment
 - Maintenance
- Control measures to reduce the risk of fire
- Availability of the Fire and Rescue Service
- Review of fire risk assessment periodically

Fire risk assessments will also be reviewed when any of the factors which were considered during the risk assessment have changed.

4.12 Work at Height

Falls from height account for the largest number of fatalities each year in the UK therefore if possible, work at height should be avoided.

However, this is not always possible so an assessment of the risk should be undertaken prior to such tasks being carried out.

'At height' means work at any height where there is a risk of injury if the employee falls. (60% of falls causing injury occur less than 2m from the ground). An assessment of the risk will include the following

- Type of work to be undertaken
- Equipment to be used
- Duration of the work
- Weather conditions (if outside)
- Ground conditions
- Stability of the ladder, platform, scaffold etc and means of securing
- Collective fall prevention measures (guardrails etc)
- Collective fall arrest and fall protection

Particular consideration should be given to:

- Falls through fragile surfaces including roofs and skylights
- Risks from falling objects
- Prevention of access to roofs by unauthorised persons e.g. service users, children, trespassers etc

All employees who work at height must be competent to do so.

Many tasks involving work at height are short duration; however this is not an excuse for ignoring safety considerations.

5.0 Monitoring and Auditing of the Health and Safety Policy

The Council recognises the importance of regular monitoring of the health and safety policy and annual auditing. The policy is therefore monitored by the following means:

- Health and Safety Committees
- Site surveys
- Risk Management meetings
- Sickness absence data
- Annual staff survey
- Accident / incident data
- Annual health and safety reports
- Consultation meetings with the Trade Unions and their Safety Representatives

The Council will ensure that such monitoring is sufficient to ensure policies and procedures are effective and meet the requirements of HS (G) 65 'Effective Health and Safety Management'

5.1 Review of the policy

This policy will be reviewed as a result of:

- Changes in safe working practices
- Up-dated knowledge of hazards
- Changes in Council structures
- Accidents or occupational ill-health issues
- Enforcing authority action

Notwithstanding the above, the policy will be reviewed at least annually.

CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: PRINCIPAL MANAGER, CHILDREN AND FAMILIES
Title: SURE START, EARLY YEARS AND CHILDCARE FUNDING
AND CONTRACTUAL ARRANGEMENTS 2009-10

1.0 Purpose of Report

1.1 the purpose of this report is to seek approval for delegated authority to continue existing grant funding schemes currently operated by Cheshire County Council, including the Nursery Education Grant funded free entitlement for three and four year olds and agree to a number of specified changes. Approval is also sought for the extension on a disaggregated basis of the existing Early Intervention Family Support contract with Action for Children and the arrangements for funding for Extended Services in and around schools.

2.0 Decision Required

2.1 approval of the grant funding schemes set out in Table 1 of Appendix 1 for 2009-2010 and the individual delegation of authority to the Head of Children and Families Service to ensure that grants are allocated in accordance with Appendix 1;

2.2 approval of the extension of arrangements for the payment and administration of the Nursery Education Grant free entitlement for three and four year olds until 31 March 2010 on the basis set out in this Report;

2.3 approval of the extension of the contract with Action for Children for the provision of early intervention family support services to families with children aged 0-5 from 1st April 2009 for one year.

2.4 approval of the arrangements for the application of funding for Extended Services during 2009/10 set out in this Report.

3.0 Background and Options

3.1 The Table below represents the SSEYC Grant allocation against the four funding Blocks for 2009-10.

Table 1

Ring-Fenced Funding Blocks	East Cheshire
1.Main Revenue - Children's Centres	3,941,569
Childcare Sufficiency and Access	848,243
Outcomes, Quality and Inclusion	959,502
Graduate Leadership Fund	398,388
Additional GLF	158,294
2. Sure Start Local Programmes	513,471
3. Short Breaks (Aiming High for Disabled Children)	347,820
TOTAL REVENUE BLOCK	7,167,287
4. Main Capital – Children's Centres	1,588,054
Early Years Capital	1,292,906
Short Breaks (AHDC)	167,701
TOTAL CAPITAL BLOCK	3,048,661

3.2 The amounts allocated to the different work streams within Blocks 1 and 4 are indicative and may vary as priorities are identified during 2009-10. It is proposed that any such changes that fall within current approved strategies can be authorised by the Director - People, however any variations in allocations arising from strategic change will require Member approval.

GRANT FUNDING SCHEMES

3.3 Cheshire County Council Children and Families service operated a number of grant initiatives to support services required to meet the needs of parents and families in line with the requirements of the Childcare Act 2006. It is proposed that these grant schemes should continue as set out in Appendix 1, with delegated authority given to officers to award grants up to a specified level.

3.4 The funding sources available for these grants come from the Government Sure Start, Early Years and Childcare Grant (SSEYC grant). All funding blocks within the SSEYC Grant are ring-fenced. Provided that the Authority delivers the services and activities which the funding streams target within the Blocks there is the ability to move funding between the work streams in the Blocks but funds cannot be switched between Blocks.

FREE EARLY YEARS ENTITLEMENT

3.5 Section 7 of the Childcare Act 2006 places a duty on local authorities to make available free early years provision for all three and four year olds for 12.5 hours per week for 38 weeks per year. The Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2008 which came into force on 1st September 2008 require that this free entitlement comprises of Early Years Foundation Stage provision. The DCSF advised local authorities by a letter dated 21st August 2008 that the existing Code of

Practice on the Provision of Free Nursery Education Places for Three and Four Year Olds published in February 2006 constitutes statutory guidance under Section 7(2) of the Childcare Act 2006, and the principles and requirements of the Code remain in force.

3.6 On 23rd July 2008 Cheshire County Council Children's Services Executive approved the continuation of existing arrangements for the payment and administration of the free early years entitlement for three and four year olds until 31 March 2009. It is recommended that these arrangements should be further extended until 31 March 2010 in accordance with statutory requirements and DCSF guidelines, subject to the following variations:

- (i) the budget of the Nursery Education Grant payments is funded from the Dedicated Schools Grant and the Schools Forum have approved the additional funding allocation as detailed to meet an increased payment rate for 2009/10. The current rate of payment is £3.364 per hour per child (£8.41 per 2.5 hour session) and will be increased to £3.50 per hour (£8.75 per 2.5 hour session). This represents an increase of 4.04%. The Nursery Education Grant payment rate to private, voluntary and independent ("PVI") childcare providers has been frozen at £3.364 per hour since 1st April 2006. This rate has now fallen behind those paid by several comparable authorities and freezing the rate has led to inequities between the PVI and the maintained sectors, as payments supporting maintained nurseries have been inflated on an annual basis. Also, the draft Childcare Sufficiency Review for the Authority's area suggests a significant loss of childcare providers during the last 12 months, and financial checks carried out on providers showed a high risk of business failure in the sector, in part due to increasing costs. The potential costs of continuing business failures to the Authority could be significant, as local authorities have responsibilities as the provider of last resort.
- (ii) Childcare providers will be required to enter into new Contracts to obtain payment of Nursery Education Grant funding. These Contracts will be substantially in the same form as existing Contracts, however will require providers to deliver high quality Early Years Foundation Stage in order to receive funding.
- (iii) From 1st September 2009, the Authority will receive additional ring-fenced Standards Fund funding from the DCSF to enable an extended 15 hour flexible free entitlement to be provided to the most disadvantaged 25% of children in its area. Eligible childcare providers have been approached during early 2009 and Council officers will assist these providers to adapt their provision to meet the requirements of flexibility from 1st September 2009. A detailed Report on the introduction of the 15 hour flexible free entitlement will be submitted to Members prior to this date.

3.7 From 1st April 2010, the Authority will be required to implement a single funding mechanism for both PVI and maintained childcare settings. The Government will publish new Regulations which will take effect from this

date to replace the existing Code of Practice. Officers are working with representatives from the PVI and maintained sectors to develop a effective funding formula for the Authority, and recommendations will be made to Members in due course.

EARLY INTERVENTION FAMILY SUPPORT

3.8 Government Guidance requires that all Children's Centres must provide family support and parental outreach services for families with children aged 0-5 as part of their core offer of services. As the Children's Centre programme has evolved increasing emphasis has been placed on reaching out to the most vulnerable children and families and reducing the inequalities in outcomes between the most disadvantaged children and the rest. Cheshire County Council developed an Early Intervention Family Support Strategy in 2006, which recognised that there was a gap between universal family services available to all families and those that are more specialist e.g. Social Care interventions. The intention of the Early Intervention Family Support Strategy was to bridge this gap for children aged 0-19 years. This Strategy helped to shape thinking about the provision required in Children's Centres for 0-5 year olds and their families. The thinking was also informed by Cheshire's Prevention and Early Intervention Strategy (February 2007) in particular to:

- (i) help shift the focus and resources within the Authority towards preventative services through addressing needs in communities with the highest risk of social exclusion; and
- (ii) make sure that an appropriate response can be given to a child or family at the time a difficulty first becomes visible.

3.9 Cheshire County Council's thinking is supported by national evidence and evaluation which suggests that while the first Children's Centres across the country have done much good work in reaching some disadvantaged and minority groups, they have not yet made enough progress in engaging consistently the most hard to reach groups. The Government's funding allocations for 2008-2011 therefore include additional resources to support this engagement, improve outcomes for children and prevent families' needs escalating to more intensive and costly interventions. There is a clear expectation that Children's Centres will deliver a comprehensive early intervention and prevention service underpinned by the resources to achieve this.

3.10 Cheshire County Council has for the period 1 April 2005 to 31 March 2009 commissioned Action for Children (formerly known as NCH), a leading national voluntary sector provider, to deliver Early Intervention Family Support services in the Chester and Macclesfield areas. The services provided by Action for Children under these arrangements for families with children aged 0-5 have been effective at meeting the needs of the local communities and demonstrate current best practice within Cheshire. It is recommended that the Authority should seek to continue and extend this service delivery

arrangement. In all other parts of Cheshire, Early Intervention Family Support services are currently provided directly by Council staff and resources. Continuing to provide these services in this manner in the short to medium term will avoid unnecessary disruption and be an efficient use of available resources.

3.11 On 19th December 2007 Cheshire County Council's Executive approved in principle a proposal to develop a partnership arrangement with a leading voluntary sector provider (to be selected through a competitive process) for the delivery of Early Intervention Family Support services to families with children aged 0-5 across the whole of Cheshire. This proposal was put on hold as it was not considered appropriate to put in place such an arrangement prior to the disaggregation of Cheshire. A number of significant potential benefits arising out of a partnership arrangement were however identified, and this will be considered as an option for future service delivery across the Authority's area.

3.12 It is recommended that existing commissioning arrangements for early intervention family support services for families with children aged 0-5 from Action for Children for Macclesfield should be continued for the period 1st April 2009 to 31st March 2010. Such an extension is permitted by Cheshire County Council's current contract with Action for Children, which was drafted and negotiated by Cheshire County Council Legal Services. The cost of commissioning these services for the Authority is estimated to be approximately £31,250 per month, based on Action for Children's standard staffing costs, totalling approximately £375,000 for 2009/10. This will be funded from the Authority's SSEYC Grant allocation.

EXTENDED SERVICES IN AND AROUND SCHOOLS

3.13 Cheshire is making good progress towards the vision that by 2010 all schools will be offering access to the full core offer of extended services including childcare, study support activities, parenting support, community access and swift and easy access to a wide range of specialist support services. By September 2008, 57% of primary, 79% of secondary and 36% of special schools in Cheshire were meeting the full core offer.

3.14 The Government is continuing to make significant investment in extended schools up to 2011. The revenue funding available for 2009-10 is set out in the table below.

Table 3

Funding	Cheshire East
Start-up (earmarked for Extended Services) (Area Based Grant)	£768,350
Sustainability Grant (Standards Fund)	£844,970
Disadvantaged subsidy (Standards Fund)	£158,248
TOTAL	£1,771,568

Start up funding

3.15 National guidance suggests that this funding should support the local authority's Extended Schools Strategy, ie to support schools to overcome barriers to developing sustainable extended services. This includes local authority support in helping plan, develop, manage and maintain extended services accessed through schools; in developing partnerships with key agencies and consulting the main stakeholders (children, parents, community, agencies) about what services are needed.

3.16 Since 2005, the majority of start-up funding for extended services has been commissioned out via the Children's Local Strategic Partnerships, based on the commissioning principles and priorities already established, i.e. linked to the children's and young people's plan, with a focus on parenting support and swift and easy access. From 2009 onwards, the proposal is that some of this funding is used to address cross-cutting priorities, but that the remainder is devolved to Education Improvement Partnerships (EIPs) to maximise service development at a local level.

3.17 Over time extended services should become sustainable either through charging, for childcare for example, or through reconfiguring funding strands at local level through children's trusts or by pooling budgets to support extended services in schools. This funding reduces in 2010-11 to reflect the commitment of every school an extended school by 2010, so reduced start up activity and central coordination will be needed.

Sustainability funding

3.18 The sustainability funding is intended to fund local cluster coordination and support parent/family support work. This will help schools to create and embed the infrastructure necessary to deliver in a sustainable way the extended schools offer.

3.19 In 2008-09, the sustainability grant was devolved to Education Improvement Partnership (EIP) clusters. This funding was used to progress schools towards the full core offer for extended services and contribute towards the outcomes within Cheshire's Children and Young People's Plan.

3.20 The proposal for 2009-10 is that the majority of the sustainability funding continues to be devolved to clusters of schools to support the appointment of co-ordinators to address the wider 'Every Child Matters' agenda and to ensure that parent/family support is in place, in line with the Parenting Support Strategy and implementation plan.

Disadvantaged Subsidy

3.21 To ensure that extended services are available to children and young people in care and those who are economically disadvantaged, the government has introduced the Disadvantaged Subsidy. A number of local authorities have been pathfinders for this funding in 2008. Limited funding will be made available to the Authority on a pilot basis from April 2009 to work with one or two school clusters, before the full roll out in 2010.

3.22 The funding will enable schools to offer eligible children two hours per week of group activities in term time, plus 30 hours of additional activities over the holidays. This initiative will be developed with the full engagement of disadvantaged children and young people and their parents to drive their increased and sustained participation in extended service activities.

3.23 Delegated authority is sought for officers to determine one or two clusters for the Authority based on the cluster selection guidance provided nationally.

4.0 Reasons for Recommendation

4.1 The proposal will give the Council the capacity to meet the requirements of the Childcare Act 2006 and related legislation, and to meet the requirements of the Early Years Foundation Stage

For further information:

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Background Documents:

*Documents are available for inspection at:
Westfields, Sandbach Road, Congleton CW11 1 HZ*

APPENDIX 1

GRANT FUNDING SCHEMES

INTRODUCTION

1. The Childcare Act gives local authorities a key role in shaping the childcare market in their area, working with providers from the private, voluntary, independent and maintained sectors to create a strong, sustainable and diverse childcare market that meets the needs of parents. This role, as strategic market facilitator and influencer, involves an initial assessment of childcare sufficiency across the Authority's area to help target resources. Relevant funding schemes need to be in place to support the outcomes of the assessment and to enable the Authority to secure a good supply of quality, affordable and accessible childcare that is adequate to meet the reasonable expectations and needs of parents. A key element of this will be meeting the needs of lower income families, families from minority ethnic groups and families with disabled children. In addition to the statutory responsibility of market shaping the Authority is also responsible for early years workforce development through the Graduate Leader Fund.
2. The Grant Funding Schemes set out in this Appendix are predominantly continuations of schemes which were operated by Cheshire County Council during the period 2006-2009. In order to have the flexibility to meet Childcare Act duties and implement new Government initiatives, some new funding schemes have been introduced and delegated authority limits on certain schemes have been altered. All funding will be allocated in a clear and transparent way that is equally accessible and available to all. The proposed levels of start up funding do not support projects in their entirety, but are based on a percentage of the associated costs.
3. All funding schemes are subject to an application process and, where appropriate, a business plan and financial forecasts. Applicants are required to enter into grant agreements prior to receiving funding and to abide by the terms and conditions set out in those agreements. If a grant recipient fails to comply with the terms and conditions of funding, the Authority will have a right to clawback all or part of the grant funding if appropriate. Grant monitoring procedures are being put in place and support is available through the Childcare Development Officers, Early Years Pedagogues and through contracted Business Advisors. The form of Grant Agreement for each funding scheme will be drafted in accordance with advice given by the Borough Solicitor and Finance Manager.
4. Proposed individual grant funding schemes and the levels of delegated authority requested for officers for each funding scheme are set out in this Appendix. Delegated authority will be actioned by officers in accordance with the following scheme of delegation.

- (i) Grants up to £10,000 to be approved by the Lead Officer for that specific grant funding scheme, such Lead Officer to be nominated by the Head of Children and Families Service.
- (ii) Grants of over £10,000 and up to £20,000 to be approved by a Fourth Tier Manager in the Children and Families Service.
- (iii) Grants of over £20,000 and up to £75,000 to be approved by the Head of Children and Families Service.

CHILDCARE MARKET GRANTS

5. Although individual funding schemes will vary slightly, the following criteria are proposed for all grants:

- The provision is located in East Cheshire
- The proposed project meets the local need of children, families and communities
- There is an identified need for high quality childcare provision in the area as determined by the Childcare Sufficiency Assessment and other Childcare Market Analysis tools.
- Start Up grant and Playgroup Expansion grant funding is greater for projects in disadvantaged areas, or where the Childcare Sufficiency Assessment identifies a need for additional childcare provision
- The setting can demonstrate sustainability
- The childcare setting is Ofsted registered, if required
- The project demonstrates a commitment to quality, affordability and inclusive practices
- The project will achieve outcomes that are compatible/complement other initiatives and strategies, for example, the Children's Centres and Extended Services initiatives

Group Childcare Start Up Grant

6. It is proposed to offer potential group based childcare providers financial assistance towards the start up costs of setting up new childcare places to secure sufficient quality, accessible and affordable childcare to meet the needs of parents. These can be private, voluntary or statutory providers of daycare, pre-school, out of school and holiday care. This grant will be applied to support the Authority's duty under section 6 of the Childcare Act 2006 to secure sufficient childcare for working parents or parents seeking or training for employment. The Authority's Childcare Sufficiency Assessment will be used to identify where there is insufficient childcare to meet the needs of parents, and this grant will be used to support the start up of group based childcare providers in such areas.

7. Although each sector will have expenses unique to their circumstances and location, it is expected that most grants will be less than £20,000.

However, in exceptional cases, (usually in more disadvantaged areas) where local need is significant, there may be a need to fund in excess of £20,000.

8. Delegated officer authority to award individual grants up to £50,000 is requested.

Childminder Start Up Grant

9. Ofsted registered childminders provide a flexible childcare service in a domestic environment (usually their own homes). In order to support the development of this service where it is needed, in accordance with the Authority's duty under section 6 of the Childcare Act 2006, it is proposed to give a start up grant to help with the initial costs of setting up a new childminding business. This can include the Ofsted registration fee, the purchase of safety items, e.g. cupboard locks, stair gates etc., plus toys and equipment.

10. Based on funding a proportion of the benchmark costs for setting up a new childminding business, it is proposed to give childminders setting up in disadvantaged areas a grant of £300 and, in other areas, £200.

11. Delegated officer authority to award individual grants of up to £300 is requested.

Playgroup Expansion/Flexible Entitlement Grant

12. As part of the Government's Ten Year Childcare Strategy, the free early education entitlement for three and four year olds will be increased from 12½ hours to 15 hours per week for the 25% most disadvantaged children in its area from September 2009, and universally from September 2010. Parents should be able to access this entitlement in a flexible way.

13. Early years providers (both PVI settings and maintained nurseries) can respond to this need by increasing their hours of operation to provide extended care. It is proposed to give an expansion grant to enable providers to manage the costs associated with the transition and to meet the Authority's duty to ensure that there is sufficient choice and flexibility of childcare for parents.

14. It is expected that most providers will receive grants well below £20,000. However, there may be cases when accommodation needs to be upgraded to meet quality standards, or the setting needs to be re-located in order for extended delivery to take place. Where it is identified, through the Childcare Sufficiency Assessment, that a setting should be retained, there may be a need to provide funding in excess of £20,000.

15. Delegated officer authority is requested to award individual grants up to £50,000.

Group Childcare Sustainability Grant

16. Some group based childcare providers can experience problems that threaten their sustainability, particularly those based in disadvantaged areas. Where there is a continued local need for provision as identified in the Authority's Childcare Sufficiency Assessment, it is proposed to allocate grants to help providers through difficult periods and to support them with their plans to become viable. It is expected that most providers will receive grants of under £20,000, (the amount allocated will be based on the outcomes of a full business health check carried out by a qualified business advisor). However, in exceptional cases, where local need is significant and there is a need to secure childcare in the area, it may be necessary to fund in excess of £20,000.

17. Generally allocations of individual sustainability grants will be limited to a maximum of one per provider during 2009/10. However, where a single provider operates more than one early years setting within Cheshire, it is proposed that a maximum of two individual grants to that provider during the 2009/10 will be permitted.

18. All providers experiencing sustainability issues will be required to undergo a full business health check by an experienced business consultant in order to determine whether a sustainability grant is appropriate, the level of funding needed and whether future viability can be achieved.

19. Delegated officer authority to award individual grants up to £50,000 is requested.

Inclusion and Access Grant

20. In order to assist early years and later years childcare providers to develop inclusive and accessible services that take account of the physical, social and environmental barriers to inclusion, it is proposed to offer an Inclusion and Access grant to settings in both the PVI and maintained sectors. This revenue funding will compliment the Early Years Capital Funding which has been allocated to local authorities to ensure that all children aged 0-5, including disabled children, are able to access Early Years Foundation Stage provision. It will also support settings in receipt of Include Me In funding should they need to purchase specific resources or make adaptations to include a child with impairments. Maintained nurseries, pre-schools, full day care nurseries, out of school providers and childminders can benefit from this funding. All applications are required to be supported by an Access Audit or School Accessibility Plan which clearly links to the funding request. Providers can apply for a grant of up to £10,000 which can be used to:-

- Make environmental adjustments or adaptations to meet the needs of a specific child or children on roll, or for whom admission is planned;
- Provide additional equipment, resources or training to enable a child to have full access, particularly those children identified as having complex medical needs;

- Fund reasonable anticipatory adjustments or adaptations that would benefit children, staff, parents and visitors to the setting as set out in the Disability Discrimination Act 1995 (as amended); and/or
- Provide transitional support, i.e. an additional member of staff for a time limited period to work with a specific child or children (out of school settings only).

21. Applications will only be accepted if supported and endorsed by the relevant Pedagogue or Development Officer allocated to the setting.

22. Delegated officer authority to award individual grants up to £10,000 is requested.

Include Me In Grant

23. The Include Me In Grant supports the Bridging Worker Programme which facilitates the inclusion of school aged children with disabilities in out of school and holiday provision. This is a priority area for local authorities under the childcare sufficiency duty contained in section 6 of the Childcare Act. It is proposed to offer this grant to support group based out of school providers with a contribution towards the costs of employing a one to one inclusion worker. It is also proposed to support a limited number of Childminders identified through the Bridging Workers. This will take the form of a “top-up” contribution towards a Childminder’s income in recognition of the fact that the inclusion of a disabled child with complex needs is likely to limit the number of children they can reasonably care for under Ofsted regulations. Grants are reviewed termly to determine how effective they have been and whether they need to continue.

24. Delegated officer authority to award individual grants up to £10,000 is requested.

Quality Improvement Grant

25. This grant will be made available to PVI early years, later years providers and maintained nursery settings to help them deliver quality Early Years Foundation Stage and childcare to meet Ofsted requirements, where appropriate. Providers are currently supported by a team of Pedagogues and Childcare Development Officers to continually evaluate the quality of their service and identify areas for improvement. However, due to financial constraints, some providers are unable to action the recommendations identified. It is proposed therefore to offer a grant to remove some of the barriers to improvement. This funding compliments the Authority’s Early Years Capital Funding that is available to ensure delivery of high quality learning and development for all children in suitable environments and with quality resources. Providers must be working through a quality self assessment model or quality kitemark.

26. Applications will only be accepted if supported and endorsed by the relevant Pedagogue or Development Officer allocated to the setting, and

should be linked to identified needs within the Authority's Childcare Sufficiency Assessment.

27. Most early years childcare settings will be entitled to apply for individual Quality Improvement grants of up to £25,000. On 12th June 2008 Cheshire County Council's Children's Service Executive approved an increased maximum limit of £75,000 for individual Quality Improvement grants allocated to early years childcare settings that have entered into partnering arrangements with Children's Centres run by the Council. These partnering arrangements enable these childcare settings to be integrated with their local Children's Centre, with the objective of offering a high quality, affordable Early Years Foundation Stage as part of the Children's Centre services available to children and families in the local community. The link created by these partnering arrangements means that the performance of the childcare provider reflects on the Authority, so it is important that the highest quality provision is delivered at these settings. The additional pedagogical support that partners will receive creates the opportunity for these settings to become exemplars of good practice, which may in turn allow them to pass this practice on to other childcare providers. However, it has been identified at some partner (and potential partner) settings that there are significant environmental and/or resource barriers which are preventing potential quality improvements from taking place. It is therefore recommended that the Authority retains the higher maximum limit of £75,000 for Quality Improvement grants made to partner childcare providers.

28. Delegated officer authority to award individual grants of up to £25,000 to non-partner early years childcare settings, and up to £75,000 to partner early years childcare settings is requested.

WORKFORCE DEVELOPMENT - GRADUATE LEADER FUND

29. The Graduate Leader Fund aims to raise the quality of early years provision by supporting workforce development without compromising the affordability and availability of childcare. The Fund will support the transformation of quality in early years settings by encouraging Early Years Practitioners to follow training routes towards a new graduate level status of "Early Years Professional" (EYP).

30. The Government has set a target of at least one EYP leading the Early Years Foundation Stage ("EYFS") in every PVI Early Years setting by 2015 (with an EYP in every Children's Centre by 2010), and the Graduate Leader Fund is being provided to local authorities to enable them to assist settings to achieve this. Government Guidance requires that the Graduate Leader Fund is paid by local authorities to settings who commit that they will employ a graduate to lead learning and development within the setting, and that any such graduate is committed to achieving EYP status. It is proposed that the Authority will make such payments to settings primarily through a Leadership Incentive Grant.

31. As part of the Authority's Early Years Funding Reforms and the development of a single funding formula for all Early Years Childcare, officers are considering how settings can be supported to employ EYPs to lead practice on a longer term basis. Proposals are currently being developed to provide additional funding through the formula mechanism from September 2010 to settings who employ an EYP to lead practice.

Leadership Incentive Grant

32. The Leadership Incentive will be available to settings who meet one or more of the following criteria: -

- They are seeking to recruit a graduate into a leadership role;
- They have an existing staff member undertaking or seeking to undertake professional qualifications in order to become a graduate EYP leading the EYFS within the setting;
- They already employ a graduate EYP in a leadership role.

33. Settings will be required to submit a Workforce Development Plan prior to receiving payment of any Leadership Incentive Grant funding. This Plan will identify how the setting intends to recruit and/or retain its graduate(s), or assist staff members to obtain relevant professional qualifications. It will also set out how the graduate will lead the EYFS in the setting in order to improve outcomes for children attending the setting. Each Workforce Development Plan will be reviewed and approved by the setting's Pedagogue and the Children and Families Workforce Development Team.

34. Settings will be encouraged to use their Leadership Incentive Grant allocations for the following purposes:

- To contribute to salary costs for newly-employed or existing staff members;
- To provide further continuing professional development for graduates to support retention;
- To support an existing staff member in the setting to train towards becoming a graduate EYP and enhancing their salary both while they are training and once they have achieved EYP status.

35. The Government has placed expectations on local authorities to prioritise Graduate Leader Fund expenditure to meet local demand and needs, and in particular to improve provision in disadvantaged areas, with the objective of narrowing the achievement gap between the lowest achievers and the rest. In order to determine where Leadership Incentive Grant funding will be targeted, the following factors will be considered:

- The need for some settings in the most disadvantaged areas to employ two graduates to raise the quality of their practice.
- The specific local needs of parents and children in different parts of the Authority's area, as identified in the Authority's Childcare Sufficiency Assessment.
- Whether the settings is offering full daycare and/or the amount of flexibility in hours of childcare that the setting offers to parents.

36. Although each setting will have workforce development needs unique to their circumstances, it is expected that most grants will be less than £10,000. However, in exceptional cases, (usually in more disadvantaged areas), there may be a need to fund in excess of £10,000. The level of grant payable will be dependent on the number of practitioners working towards EYP status within the setting and whether they have attained, or are working towards this status.

37. Delegated officer authority to award individual grants up to £20,000 is requested.

38. The Graduate Leader Fund will also be used to pay the course fees of childcare practitioners working at settings within the Authority's area to train towards achieving childcare qualifications which will allow them to progress to EYP status. The Authority will pay the course fees directly to the course providers on behalf of these practitioners under existing contractual arrangements entered into by Cheshire County Council.

FAMILY SUPPORT GRANTS

Home Start

39. This is a continuation of funding paid to Home Start Central Cheshire during 2008-09. Home Start Central Cheshire has requested grant funding for 2009/10 to assist with funding a preventative and early intervention family support service to families with children under the age of five in the Crewe area. This aims to improve the quality of their lives, to enable children and parents to reach their full potential. Home Start Central Cheshire is working alongside Children's Centres in Crewe to offer a home visiting service by volunteers offering a range of practical and emotional support. This often prevents the escalation of issues to crisis point when more costly interventions may be necessary.

40. Approval to award a grant to Home Start Central Cheshire of up to £23,000 is requested.

Summary**Table 1**

Name of Scheme	Delegated Authority limit £
Group Childcare Start-up Grant	50,000
Childminder Start-up Grant	300
Playgroup Expansion/Flexible Entitlement Grant	50,000
Group Childcare Sustainability Grant	50,000
Inclusion and Access Grant	10,000
Include Me In Grant	10,000
Quality Improvement Grant	75,000
Leadership Incentive Grant	20,000
Home Start Central Cheshire	23,000

CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Head of Safer & Stronger Communities
Title: Harmonised Policies & Procedures for Activities under Regulation of Investigatory Powers Act 2000 (RIPA)

1.0 Purpose of Report

- 1.1 To present the following policies and procedures for approval:

Cheshire East Policy and Procedure for Surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA), and

Cheshire East Policy and Procedure for the Acquisition and Disclosure of Communications Data under the Regulation of Investigatory Powers Act 2000

2.0 Decision Required

- 2.1 That the policies and procedures identified in section 1 above are adopted by Cheshire East Council from 1 April 2009.

3.0 Financial Implications for Transition Costs

- 3.1 Prior to vesting day an allocation of £1,000 will be required to meet printing requirements.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The policies and procedures and the associated independent inspection regimes require the highest standards of professional competence from the Council's enforcement staff as well as from managers who are authorised to approve activities under the policies. Services will therefore need to ensure that arrangements are in place to satisfy ongoing training and professional development requirements.

5.0 Legal Implications

- 5.1 It is essential that the Council has robust policies and procedures in place to enable officers to conduct investigations and obtain evidence and intelligence lawfully.
- 5.2 Legal advice has been received, that, given the highly prescriptive

nature of the legal framework governing covert surveillance and the acquisition of communications data, consultation with external stakeholders is neither necessary nor relevant.

6.0 Risk Assessment

- 6.1 Without clear and robust policies and procedures in place, there would be a risk that officers would fail to comply with the relevant legislation and associated codes of practice. Consequently, complaints may be made against the authority by aggrieved persons, which may proceed to investigation by the independent Tribunals set up by RIPA. The Tribunals have the power to cancel authorisations, order the destruction of any records obtained in exercise of the powers conferred by RIPA and award compensation as they see fit.

7.0 Background and Options

- 7.1 The draft policies and procedures were subject to extensive consultation with officers of the existing authorities and were subsequently amended, as necessary.
- 7.2 The use of covert surveillance by local authorities has been the subject of intense media scrutiny and controversy in recent months. The press has cited examples of councils allegedly using the powers to investigate 'low grade' offences, such as dog fouling or the misuse of disabled driver badges, instead of limiting its use to the investigation of serious offences, such as those perpetrated by loan sharks or rogue traders. Most recently, however, the alleged inappropriate use of the powers by local authorities has been disputed by the Chief Surveillance Commissioner, Sir Christopher Rose.
- 7.3 One of the purposes of the draft policies/procedures is to reinforce the requirement that the powers are to be used only in circumstances in which the required evidence or intelligence cannot be obtained by other means:
- "Any officer intending to undertake covert surveillance or use a 'covert human intelligence source' will only do so if the evidence or intelligence sought cannot be obtained by other means". (Covert Surveillance Policy, P3.5), and
- "Any officer intending to acquire communications data will only do so if the evidence or intelligence sought cannot be obtained by other means". (Communications Data Policy, P3.4)
- 7.4 In addition, the procedures include a provision for Member scrutiny in the form of an annual report to be submitted to Scrutiny Committee. The report will include details of the number and type of surveillance authorisations that have been granted, and the outcome (where known). In addition, the report will provide details of the outcome of the most recent independent inspection.

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

- 8.1 The adoption of the policies and procedures will mean that this authority has an appropriate framework in place to ensure that it is in a position to fulfil its legal obligations and meet the highest standards of professional practice. The policies and procedures are subject to annual review.
- 8.2 This authority must ensure that an appropriate competence framework and associated training and development programmes are in place to meet the requisite professional standards.

9.0 Reasons for Recommendation

- 9.1 To ensure that the new authority has clear and robust policies and procedures in place to guide officers in carrying out their investigatory functions.

For further information:

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Background Documents: Westfields, Middlewich Road, Sandbach CW11 1HZ

Legislation

The Regulation of Investigatory Powers Act 2000

The statute and statutory instruments are available at:

<http://security.homeoffice.gov.uk/ripa/legislation/>

Codes of Practice

Covert Surveillance Code of Practice

Covert Human Intelligence Code of Practice

Acquisition and Disclosure of Communications Data Code of Practice

The Codes of Practice are available at:

<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/>

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CHESHIRE EAST COUNCIL

SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

POLICY AND PROCEDURE

Applications for Authorisation to carry out Surveillance and for the use of Covert Human Intelligence Sources

**This document sets out the requirements for gaining
authorisation under RIPA, the persons able to grant
authorisation, circumstances when authorisation will be
required and the storage and maintenance of records of
authorisation**

SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

POLICY

P1 BACKGROUND

P1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into effect in September 2000. It establishes a regulatory framework for the use of covert surveillance by setting up an authorisation procedure. Covert surveillance is defined in Section 26(9) (a) of RIPA as *“any surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place”*. RIPA seeks to ensure that public authorities only use covert surveillance where it is necessary for a specific, legally prescribed purpose, and that the surveillance is carried out in such a way that the risk of infringing the rights of individuals is kept to an absolute minimum.

P1.2 Some surveillance operations may interfere with Article 8 of the Human Rights Act 1998 which provides that everyone has the right to respect for his private and family life, his home and correspondence. This right is subject to an important qualification - Paragraph 2 of Article 8 provides that:

“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

P1.3 RIPA therefore protects an individual's rights and freedoms that are guaranteed by the European Convention and given further effect by the Human Rights Act 1998, whilst allowing a public authority to carry out certain, necessary covert surveillance.

P2 INTRODUCTION

P2.1 Cheshire East Council will on occasion need to use covert surveillance in order to carry out its enforcement functions effectively. Examples of enforcement activities which may require the use of RIPA include benefit fraud, planning enforcement, licensing enforcement, trading standards, environmental health, community safety investigations and breaches of tenancy conditions related to anti-social behaviour and crime. **A local authority may only use covert surveillance for the purpose of the prevention or detection of crime or the prevention of disorder.**

P2.2 Surveillance by a public authority is likely to constitute an infringement of an individual's rights and freedoms which are protected by the Human Rights Act 1998. However, by following the authorisation procedures set out by RIPA, officers of the Council are ensuring that they can demonstrate that the surveillance is necessary for a purpose permitted by the Human Rights Act 1998 and that it is a proportionate measure to take, given all of the circumstances. Compliance with RIPA will significantly reduce the likelihood of any surveillance carried out by the Council being unlawful and therefore subject to legal challenge.

P3 CHESHIRE EAST COUNCIL'S POLICY IN ACCORDANCE WITH RIPA AND THE HOME OFFICE CODES OF PRACTICE

- P3.1 The purpose of this policy and its associated procedure is to reinforce the requirements of RIPA and its Codes of Practice, to ensure compliance with RIPA, to protect the rights of individuals and to minimise the risk of legal challenge as a result of officer actions.
- P3.2 The Council is fully committed to complying with the Human Rights Act 1998 and RIPA. In order to ensure compliance, all covert surveillance must be carried out in accordance with the legislative framework and the Council's RIPA policy and procedure.
- P3.3 In addition to all legislative, policy and procedural requirements, officers must have regard to the Statutory Codes of Practice on the use of covert surveillance and the use of a covert human intelligence source (a "CHIS"), issued by the Home Office. Officers must also have regard to any other guidelines that may be published from time to time.
- P3.4 In particular, any legislative restrictions on the type of covert surveillance that a local authority is authorised to carry out must be observed; all covert surveillance must be properly authorised and recorded; the tests of necessity and proportionality must be satisfied; and the potential for collateral intrusion must be considered and minimised. Definitions of terms are included in the RIPA procedure.
- P3.5 Any officer intending to undertake covert surveillance or use a covert human intelligence source will only do so if the evidence or intelligence sought cannot be obtained by other means.
- P3.6 Embarking upon covert surveillance or the use of a covert human intelligence source without authorisation or conducting covert surveillance outside the scope of the authorisation will not only mean that the "protective umbrella" of RIPA is unavailable but may result in disciplinary action being taken against the officer/officers involved. RIPA also established an independent Tribunal that has full powers to investigate and decide any case within its jurisdiction.
- P3.7 The Council's RIPA policy and procedure will be reviewed annually, or sooner if necessary (e.g. in the event of legislation being amended or revoked).

P4 APPLICATION

- P4.1 The Council's policy is operational forthwith and applies to all Council staff employed under a permanent, temporary, fixed term or casual contract. It also applies to any contractors and/or subcontractors employed by the Council to undertake activities covered by this policy and procedure. All relevant Council contracts issued to contractors/subcontractors will include a term that this policy and associated procedures are to be observed when operating on behalf of the Council.
- P4.2 A copy of this policy document together with the Home Office Codes of Practice and Investigatory Powers Tribunal leaflets will be made available for public inspection at the Council offices' reception areas and on the Council's website.

SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

PROCEDURE

1 TYPES OF SURVEILLANCE

- 1.1 There are three types of covert surveillance: “intrusive surveillance”, “directed surveillance” and surveillance by means of a “covert human intelligence source” (a “CHIS”).

Local authorities are **not** authorised to carry out any form of intrusive surveillance.

Intrusive surveillance is defined in section 26(3) of RIPA as covert surveillance that:

- is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device (e.g. a listening device in a person’s home or in their private vehicle).

Local authorities are permitted to carry out directed surveillance.

- 1.3.1 Directed surveillance is defined in Section 26(2) of RIPA as surveillance which is covert, but not intrusive, and undertaken:

- for the purposes of a specific investigation or specific operation;
- in such a manner as it is likely to result in the obtaining of **private information** (see Section 13) about the person (whether or not one specifically identified for the purposes of the investigation or operation); and
- otherwise than by way of an immediate response to events or circumstances, the nature of which is such that it would not be reasonably practical for an authorisation under Part II of RIPA to be sought for the carrying out of the surveillance.

- 1.3.2 Directed surveillance will only be carried out on residential premises if a member of the public has requested help or made a complaint to the Council and written permission to conduct the surveillance has been obtained from the householder or tenant from whose premises the surveillance will be carried out. See also paragraph 5.7.

- 1.3.3 Closed Circuit Television (CCTV) systems are normally not within scope of RIPA. However, if they are used for a specific operation or investigation, or if automatic facial recognition by means of CCTV is used, authorisation for the use of directed surveillance must be obtained in accordance with this procedure.

1.4 Local authorities are permitted to use a covert human intelligence source.

1.4.1 A covert human intelligence source (a “CHIS”) is defined by section 26(8) of RIPA as a person who:

- establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating the doing of anything falling within the following two paragraphs;
- covertly uses such a relationship to obtain information or to provide access to any information to another person: or
- covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

1.5 The provisions of RIPA are not intended to apply to circumstances where members of the public volunteer information as part of their civic duties or to contact numbers set up to receive information.

1.6 An authorisation under Part II of RIPA will provide lawful authority for the use of a covert human intelligence source (“CHIS”). Use of a source without an authorisation will not be unlawful but where there is interference by a public authority with the right to respect for private and family life guaranteed under Article 8 of the Human Rights Act 1998 and there is no other lawful authority the consequences of not obtaining an authorisation under RIPA may be that the action is unlawful by virtue of the Human Rights Act 1998.

1.7 Where the use or conduct of a CHIS is likely to interfere with an individual’s Article 8 rights an authorisation must be sought in order to ensure that the action is carried out in accordance with the law.

2 OFFICERS ABLE TO MAKE AUTHORISATIONS

Under Section 28(3) of RIPA an authorisation for directed surveillance or the use of a covert human intelligence source (“CHIS”) may be granted by an Authorising Officer where he believes that the authorisation is

Necessary in the circumstances of the particular case:

- for the purpose of preventing or detecting crime or of preventing disorder;

and,

Proportionate to what it seeks to achieve.

2.2 Detecting crime includes establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed, the gathering of evidence for use in any legal proceedings and the apprehension of the person (or persons) by whom any crime was committed.

2.3 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 (SI 2003/3171) designates the Authorising Officers for local authorities as the Assistant Chief Officer, Assistant Head of Service, Service Manager or equivalent. In Cheshire East Council the Authorising Officers, each in relation to their functional area, are:

- Third Tier Heads of Service (N.B. but only those who have received appropriate training)
- Directors (N.B. but only those who have received appropriate training)

On occasion, it may be necessary for Fourth Tier Senior Managers to act as authorising officers but again, only those who have received appropriate training.

In cases in which confidential information is likely to be obtained or in which Section 15.2 or 15.3 of this procedure applies.:

- The Chief Executive, or (in his absence)
- The Borough Solicitor (or his or her authorised deputy)

2.4 Authorising Officers should not be responsible for authorising investigations or operations in which they have had or are likely to have any direct involvement. When such authorisation is required, this will be sought from the Head of Service, Director or Solicitor to the Council, as appropriate. When such an investigation or operation has to be authorised in this way, the Central Record of Authorisations should highlight this and the attention of the National Surveillance Commissioner or Inspector should be drawn to it during his next inspection.

3 THE TESTS OF NECESSITY AND PROPORTIONALITY

3.1 Directed covert surveillance or the use of a covert human intelligence source ("CHIS") should only be authorised if the Authorising Officer is satisfied that:

- **The action is NECESSARY (in a democratic society) on the following grounds:**
 - For the prevention or detection of crime or the prevention of disorderand,
- **The surveillance is PROPORTIONATE - The Human Rights Act defines a measure or action as proportionate if it:**
 - Impairs as little as possible the rights and freedoms (of the individual concerned and of innocent third parties),
 - Is carefully designed to meet the objectives in question, is not arbitrary, unfair, or based on irrational considerations.

4 COLLATERAL INTRUSION

4.1 In the case of both directed covert surveillance and the use of a covert human intelligence source, the Authorising Officer must also take into account the risk

of intrusion into the privacy of persons other than those who are directly the subject of the investigation or operation. This is termed “collateral intrusion”.

- 4.2 Any application for an authorisation must include an assessment of the risk of any collateral intrusion and what steps can reasonably be taken to avoid this (if any). This should be a factor taken into account by the Authorising Officer when considering the proportionality of the surveillance.
- 4.3 Officers carrying out the surveillance should inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. Consideration should be given to whether the authorisation should be amended and re-authorised or whether a new authorisation is required.
- 4.4 Any officer applying for or granting an authorisation will need to be aware of the particular sensitivities in the local community where the surveillance is taking place and of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance.

5 APPLICATIONS FOR AUTHORISATION TO CARRY OUT DIRECTED SURVEILLANCE OR USE A COVERT HUMAN INTELLIGENCE SOURCE (“CHIS”)

- 5.1 An application for authorisation must be in writing and on the appropriate form which must be completed in full.
- 5.2 Officers should ensure that they use the current form obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>)
- 5.3 Details of all authorisations must be forwarded within two working days to the Solicitor to the Council who will ensure that details are recorded in a Central Register of Authorisations (Section 12).
- 5.4 Officers requesting authorisation for directed surveillance should consider whether it is necessary to complete a risk assessment, which should be submitted with the authorisation request, where applicable. Officers requesting authorisation to use a covert human intelligence source (“CHIS”) must always complete a risk assessment and submit it with the authorisation request (see also Section 15).
- 5.5 All relevant documentation, including a copy of the authorisation, a record of the period over which surveillance has taken place, any risk assessment, notebooks, surveillance logs and other ancillary documentation will be retained for a period of six years, at which point they will be destroyed.
- 5.6 Other than in exceptional circumstances, the investigation of noise complaints will only be carried out by means of **overt surveillance**. Therefore, an authorisation will **not** normally be required to install a noise recording or monitoring device in a property neighbouring premises that are subject to a noise level complaint, provided the following is observed: (i) the written permission of the complainant must be obtained, (ii) the occupant of the monitored premises must receive notice in writing that noise recording/monitoring equipment may be installed in a neighbouring property (thus rendering the surveillance overt), and (iii) the

surveillance must be carried out within a period of three calendar months from the date of the notice. At the end of the three month period, the surveillance must cease or, if surveillance is to continue, either a further notice must be served on the occupant of the monitored premises or an authorisation to conduct (covert) directed surveillance will be required.

6 URGENT AUTHORISATIONS

- 6.1 In urgent cases authorisation may be given orally by the Authorising Officer. In these cases, a statement that the Authorising Officer has expressly authorised the activity should be recorded in writing as soon as it is reasonably practicable and the appropriate section of the application form should also be completed as soon as reasonably practicable.
- 6.2 A case would not normally be regarded as urgent unless the time that would elapse before the Authorising Officer was available to grant the written authorisation would, in the judgment of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation for which the authorisation was being given. An authorisation is not to be regarded as urgent where the need for an authorisation has been neglected or overlooked or if the urgency is of the Authorising Officers own making.
- 6.3 Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. However, if, in exceptional circumstances, this is unavoidable, the central Record of Authorisations should highlight this and the attention of the Commissioner or Inspector should be drawn to it during the next inspection.
- 6.4 In urgent cases, in addition to the information to be provided in an application for authorisation, the reasons why the Authorising Officer considered the case so urgent that an oral instead of a written authorisation was given should be recorded.
- 6.5 Only the Authorising Officers listed in paragraph 2.3 above may authorise applications, including in urgent cases.

7 DURATION OF AUTHORISATIONS

- 7.1 A written authorisation granted by an Authorising Officer will cease to have effect (unless renewed) either on specific cancellation or at the end of a period of three months (directed surveillance) or twelve months ("CHIS"), beginning with the day on which it took effect.
- 7.2 Urgent oral authorisations or written authorisations granted by a person who is entitled to act only in urgent cases will, unless renewed, cease to have effect after 72 hours, beginning with the time when the authorisation was granted or renewed.

8 REVIEWS

- 8.1 Regular reviews of authorisations by the Authorising Officer should be undertaken to assess the need for surveillance to continue. All reviews should be completed using the appropriate form.
- 8.2 Officers should ensure that they use the current form obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>)
- 8.3 Particular attention is drawn to the need to review authorisations frequently where surveillance provides access to confidential information or involves collateral intrusion.
- 8.4 Review documentation, including the frequency of reviews and a record of the result of each review, will be retained for a period of six years, at which point it will be destroyed. Documentation detailing any instruction given by the Authorising Officer will be retained for a period of six years, at which point it will be destroyed.

9 RENEWALS

- 9.1 If at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, he may renew it in writing. Renewals may also be granted orally in urgent cases and last for a period of 72 hours.
- 9.2 All Applications for the Renewal of an Authorisation for Directed Surveillance should be on the appropriate form which must be completed in full.
- 9.3 Officers should ensure that they use the current form obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>)
- 9.4 Any renewal documentation, together with any supporting documentation, and any documentation detailing any instruction issued by the Authorising Officer will be retained for a period of six years, at which point it will be destroyed.

10 CANCELLATIONS AND HANDLING OF SURVEILLANCE PRODUCT

- 10.1 The Authorising Officer who granted or last renewed the authorisations must cancel it if he is satisfied that the activity no longer meets the criteria upon which it was authorised or it has fulfilled its objective. If the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of the Authorising Officer.
- 10.2 Officers should ensure that they use the current form obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>).
- 10.3 On cancellation of an authorisation, the Authorising Officer must be satisfied that the product of any surveillance is properly retained and stored or destroyed. If the surveillance product is of no evidential or intelligence value, it should be destroyed without delay in accordance with Data Protection requirements. If

the surveillance product is of potential evidential or intelligence value, it should be retained on the legal file in accordance with established disclosure requirements, commensurate to any subsequent review.

11 CESSATION OF ACTIVITY

- 11.1 As soon as the decision is taken that the authorised activity should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject or to cease using the covert human intelligence source.
- 11.2 Documentation detailing the date and time when any cancellation instruction was given by the Authorising Officer will be retained for a period of six years, at which point it will be destroyed.

12 CENTRAL RECORD OF AUTHORISATIONS

- 12.1 A Central Record of Authorisations will be held and updated whenever an authorisation is granted, renewed or cancelled. The Customer Services Section is responsible for ensuring that a Central Record is maintained. The record will be made available to the relevant Commissioner or an Inspector from the Office of Surveillance Commissioners, upon request. These records should be retained for a period of three years from the ending of the authorisation, at which point they will be destroyed.
- 12.2 In respect of directed surveillance the Central Record of Authorisations will contain the following information:
 - the type of authorisation: the date the authorisation was given;
 - name and rank/grade of the authorising officer;
 - the unique reference number of the investigation or operation
 - the title of the investigation or operation, including a brief description and names of subjects, if known;
 - whether the urgency provisions were used, and if so why;
 - in the case of a self authorisation by the Authorising Officer, a statement in writing that he/she expressly authorised the action
 - if the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and grade of the authorising officer;
 - whether the investigation or operation is likely to result in obtaining confidential information;
 - the date the authorisation was cancelled.

12.3 In respect of a covert human intelligence source ("CHIS") the Central Record of Authorisations will contain the following information:

- a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- a copy of any renewal of an authorisation together with the supporting documentation submitted when the renewal was requested;
- the reason why the person renewing an authorisation considered it necessary to do so;
- any urgent authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent;
- the risk assessment made in relation to the source ("CHIS");
- the value of the "CHIS" to the investigating authority;
- a record of the results of any reviews of the authorisation;
- the reasons, if any, for not renewing an authorisation;
- the reasons for cancelling an authorisation - cancellations are to be completed on the appropriate form
- the date and time when any instruction was given by the Authorising Officer to cease using a "CHIS".

13 PRIVATE INFORMATION

13.1 "Private information" is defined in Section 26(10) of RIPA as including any information relating to a person's private or family life. The concept of private information should be broadly interpreted to include an individual's private or personal relationship with others and should also be taken to include activities of a professional or business nature. Family life should be treated as extending beyond the formal relationships created by marriage.

14 CONFIDENTIAL INFORMATION

14.1 The Act does not provide any special protection for confidential information. Nevertheless, particular care should be taken in cases where the subject of the investigation might expect a high degree of privacy or where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

14.2 In cases where, through the use of surveillance, it is likely that knowledge of confidential information will be acquired, the use of surveillance is subject to a higher level of authorisation. In cases where confidential information is likely to

be acquired it will be the Chief Executive or (in his/her absence) the Borough Solicitor who must give the authorisation. The Act does not provide any special protection for legally privileged information. Nevertheless, such information is particularly sensitive and surveillance which acquires such material may engage Article 6 and Article 8 of the European Convention/Human Rights Act 1998.

- 14.3 An application for surveillance which is likely to result in the acquisition of legally privileged information should only be made in exceptional and compelling circumstances. The application should include, in addition to the reasons why it is considered necessary for the surveillance to take place, an assessment of how likely it is that the information subject to legal privilege will be acquired. In addition the application will clearly state whether the purpose (or one of the purposes) of the surveillance is to obtain legally privileged information. Full regard should be had to the particular proportionality issues such surveillance raises.
- 14.4 Similar considerations must be given to authorisations that involve confidential personal information and journalistic material. In cases where confidential personal information and confidential journalistic material has been acquired and retained, the matter should be reported to the relevant Commissioner or Inspector during his next inspection and the material be made available to him if requested.

15 ADDITIONAL REQUIREMENTS FOR AUTHORISATION OF COVERT HUMAN INTELLIGENCE SOURCES ONLY

- 15.1 Covert human intelligence sources may only be authorised if the following additional arrangements are in place:
- There is an employee of the Council with day to day responsibility for dealing with the source and for the source's security and welfare.
 - There is a Senior Officer who has general oversight of the use made of the source.
 - An officer will be responsible for maintaining a record of the use made of the source.
 - Those records will contain any matters specified by the Secretary of State – The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725) set out these matters.
 - That records disclosing the identity of the source and the information provided by him/her will not be made available to others except on a need to know basis.
- 15.2 Vulnerable individuals (a person who is in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care or protect himself against significant harm or exploitation) may be authorised to act as a CHIS **only in the most exceptional circumstances**. Authorisation must be given by the Chief Executive or (in his/her absence) the Borough Solicitor.

- 15.3 Authorisations for juvenile sources (under 18) should only be granted if the provisions contained in The Regulation of Investigatory Powers (Juveniles) Order 2000 (SI 2000/2793) are satisfied. Any authorisation should be granted by the Chief Executive or (in his/her absence) the Borough Solicitor. The duration of an authorisation for the use or conduct of juvenile sources is **one month. A source under the age of 16 must not be authorised to give information against his parents or any person who has parental responsibility for him.**
- 15.4 If a juvenile source (under 18) is to be used, the authorising officer is responsible for obtaining the written consent of the parent or guardian or the person caring for the juvenile, unless to do so would compromise the juvenile's welfare or safety. The authorising officer is also responsible for ensuring that an appropriate adult is present at any meeting. An appropriate adult means a parent or guardian, person who has assumed responsibility for the wellbeing of the CHIS or, in their absence, a person who is responsible for the wellbeing of the CHIS and who is over 18 who is neither a member of, nor employed by, the Council.
- 15.5 **On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his parent or any person who has parental responsibility for him/her.**
- 15.6 The processing of information obtained as a result of surveillance will be restricted to specified employees employed in Information & Communication Technology Services and Audit. Only relevant senior managers will have access to the information collected to enable appropriate action to be taken. They will respect the confidentiality of all information and only disclose the information to other appropriate senior managers where further action is required.
- 15.7 When a covert human intelligence source ("CHIS") is used, a "Handler" (who can be an officer of the Council), and who must have received appropriate training, should be designated as having the day to day responsibility for dealing with the "CHIS". This responsibility shall extend to security, safety and welfare of the "CHIS". In addition, a "Controller" should be designated to have the general oversight of the use made of the "CHIS". These requirements also apply in cases in which the "CHIS" is an officer of the Council.
- 15.8 The officer requesting authorisation for the use of a covert human intelligence source ("CHIS") must also complete a risk assessment and submit it to the Authorising Officer together with the authorisation request.

16 MONITORING OF RECORDS

- 16.1 The Solicitor to the Council will be responsible for monitoring authorisations and conducting a six monthly review of applications, authorisations, refusals, reviews renewals and cancellations.

17 SCRUTINY

- 17.1 The Borough Solicitor will ensure that an annual report is submitted to the Council's Scrutiny Committee. The report will include details of the overall number and type of authorisations granted and the outcome of the case, where known. In

addition, the report will provide a breakdown of the same information by service or groups of services, as appropriate.

- 17.2 The report should also include the results of the most recent inspection carried out by a representative of the Office of Surveillance Commissioners, where applicable (inspections may not take place annually).

18 FURTHER INFORMATION

- 18.1 For further guidance please see the relevant Home Office guidance available from the Home Office website <http://www.homeoffice.gov.uk/> or contact Legal Services.

CHESHIRE EAST COUNCIL

ACQUISITION AND DISCLOSURE OF

COMMUNICATIONS DATA

UNDER THE REGULATION OF

INVESTIGATORY POWERS ACT 2000 (RIPA)

POLICY AND PROCEDURE

**This document sets out the requirements for gaining authorisation to
acquire communications data under RIPA**

ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

POLICY

P1 BACKGROUND

P1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into effect in September 2000. It establishes a regulatory framework for the acquisition of communications data by setting up an authorisation procedure. Communications data are defined in Section 21(4) of RIPA and include information held by any postal service or telecommunications service or system. RIPA seeks to ensure that public authorities only acquire communications data where it is necessary for a specific, legally prescribed purpose, and that the acquisition is carried out in such a way that the risk of infringing the rights of individuals is kept to an absolute minimum.

P1.2 The acquisition of communications data may interfere with Article 8 of the Human Rights Act 1998 which provides that everyone has the right to respect for his private and family life, his home and correspondence. This right is subject to an important qualification - Paragraph 2 of Article 8 provides that:

"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

P1.3 RIPA therefore protects an individual's rights and freedoms that are guaranteed by the European Convention and given further effect by the Human Rights Act 1998, whilst allowing a public authority to carry out certain, necessary covert surveillance activity.

P2 INTRODUCTION

P2.1 Cheshire East Council will on occasion need to acquire communications data in order to carry out its enforcement functions effectively. Examples of enforcement activities which may require the acquisition of communications data include, in particular, trading standards investigations relating to doorstep crime, counterfeiting and other fraudulent trading activity. **A local authority may only acquire communications data for the purpose of the prevention or detection of crime or the prevention of disorder.**

P2.2 The acquisition of communications data by a public authority is likely to constitute an infringement of an individual's rights and freedoms which are protected by the Human Rights Act 1998. However, by following the authorisation procedures set out by RIPA, officers of the Council are ensuring that they can demonstrate that the data acquisition is for a purpose permitted by the Human Rights Act

1998 and that it is a proportionate measure to take, given all of the circumstances. Compliance with RIPA will significantly reduce the likelihood of any acquisition of communications data by the Council being unlawful and therefore subject to legal challenge.

P3 CHESHIRE EAST COUNCIL'S POLICY IN ACCORDANCE WITH RIPA AND THE HOME OFFICE CODE OF PRACTICE ON THE ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

- P3.1 The purpose of this policy and its associated procedure is to reinforce the requirements of RIPA and the Code of Practice, to ensure compliance with RIPA, to protect the rights of individuals and to minimise the risk of legal challenge as a result of officer actions.
- P3.2 The Council is fully committed to complying with the Human Rights Act 1998 and RIPA. In order to ensure compliance, all communications data acquisition must be carried out in accordance with the legislative framework and the Council's RIPA policy and procedure.
- P3.3 In particular, any legislative restrictions on the type of communications data that a local authority is authorised to access must be observed; any acquisition of data must be properly authorised and recorded; the tests of necessity and proportionality must be satisfied; and the potential for collateral intrusion must be considered and minimised. Definitions of terms are included in the RIPA procedure.
- P3.4 Any officer intending to acquire communications data will only do so if the evidence or intelligence sought cannot be obtained by other means.
- P3.5 Acquiring communications data without authorisation or outside the scope of the authorisation will not only mean that the "protective umbrella" of RIPA is unavailable but may result in disciplinary action being taken against the officer/officers involved. RIPA also established an independent Tribunal (the Investigatory Powers Tribunal) that has full powers to investigate and decide any case within its jurisdiction that includes the acquisition and disclosure of communications data.
- P3.6 The Council's Acquisition and Disclosure of Communications Data Policy and Procedure will be reviewed every year, or sooner if necessary (e.g. in the event of legislation being amended or revoked).

4 APPLICATION

- 4.1 The Council's policy is operational forthwith and applies to all Council staff employed under a permanent, temporary, fixed term or casual contract. It also applies to any contractors and/or subcontractors employed by the Council to undertake activities covered by this policy and procedure. All relevant Council contracts issued to contractors/subcontractors will include a term that this policy and associated procedures are to be observed when operating on behalf of the Council.
- 4.2 A copy of this policy document will be made available for public inspection at the Council offices' reception areas and on the Council's website.

ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

PROCEDURE

1 CATEGORIES OF COMMUNICATIONS DATA

1.1 Section 21(4) of RIPA defines three categories of communications data, only two of which can be accessed by the local authority.

1.2 Local authorities are **not** authorised to acquire “traffic data” i.e. information that identifies any person, equipment or location to or from which a communication is or may be transmitted. Furthermore, the powers do **not** extend to the acquisition of the contents of the communication itself.

1.2.1 The categories of communications data which may be acquired by the local authority are:

- section 21(4)(b) of RIPA: any information (excluding traffic data and the contents of a communication) about the use made by any person (i) of any postal service or telecommunications service; or (ii) in connection with the provision to or use by any person of any telecommunications service, or any part of a telecommunication system, and
- section 21(4)(c) of RIPA: any information (excluding traffic data, the contents of a communication and information falling within paragraph section 21(4) (b) of RIPA) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service .

1.2.2 Examples of the information that may be obtained under section 21(4) (b) of RIPA are listed below. The full list appears in the Code of Practice for the Acquisition and Disclosure of Communications Data.

- Itemised telephone call records
- Itemised records of connections to internet services
- Itemised timing and duration of service usage (calls and/or connections)
- Information about amounts of data downloaded and/or uploaded
- Records of postal items, such as records of registered post, recorded or special delivery postal items, records of parcel consignment, delivery and collection.

1.2.3 Examples of the information that may be obtained under section 21(4) (c) of RIPA are listed below. The full list appears in the Code of Practice.

- Subscriber checks (also known as “reverse look ups”)
- Subscriber or account holders’ account information, including names and addresses for installation, and billing including payment method(s), details of payments
- Information about the subscriber to a PO Box number.
- Information about apparatus used by or made available to, the subscriber or account holder including the manufacturer, model, serial number and apparatus codes.

2 ORGANISATIONS FROM WHICH LOCAL AUTHORITIES MAY ACQUIRE COMMUNICATIONS DATA

- 2.1 All communications data are acquired from Communication Service Providers (CSPs). These may be:
- Telecommunications service providers (e.g. mobile phone service providers, landline phone service providers or International Simple Voice Resellers)
 - Internet service providers (e.g. internet service providers (ISPs), Virtual ISPs and Portals)
 - Postal service providers

3 OFFICERS ABLE TO GRANT AUTHORISATIONS

- 3.1 Under section 22(2) of RIPA an authorisation for the acquisition of communications data may be granted or a notice issued by a Designated Person where he believes that the conduct is:

Necessary in the circumstances of a particular case:

- for the purpose of preventing or detecting crime or of preventing disorder, and

Proportionate to what it seeks to achieve.

- 3.2 Detecting crime includes establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed, the gathering of evidence for use in any legal proceedings and the apprehension of the person (or persons) by whom any crime was committed.
- 3.3 The Regulation of Investigatory Powers (Communications Data) Order 2003 (SI 2003/3172) prescribes the office, rank or position of a Designated Person within a local authority as the Assistant Chief Officer, Assistant Head of Service, Service Manager or equivalent. In Cheshire East Council the Designated Persons are:

- Fourth Tier Senior Managers (N.B. but only those who have received appropriate training)
- Third Tier Heads of Service (N.B. but only those who have received appropriate training)
- Directors (N.B. but only those who have received appropriate training)

4 THE TESTS OF NECESSITY AND PROPORTIONALITY

4.1 The acquisition of communications data should only be authorised if the Designated Person is satisfied that:

- **The action is NECESSARY (in a democratic society) on the following grounds:**
 - For the prevention or detection of crime or the prevention of disorder and,
- **The surveillance is PROPORTIONATE - The Human Rights Act defines a measure or action as proportionate if it:**
 - Impairs as little as possible the rights and freedoms (of the individual concerned and of innocent third parties),
 - Is carefully designed to meet the objectives in question is not arbitrary, unfair or based on irrational considerations.

5 COLLATERAL INTRUSION

- 5.1 The Designated Person must also take into account the risk of intrusion into the privacy of persons other than those who are directly the subject of the investigation or operation. This is termed “collateral intrusion”.
- 5.2 Any application should include an assessment of the risk of any collateral intrusion and what steps can reasonably be taken to avoid this (if any). This should be a factor taken into account by the Designated Person when considering the proportionality of the acquisition of the communications data.
- 5.3 The Designated Person should be informed if the acquisition of the data unexpectedly infringes the privacy of any individual not under investigation. Consideration should then be given to determine whether it is necessary to report an error, or whether the authorisation should be amended and re-authorised, or whether a new authorisation is required. It should be noted that there is not likely to be any collateral intrusion identified when acquiring subscriber data.

6 ROLE AND RESPONSIBILITIES OF THE SINGLE POINT OF CONTACT (SPoC)

- 6.1 Integral to the acquisition of communications data under RIPA is the Single Point of Contact (‘SPoC’). The Home Office Code of Practice recommends that all authorities that use powers to acquire communications data have a SPoC, which

may be an individual Accredited Officer or a unit comprised of more than one Accredited Officer.

- 6.2 All Accredited Officers must attend a Home Office Approved Course and, on successful completion of an examination, will be added to the Home Office list of Accredited Officers. In addition, the Accredited Officer must keep abreast of the law relating to, and developments within, the communications industry.
- 6.3 The SPoC appointed by the Council has the following responsibilities:
- To assess whether access to communications data in a particular case is reasonably practical for the Communication Service Providers (CSPs)
 - To advise investigators and designated persons on the practicalities of accessing different types of communications data from different Communication Service Providers (CSPs)
 - To advise investigators and Designated Persons on whether specific communications data falls under Section 21(4) (b) or 21(4) (c) of RIPA
 - To assess any cost and resource implications for both the Council and the CSP
 - To provide a safeguard for CSPs that authorisations and notices are authentic
 - To retain records of all applications, authorisations and notices
 - To retain a record of the dates on which authorisations and notices are started and cancelled
 - To retain all applications in the event that there may be a Complaints Tribunal
 - To retain a record of any errors that may have occurred in the granting of authorisations, or issuing of notices, and provide an explanation to the Interception of Communications Commissioner
 - To maintain a SPoC log sheet for each application they are involved in.
- 6.4 The SPoC will assess the application and in particular whether the request has been made properly and whether the required communications data can reasonably be obtained together with any adverse cost or resource implications. Following this assessment, the SPoC must forward a copy of the application for consideration by the Designated Person for signature.
- 6.5 This SPoC system aims to provide an efficient regime, as it ensures consistency in dealing with the postal or telecommunications operators on a regular basis, enables the Council to self-regulate, and reduces the burden on the postal and telecommunications operator. It also provides a guardian and gatekeeper function to ensure that the Council acts in an informed and lawful manner.

7 THE SENIOR RESPONSIBLE OFFICER

7.1 Within every local authority a Senior Responsible Officer (the person holding the office, rank or position of a Designated Person within the public authority) must be responsible for:

- the integrity of the process to acquire the communications data,
- compliance with Chapter II of Part 1 of the Act and the Code of Practice for the Acquisition and Disclosure of Communications Data,
- oversight of errors, the implementation of processes to minimise errors and engagement with inspectors of the Interception of Communications Commissioner's Office (IOCCO) during inspections, and
- where necessary, oversight of the implementation of post-inspection action plans approved by the Commissioner.

8 INFORMATION TO BE PROVIDED IN APPLICATIONS FOR THE ACQUISITION OF COMMUNICATIONS DATA

8.1 All applications to acquire communications data must be made in writing by the applicant/investigating officer on the appropriate form. Officers should ensure that only current forms are used, obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>).

8.2 All such requests must include the following information:

- Name or designation of the officer requesting the communications data
- The operation and person (if known) to which the requested data relates
- A description of the data requested and, where appropriate, the relevant time period(s)* (*see 9.5 below)
- The category of communication data by reference to the relevant section of RIPA
- The grounds on which the acquisition of the data is considered to be necessary
- An explanation as to why the acquisition of the data is considered proportionate to what it seeks to achieve
- An indication (where appropriate) that the matter of collateral intrusion has been considered
- The timescale within which the data is required.

9 PROCEDURE FOR ACQUIRING COMMUNICATIONS DATA

- 9.1 Completed application forms should be initially assessed by the SPoC. If it appears to the SPoC that the application reaches the legal threshold for the acquisition of communications data, he must then give the application form a unique reference number, identify the relevant Communications Service Provider (CSP) and insert the CSP's details on the application before passing it to the Designated Person for consideration.
- 9.2 If the SPoC does not consider that the application reaches the legal threshold, he must return the application for further development and record this on a log sheet which must be retained. The SPoC should ensure that only the current form is used, obtained from the Home Office website <http://security.homeoffice.gov.uk/ripa/>).
- 9.3 The Designated Person will assess all applications forwarded by the SPoC and either authorise or reject the applications. If the application is refused, the SPoC will return a copy of the application with the reason for rejection and note this on the log sheet. If a Notice is required under section 21(4)(b), this must be drafted by the SPoC and submitted to the DP with the application. The DP must then insert their name and the date and time of issue (which must be the same time and date as the approval of the application). The SPoC will then serve the notice on the CSP. The SPoC should ensure that only current forms are used, obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>).
- 9.4 The notice should be retained by the SPoC must be in writing or, if not, recorded in such a manner that produces a record, and must include:
- A unique reference number and the name of the Local Authority
 - A description of the data to be obtained or disclosed specifying where relevant, any historic or future date(s) and where appropriate, time periods,
 - The purpose for which the data is required under s. 22(2) (the prevention or detection of crime or prevention of disorder)
 - The name (or designation) and office, rank or position of the Designated Person
 - A record of the date and when appropriate the time when the notice was given by the Designated Person
 - The manner in which the data should be disclosed. The notice should include the name and contact details of the SPoC.
 - If relevant, any indication of urgency or time within which the CSP is requested to comply.
 - An explanation that compliance with the notice is a requirement of the Act.

- 9.5 The SPoC should have particular regard to the period of time for which data are requested and specify the shortest period in which the objective for which the data are sought can be achieved. To do otherwise would have an impact on the proportionality requirement and impose an unnecessary burden on the CSP.
- 9.6 In the vast majority of cases, communications data will be acquired via an assurance that authorisation has been given or via a notice. At present the Council does not have direct access to service provider systems in order to be able to retrieve communications data direct by prior agreement between the local authority and the relevant service provider.
- 9.7 The Designated Person can grant an authorisation under s. 22(3) instead of giving a notice. The s. 22(3) authorisation will enable the SPoC to engage in conduct to acquire data under s. 21(4)(c) to identify the user of a phone or communications address. The SPoC has one month from the authorisation being granted to engage in the conduct. This reduces the bureaucracy previously experienced with number porting and secondly enables the SPoC, where necessary, to apply for additional account information in order to identify the user of an unregistered prepaid mobile telephone, without referring each request back to the Designated Person.

10 DURATION OF AUTHORISATIONS AND NOTICES

- 10.1 All notices and authorisations requesting communications data from the service provider are valid for a one month from the date on which the authorisation is granted or notice given.

11 RENEWALS

- 11.1 Notices and authorisations can be renewed for a period of up to one month by the grant of a further authorisation or the giving of a further notice. A renewed authorisation or notice takes effect upon the expiry of the authorisation or notice it is renewing.
- 11.2 Where the Designated Person agrees to the renewal, the Designated Person must have considered the reasons why it is necessary and proportionate to continue, and record the date of the renewal.

12 CANCELLATIONS

- 12.1 The Designated Person should cancel a notice as soon as it is no longer necessary, or the conduct is no longer proportionate to what is sought to be achieved. The duty to cancel a notice falls primarily on the Designated Person who issued it, or on that person's behalf, by the SPoC. The SPoC should ensure that only the current form is used, obtained from the Home Office website (<http://security.homeoffice.gov.uk/ripa/>).

- 12.2 In the event of the cancellation of a notice, the SPoC must inform the relevant postal or telecommunications operator of the cancellation without delay.
- 12.3 A record of cancellation must be recorded on the appropriate form by the SPoC and retained
- 12.4 Similarly, where the Designated Person considers that an authorisation should cease to have effect, because the conduct authorised becomes unnecessary or no longer proportionate to what was sought to be achieved, the authorisation should be withdrawn.

13 RECORDS

- 13.1 Applications, authorisations copies of notices and records of the withdrawal and the cancellation of notices must be retained in written or electronic form and physically attached or cross-referenced where they are associated with each other.
- 13.2 All records must be held centrally by the SPoC and be available for inspection by a representative of the Interception of Communications Commissioner's Office.

14 ERRORS

- 14.1 When a reportable error has been made by the local authority, the matter should be reported to the Senior Responsible Officer, the Designated Person, and then in written or electronic form to the Interception of Communications Commissioner's Office. In deciding if an error is reportable, the local authority should refer to the Code of Practice.

15 SCRUTINY

- 15.1 The Solicitor to the Council will ensure that an annual report is submitted to the Council's Scrutiny Committee. The report will include details of the overall number and type of authorisations granted and the outcome of the case, where known. In addition, the report will provide a breakdown of the same information by service or groups of services, as appropriate.
- 15.2 The report should also include the results of the most recent inspection carried out by a representative of the Communications Commissioner's Office, where applicable (inspections may not take place annually).

16 FURTHER INFORMATION

- 16.1 For further guidance please see the relevant Home Office guidance available from the Home Office website <http://www.homeoffice.gov.uk/> or contact Legal Services.

CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Head of Safer & Stronger Communities
Title: Harmonised Enforcement Policy for Cheshire East Council

1.0 Purpose of Report

- 1.1 To present the Cheshire East Enforcement Policy for approval for all Council services with the exception of Planning.

2.0 Decision Required

- 2.1 To adopt the Enforcement Policy (Appendix 1) from 1 April 2009 for all council services which have a responsibility for enforcement with the exception of Planning.

3.0 Financial Implications for Transition Costs

- 3.1 Prior to vesting day an allocation of £2,000 will be required to meet publication requirements.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Policy requires the highest standards of professional competence for its enforcement staff. This will require maintenance of staff competencies and appropriate staff development, supported by appropriate legal advice. This will need to be built into the staffing and structural arrangements for all services that provide an enforcement role.

5.0 Legal Implications

- 5.1 It is essential that the authority has a robust Enforcement Policy in place to ensure that its enforcement activity is appropriate and consistent and that the authority is in a strong position to defend itself against any legal challenge.

6.0 Risk Assessment

- 6.1 The principal risk to the authority would be if it were to carry out its enforcement functions without an appropriate enforcement policy in place. Adoption and use of the Enforcement Policy, once approved, should ensure that enforcement action, if taken, can be justified and is consistently applied.

- 6.2 A further risk would arise if Cheshire East Council were to carry out its enforcement functions according to different enforcement policies. This risk can be minimised by adopting this Policy as an overarching statement of principles, with individual service areas identifying, as an addendum, issues or details that are service-specific.

7.0 Background and Options

- 7.1 The Policy is based on the Regulators Compliance Code, a statutory code of practice issued December 2007 by The Department of Business Enterprise and Regulatory Reform (BERR) requiring all regulators of certain specified functions to have regard to the code when developing policy or principles of service delivery.
- 7.2 Extensive consultation on the draft Policy has taken place with the existing authorities in Cheshire and individual services with amendments made, as necessary.

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

- 8.1 The adoption of the Policy will mean that this authority has an appropriate framework in place to ensure that its enforcement activity is appropriate and consistent. The authority will need to ensure that training and development is provided on an ongoing basis in order that officers follow the Policy and meet the high professional standards required

9.0 Reasons for Recommendation

- 9.1 To ensure that the Council has an appropriate Enforcement Policy in place on Day One.

For further information:

Portfolio Holder: Councillor Brian Silvester
Officer: Peter Hartwell, Head of Safer and Stronger Communities
Tel No 01270 529614 (Westfields)
Email: peter.hartwell@cheshireeast.gov.uk

Background Documents: Westfields, Middlewich Road, Sandbach CW11 1HZ

Regulators Compliance Code: Statutory Code of Practice for Regulators (BERR 2007)
<http://www.berr.gov.uk/files/file45019.pdf>
Regulatory Enforcement and Sanctions Act 2008
http://www.opsi.gov.uk/acts/acts2008/ukpga_20080013_en_1
The Legislative and Regulatory Reform (Regulatory Functions) Order 2007
http://www.opsi.gov.uk/si/si2007/uksi_20073544_en_3

CHESHIRE EAST COUNCIL

***UPDATED DRAFT
(Following Consultation with Services)***

ENFORCEMENT POLICY

March 2009

INDEX

Section

1. Introduction
2. Standards
3. Openness
4. Helpfulness
5. Complaints, Compliments and Suggestions
6. Proportionality
7. Consistency
8. Levels of enforcement action
9. Statutory (legal) notices
10. Written undertakings and enforcement orders
11. Fixed penalty notices and similar sanctions
12. Simple Cautions
13. Prosecutions
14. Proceeds of crime
15. Gathering of evidence
16. Equality and diversity
17. General principles of officer conduct
18. Review of Enforcement Policy

1. INTRODUCTION

- 1.1 The purpose of this policy is to secure an efficient and effective approach to **all council regulatory inspection and enforcement functions** to improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations, and Cheshire East Cheshire Council “The Council”. This is in accordance with the Regulator’s Compliance Code and includes the principles contained within the Enforcement Concordat.
- 1.2 In certain instances the Council may conclude that a specific requirement of the Code is either not relevant or is outweighed by another requirement. The Council will ensure that any decision to depart from the Code will be properly reasoned and documented and based on material evidence.
- 1.3 The policy explains the approach adopted when carrying out the Council’s duty to enforce a wide range of legislation and is written in general terms to accommodate this.
- 1.4 The Council will endeavour to serve Cheshire East consumers and businesses by working with the business community to ensure healthy, fair and safe trading and a thriving economy. The Council will take particular care to help small businesses, voluntary and community organisations to meet their legal obligations at minimal expense.
- 1.5 The Council will assist businesses and individuals in Cheshire East comply with legislation for which it has enforcement responsibility.
- 1.6 When the Council takes enforcement action it will take account of national priorities alongside local priorities that exist at the time of any intervention, investigation or offence. Enforcement interventions are likely to be targeted in areas where a Council, Neighbourhood or Area priority is being compromised.

2. STANDARDS

- 2.1 The Council will publish Service Standards and make them available in both paper and electronic format with translations being available on request.
- 2.2 All officers engaged in enforcement functions will be trained and assessed against a competency framework to ensure that the highest standards of enforcement are met.
- 2.3 If a person or business subject to enforcement action does not agree with an officer’s decision a challenge can be made in the first instance to that officer’s line manager. Where this does not resolve the issue the person or business can request that the issue is dealt with by an independent Regulatory Services Manager or Head of Service.

Note: In cases where there is imminent risk to health or the environment, enforcement action may be taken before the right of challenge can be heard.

3. OPENNESS

- 3.1 The Council will provide information and advice in plain language and will clearly explain how it undertakes its work. The Council will discuss general issues, individual compliance failures or problems with anyone experiencing difficulties.
- 3.2 If the Council receives information (for example, from a complainant) that may lead to enforcement against a business or individual, a notification will be given, as soon as is feasible, of any intended enforcement action, unless this could hamper an investigation or pose a safety risk to those concerned, the environment or the general public.

4. HELPFULNESS

- 4.1 The Council believes prevention is better than cure and therefore encourages businesses and others to seek advice to assist with compliance.
- 4.2 In correspondence it will identify named contacts for service related queries or complaints.
- 4.3 It will make all businesses and customers aware of the Council's enforcement policy or changes to the enforcement policy during site visits or via correspondence and will provide all businesses with a printed copy of this policy on request.

5. COMPLAINTS, COMPLIMENTS AND SUGGESTIONS

- 5.1 Formal complaints, suggestions or compliments on any aspect of the services it provides, should, in the first instance, be directed to the service manager of the relevant service area.

If the Council's response to a complaint about the service fails to resolve the matter, you may lodge a formal complaint either by using the information below or requesting a formal complaint form from the Service concerned. The issue will then be investigated through the Council's complaint procedures.

- 5.2 Details of the Council's complaints procedure is available as follows:

on the web at; <http://www.cheshireeast.gov.uk>

via email on; customercare@cheshireeast.gov.uk

By telephone on; .

Or by writing to:
Cheshire East,

6. PROPORTIONALITY

- 6.1 The Council will minimise the costs of compliance by ensuring that any action it requires is proportionate to (balanced against) the risks. As far as the law allows, the Council will take account of the individual circumstances of each case when considering action.

7. CONSISTENCY

- 7.1 The Council will carry out its duties in a fair, equitable (even-handed) and consistent manner. Whilst officers are expected to exercise judgement in individual cases, the Council will have arrangements in place to promote consistency, including effective liaison arrangements with other authorities and enforcement agencies which may have a shared enforcement role. All investigations are undertaken in accordance with legal requirements and where appropriate, government guidance

8. LEVELS OF ENFORCEMENT ACTION

- 8.1 Legislative compliance will be secured by one or a combination of the following methods:

Promotion: to raise awareness about legal standards and promote good practice. This is typically achieved by the issuing of press releases, distributing leaflets and other forms of guidance available to the public and businesses, by face-to-face contact and schemes to enhance compliance and self-regulation.

Informal warnings: these will be used to reinforce promotional activities where, whilst the law may have been broken, it was not thought appropriate to take more formal action. An informal warning can be oral or written. If it is believed by the recipient that such a warning is inappropriate or unjustified then this policy allows for the decision to be reviewed by a senior officer.

Formal enforcement: this includes the use of statutory (legal) notices; written undertakings and enforcement orders; the refusal to grant or revoke a licence or registration; cautions; fixed penalty notices; penalty charge notices and penalty notices or prosecution. This course of action would be taken following procedures laid down in legislation, codes of practice and professional guidance notes. Where it is felt that members of the public need protecting from behaviour that is likely to cause harassment alarm or distress, the Council may seek an Anti Social Behaviour Order either as an independent action or following conviction.

9. STATUTORY (LEGAL) NOTICES

- 9.1 Many Acts of Parliament enforced by the Council allow for, or require, the service of statutory notices, which require a person, business or organisation to comply with specific legal requirements. Where a formal notice is served, the

method of appealing against the notice (i.e. if the recipient feels that the notice is unjustified or excessive in its requirements) will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what will happen if the notice is not complied with.

- 9.2 In general, failure to comply with a properly written and served statutory notice makes the person or business who is named in the notice (the recipient of the notice) liable to prosecution. In some cases the Council is able to, and will carry out works to comply with the notice and recover the cost from the recipient of the notice. In exceptional circumstances both prosecution and service of a notice may be appropriate.

10. WRITTEN UNDERTAKINGS AND ENFORCEMENT ORDERS

- 10.1 Where an individual or organisation fails to comply with the law, the Council may seek a written undertaking from that person that they will cease the action. In such circumstances, the Council may decide that no further formal action will be taken.
- 10.2 In cases where an individual or organisation has breached an undertaking or has refused to provide a written undertaking to cease an action, the Council may serve a formal notice or make an application to a court for an enforcement order or other formal action in accordance with the relevant legal provisions.

11. FIXED PENALTY NOTICES AND SIMILAR SANCTIONS

- 11.1 A fixed penalty notice, penalty charge notice or penalty notice may be used as a means of dealing with an offence instead of prosecution. It is the offender's opportunity to avoid a conviction. Non-payment of a penalty notice is generally not an offence in its own right and should a recipient not pay the penalty offered, prosecution will be necessary for the actual offence.
- 11.2 The Council will comply with any relevant guidance on the use of fixed penalty, penalty charge notices and penalty notices. In particular, the following conditions will be satisfied:
- a) There must be evidence sufficient to give a realistic prospect of conviction;
 - b) The offence is not too serious and is of a nature suitable for being dealt with by a penalty notice

12. SIMPLE CAUTIONS

- 12.1 Under certain circumstances, a "simple caution" may be an appropriate alternative to prosecution. This option will be considered before prosecution. A caution is a serious matter. It is recorded on the Central Register of Convictions and may be used to influence any future decision whether or not to institute proceedings should another offence be committed. It may be referred to in any

subsequent court proceedings. It will not be referred to in respect of any conviction recorded more than three years earlier.

12.2 Simple cautions serve the following purposes:

- a) To deal quickly and simply with less serious offenders;
- b) To avoid unnecessary appearance in criminal courts;
- c) To reduce the chance of offenders re-offending

12.3 It will comply with Home Office guidance on the cautioning of adult offenders and in particular before issuing a simple caution, the following conditions must be satisfied:

- a) There must be evidence of guilt sufficient to give a realistic prospect of conviction;
- b) The suspected offender must admit the offence, usually by signing a declaration;
- c) The suspected offender must understand the significance of a simple caution and give an informed consent to the caution

13. PROSECUTIONS

13.1 The Council will use discretion in deciding whether to initiate a prosecution. Where the circumstances justify it, prosecution without prior warning may take place.

13.2 The Council will consider prosecution when:

- a) It is appropriate in the circumstances, as a way to draw attention to the need for compliance with the law, especially where there would be a normal expectation of a prosecution, or where;
- b) Through the conviction of offenders, others may be deterred from offending; or
- c) There is the potential for considerable harm arising from the breach; or
- d) The gravity of the offence, taken together with the general record and approach of the offender justifies it

13.3 The decision to prosecute will always take account of the criteria set down in the Code for Crown Prosecutors.

13.4 Before deciding to prosecute there must be sufficient evidence for a realistic prospect of conviction taking account of any defence that may be available, and it must be in the public interest.

13.5 The following public interest criteria will normally be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive:

- The prevalence of the type of offence

- The need for a suitable deterrent
- The risk of danger or injury to the public
- The failure to comply with a statutory notice or respond to advice about legal requirements
- The disregard of legal requirements for financial reward
- Significant financial loss, potential or actual, to a third party
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, gross negligence or guilty knowledge is a factor
- Minor breaches of a number of statutes

13.6 Where possible an offender will be told as soon as sufficient evidence is obtained that a prosecution may follow.

13.7 All prosecutions will be brought without unnecessary delay.

13.8 The Council will aim to maximise its effectiveness by working with other authorities and other agencies, sharing intelligence where it is lawful to do so and mounting joint operations where that would bring benefits.

Outside agencies include:

- Police
- Environment Agency
- Health and Safety Executive
- Food Standards Agency
- Fire Service
- HM Revenue and Customs
- Defra/State Veterinary Service
- Office of Fair Trading
- Assets Recovery Agency
- The enforcement arms of trade protection organisations such as the Federation against Copyright Theft

Where there has been a breach of the law leading to a work-related death, the enforcement authority will liaise with the Police, Coroner and the Crown Prosecution Service (CPS) and if there is evidence of manslaughter (including corporate manslaughter) pass the case to the Police or, where appropriate, the CPS.

14. PROCEEDS OF CRIME

14.1 In appropriate cases, an application may be made under the Proceeds of Crime Act for confiscation of assets to recover the financial benefit that the offender has obtained from a criminal conduct. Proceedings are carried out in accordance with the civil standard of proof and applications are made after a conviction has been secured but before the offender has been sentenced.

15. GATHERING EVIDENCE

- 15.1 Regulatory bodies are empowered to gather evidence by numerous means, including, where appropriate, covertly (without the targeted individual/s being aware of surveillance). Remote CCTV and other recording devices may be utilised. In each case appropriate authorisation will be sought prior to the undertaking of covert surveillance in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA).

16. EQUALITY AND DIVERSITY

- 16.1 [Equality and diversity](#) issues have been considered in this policy. It reflects the Council's values, and is in line with anti-discrimination legislation. It will be applied in accordance with the legal obligations of the Council irrespective of disability, gender, race, religion, age, sexual orientation and marital status or any other grounds, which would constitute unfair or unreasonable discrimination.
- 16.2 The policy will have no detrimental impact on minority groups and such groups will be afforded the same level of protection from crime and anti-social behaviour. Crime specifically targeted at minority groups will be appropriately addressed.
- 16.3 The Council will regularly review its policies and practice to ensure a continuing commitment to providing services that do not discriminate against minority groups.
- 16.4 The policy and service standard documents can be provided in other formats such as audio, large print, on CD or can be translated on request.

17. GENERAL PRINCIPLES OF OFFICER CONDUCT

- 17.1 In addition to the principles set out in this Policy, officers will always present themselves professionally and courteously. Officers will, as the circumstances allow, announce who they are and in what capacity they are acting. However, there may be occasions when officers legitimately delay identifying themselves until a later stage of the investigation. Officers will carry, and show their identity card or authorisation as appropriate.
- 17.2 Officers will engage with individuals and groups effectively without discrimination.

18. REVIEW OF THIS ENFORCEMENT POLICY

- 18.1 This policy will be reviewed every three years or more frequently in response to a significant service change or changing regulation.
- 18.2 If you have any queries of a general nature regarding the content of this policy please contact the (Officer title to be defined).

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CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Borough Solicitor
Title: Local Environmental Quality Strategy

1.0 Purpose of Report

- 1.1 This report attaches as Annex 1 a proposed Local Environmental Quality Strategy which will provide guidance for community wardens and environmental enforcement officers and their managers as to how they should tackle local environmental quality issues such as litter, dog fouling, graffiti, fly posting and fly tipping (sometimes called environmental crimes).

2.0 Decision Required

- 2.1 That the Cabinet considers the Local Environmental Quality Strategy and adopts it.

3.0 Financial Implications for Transition Costs

- 3.1 The cost of warden uniforms, change of livery for vehicles and fixed penalty notice documentation has been reported to the Places Group and Places Advisory Panel.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Strategy includes levels of fixed penalties to be imposed until the service can be reviewed after a meaningful period of operation.

5.0 Legal Implications

- 5.1 There is a risk of legal challenge if robust and consistent procedures are not in place and officers are not given clear guidance as to how they should act when carrying out their duties.
- 5.2 There is also a risk of Local Government Ombudsman complaints being upheld if the Council does not provide clear and consistent guidance to officers.

6.0 Risk Assessment

6.1 A number of risks can be identified:-

- A lack of clear and consistent guidance to officers leaving officers with too much discretion to exercise in difficult situations in the street and may produce inconsistencies in their approach to enforcement;
- Complaints to the Local Government Ombudsman being upheld if no clear guidance has been issued to officers and the service is operated in an inconsistent manner.

6.2 The Strategy addresses these risks.

7.0 Background and Options

7.1 Currently Macclesfield have an adopted Strategy similar to that in Annex 1 and Crewe and Nantwich and Congleton have established operating procedures. The general thrust of the approach to environmental enforcement has been considered by the Places Group. The enforcement described in Annex 1 should not be confused with enforcement that may be undertaken by environmental health officers and for which a separate policy will be required.

7.2 The Council's constitution is to include delegated powers for a director or head to authorised wardens to issue fixed penalty notices. Guidance should therefore be given to ensure they are issued consistently and fairly.

7.3 The Strategy provides clear and consistent guidance for officers and their managers as to how environmental crimes should be discouraged and enforced. It also provides a useful reference document for them as to how matters arising in the operation of the service should be dealt with.

7.4 The Strategy should be in place by 1 April 2009 so that the education and enforcement service currently operated in the 3 districts can continue across Cheshire East in a consistent manner.

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

8.1 The adoption of the Strategy is a day one issue. It can be reviewed and amended as necessary during or at the end of year one once the service has had opportunity to bed in.

9.0 Reasons for Recommendation

9.1 It is important that the Strategy is in place and adopted by the Council in time for vesting day so that clear and consistent guidance is given to officers as to how they should undertake their roles from 1 April 2009.

For further information:

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Background Documents:

Documents are available for inspection at:

Westfields

Middlewich Road

Sandbach

CW11 1HZ

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ANNEX 1

CHESHIRE EAST UNITARY COUNCIL

LOCAL ENVIRONMENTAL QUALITY STRATEGY

JANUARY 2009

1. INTRODUCTION

- 1.1 The public demand clean places to live. The Best Value User Satisfaction Survey 2006, drawing on data from Cheshire County Council and the 6 existing district councils at that time, shows that public concerns about clean streets figured as the third most important priority, with 44% of respondents putting this in their top 5 priorities for making the county a good place to live.
- 1.2 This concern, along with the interlinked issues of anti-social behaviour, sustainable management of waste resources and the challenge of climate change, is reflected in the Consolidated (Interim) Sustainable Community Strategy (SCS) for Cheshire East drawn up in August 2008. The SCS being the tool for promoting or improving the economic, social and environmental well-being of the area and contributing to the achievement of sustainable development in partnership with local delivery agencies and communities.
- 1.3 These prioritisations recognise our responsibility to tackle 'local environmental quality' issues such as litter, dog fouling, graffiti, fly-posting and fly-tipping across the diverse local environments of Cheshire East. A cleaner and safer environment will, therefore, help improve the quality of life for all those who live in, work in and visit the area.
- 1.4 The presence of dumped waste, litter, graffiti and abandoned vehicles, for example, contribute to people's fear of crime. Another of the Council's corporate priorities is about *delivering safer street and neighbourhoods*, so clearly local environmental quality issues have a role to play in creating environments in which people are safe and feel safe, both day and night.
- 1.5 The Council, as a litter authority, has a responsibility under the Environmental Protection Act 1990 to keep relevant land free from litter and detritus.
- 1.6 This local environmental quality strategy details how the Council will target acts of environmental crime and anti-social behaviour.
- 1.7 Several departments of the Council are responsible for tackling the results of environmental crime in their roles as landowners, service providers, community leaders and enforcing authorities. The key Council provision for environmental crime issues will be the Warden Service. This Service will work closely with the division responsible for collecting household waste (whether it is recyclable or non-recyclable), removing fly-tipping, sweeping the streets, emptying litter bins and maintaining Parks and open spaces – these are the key services that encounter the consequences of environmental crimes.
- 1.8 In line with the Council's responsibilities to maintain and enhance a clean and pleasant locality, this Strategy recognises the community's responsibility in this area. Enforcement plays a vital role in maintaining a clean and safe environment by educating, informing and advising individuals and businesses regarding regulations and duties. Enforcement ensures that those individuals and/or businesses that spoil local environments are made accountable for their actions through legislative processes.
- 1.9 The Clean Neighbourhoods and Environment Act (CNEA) 2005 saw the introduction of new powers for local authorities to help tackle local environmental quality problems. The Act introduced effective powers and tools to tackle poor environmental quality and anti-social behaviour, such as litter, dog control, graffiti, waste and abandoned vehicles. This Strategy sets out how we will use these new powers alongside existing powers to ensure an effective, consistent and clear approach to enforcement. The provisions of the CNEA cover offences committed on private as well as public land so enforcement work can and will extend beyond public land.

2. AIMS

2.1 Enforcement is necessary to protect and improve the physical quality of the places in which we live, work, invest and/or visit. Cheshire East Council fully supports the use of enforcement measures to improve local environmental quality and reduce antisocial behaviour. The intention of the Council is to carry out environmental enforcement to nationally agreed standards and this enforcement will be complemented by appropriately targeted educational campaigns and awareness raising with the ultimate aim to achieve compliance with legislation through the public changing their attitudes and behaviour towards environmental crime.

2.2 The Council believes in firm but fair regulation. Underlying this are the principles set out in the Enforcement Concordat which is a set of enforcement principles adopted by central and local government and published by central Government. The Concordat states that good enforcement practice should set clear standards, be carried out in an open, helpful manner, have a proportionate and consistent approach together with a clear complaints service.

2.3 Proportionality

The enforcement action taken by the Council will be proportionate to the risks posed and to the seriousness of the breach bearing in mind the cost of environmental crime to the Council and the public purse.

2.4 Consistency

The Council aims to carry out its duties in a fair, equitable and consistent manner. Consistency does not mean simple uniformity. The Council will, on occasions, need to exercise judgement and discretion according to the circumstances of individual cases.

2.5 Transparency

Transparency is important in maintaining public confidence in the Council's ability to regulate. It means helping those regulated and others to understand what is expected of them and what they should expect from the Council. It also means making it clear why the Service intends to or has taken enforcement action. The Council trains its staff and has procedures to ensure that where remedial action is required it is clearly explained (in writing in most cases), why the action is necessary, when it must be carried out and that a clear distinction is made between best practice and legal requirements. Where appropriate, opportunity is provided to discuss what is required to comply with the law before formal enforcement action is taken unless urgent action is required e.g. to protect the environment, to remove risks to health and safety or to prevent evidence being destroyed as soon as practicable after the event. Written explanation is given of any rights of appeals against formal enforcement action at the time the action is taken.

2.6 Targeting

Targeting means making sure that efforts are directed primarily towards those whose activities are likely to give rise to the most serious breaches of legislation. The Council has systems for prioritising regulatory effort. They include responding to complaints from the community about regulated activities, tasking in conjunction with external agencies and the gathering and acting on intelligence about prohibited activities.

2.7 To contribute to the Council's priorities this strategy will achieve the following objectives :-

- Raise awareness of litter control, dog control, good waste management and other local environmental quality issues;

- Educate and advise residents, businesses and visitors about their duties and responsibilities in these areas and inform them of what constitutes an offence;
- Undertake any enforcement action as necessary, in a reasonable, equitable and proportionate manner;
- In appropriate circumstances take enforcement action without education and advice when the severity of the situation dictates.

2.8 This approach will ensure that :-

- Enforcement is carried out in a fair and equitable way;
- We assist residents, businesses and others in meeting their legal obligations;
- We foster changing attitudes and focus on prevention rather than cure;
- Take firm action against those who break the law.

3. SCOPE OF THIS STRATEGY

- 3.1 All of the issues highlighted in this strategy are of great importance to residents – this is evidenced through the responses to various surveys and public consultations.
- 3.2 We seek, however, to prioritise work on certain issues in order to approach enforcement work in a structured way, targeting the principal issues affecting the Council's environment.
- 3.3 The strategy's priority areas are driven by both quantitative (local environmental quality survey results) and qualitative information such as public reports, intelligence gathering and officer visits.
- 3.4 The Council's areas for priority action to be set out in the Warden Service Delivery Plan 2009-10 are as follows :-
- Litter in urban and rural areas;
 - Irresponsible dog ownership;
 - Fly-tipping of waste on public and private land;
 - The responsible and legal management of household and commercial waste;
 - Abandoned and nuisance vehicles;
 - Graffiti and illegal advertising on building and structures.
- 3.5 A summary of the issues, legislation and remedies is contained in the following table.

Priority	The Legislation	The remedies
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<p>Litter</p> <p>Data from inspections of areas carried out for a nationwide performance indicator suggest that the Cheshire East is a clean place to live. However, litter is still dropped and this defaces both our urban and rural areas.</p>	<p>The Environmental Protection Act 1990 (section 87) states that if anything is dropped, thrown, left or deposited by a person as to cause defacement by litter, in any public place including anything thrown from the street into a private garden or watercourse, they shall be guilty of an offence.</p> <p>Litter is wide enough in its definition to include synthetic materials often associated with smoking, eating and drinking, including cigarette butts and chewing gum.</p>	<p>In order to keep the area a clean place, residents and visitors should use litter bins for their litter. If there is not a litter bin near by individuals should keep hold of their litter until they find a bin, or take it home.</p> <p>Dropping litter is an offence. We will take a dual approach to reducing littering by :-</p> <ul style="list-style-type: none"> • undertaking general litter education and awareness raising across the Council's area on the consequences of unlawful littering; • using enforcement to tackle those guilty of littering. <p>The Council will use its powers where necessary to tackle the distribution of free literature and to hasten the clearance of litter and waste from private property.</p>
<p>Waste</p> <p>1.) Irresponsible management of waste (whether it is by businesses or householders) can result in a number of problems – not only visual but potentially environmental too. The highest profile concern is fly-tipping (the dumping of waste which can include sacks of household refuse). This can result from businesses or householders not fulfilling their obligations when hiring a contractor (for example) to remove their rubbish.</p> <p>2.) Failing to comply with specified collection directions on the presentation of household waste.</p>	<p>Everyone (whether they are a business or a householder) has a duty to ensure that only registered carriers of waste remove the rubbish they have been hired to collect. Businesses or householders must be sure that their waste is transferred to a company authorised to take it and transport, recycle or dispose of it safely. This transfer of waste must be officially recorded on a controlled waste transfer note. A copy of the note from their authorised waste company must be kept and stored for 2 years.</p> <p>Information regarding registered waste carriers can be obtained from the Environment Agency.</p> <p>The traditional simple weekly collection of whatever waste a resident cares to put out has just about disappeared. Rising volumes of waste, increasing disposal costs, statutory recycling targets and increasing concern over environmental issues means that the waste services provided to residents are increasingly complex. Residents are now required to think about what they do with their waste.</p>	<p>Fly-tipping waste is an offence and anyone traced and not in possession of the required documentation can receive a fixed penalty notice for the offence or be prosecuted, facing a fine of up to £50,000 or a term in prison.</p> <p>If you transport waste as part of your business (including charity and voluntary organisations) or otherwise for profit, you must register with the Environment Agency as a waste carrier, unless you are carrying your own waste and it is not construction or demolition waste. Failure to produce a waste carrier's license or a controlled waste transfer note can result in a FPN or prosecution and the seizure of the unregistered vehicle.</p> <p>In appropriate circumstances we will take enforcement action without education and advice when the severity of the situation dictates.</p> <p>If waste is presented incorrectly or it is put out for collection at the wrong time householders and businesses can be served with a notice to confirm the Council's collection arrangements. Failure to comply with such a notice can lead to the issuing of a FPN or following a successful prosecution a fine of up to £1,000.</p>

<p>Dog Control</p> <p>Dog ownership is popular and the walking of dogs is an important part of the daily lives of many people. Dog fouling is one of the biggest local environmental quality complaints in the area and it is easily preventable if dog owners are responsible.</p>	<p>The CNEA allows the Council to introduce or amend Dog Control Orders to cover the following offences :-</p> <ul style="list-style-type: none"> • Failing to remove dog faeces; • Restricting the number of dogs walked by 1 person at any one time; • Permitting a dog to enter land from which dogs are excluded ; • Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer. <p>In respect of the Order for excluding dogs, a list of sites to be covered within the old Macclesfield Borough Council area is attached to the Order as an appendix. These sites are currently either owned or managed by the Borough Council and are mainly children's playing areas which are clearly marked out by perimeter rails. There is a future programme to enclose other sites with perimeter rails and these will be included in the Order at a later stage. Other sites include cemeteries and land where previous dog exclusion byelaws applied. It is recommended that a similar process be carried out in relation to suitable areas of the Congleton and Crewe and Nantwich Councils.</p>	<p>Cheshire East Council supports responsible dog ownership. General education and awareness raising has taken place across the Council's area on the consequences of not picking up after your dog. It is illegal to let your dog foul on publicly accessible land and not clear up after it. The existing Councils have used their enforcement powers under the Dogs (Fouling of Land) legislation to bring this message home in the past and will continue to do so.</p> <p>In many popular dog-walking areas dog waste bins are located and owners should use these or litter bins where available. Failing that, owners should dispose of the dog faeces at home.</p>
<p>Defacement</p> <p>Whether it is fly-posting or graffiti, defacement can make areas look uncared for and run-down. Graffiti is a problem that seems to be increasing nationally and needs to be tackled.</p> <p>Graffiti is criminal damage, costly to remove and defined as any informal or illegal marks, drawings or paintings</p>	<p>Both committing defacement and allowing 'old' defacement to remain can be dealt with through the use of defacement removal notices (as a last resort).</p> <p>Those found writing graffiti or fly-posting in the area can be issued with a FPN or be prosecuted resulting in a fine of up to £5,000. Many methods can be employed to identify 'graffiti offenders' (including working closely with schools for example) and these will be used to catch offenders.</p>	<p>Enforcement action and the message this sends is an important part of preventing defacement. However, the removal of defacement is another important deterrent as this can discourage future actions if the perpetrators know the defacement will be removed quickly.</p> <p>A policy on how the Council tackles defacement on buildings other than those in its ownership will be drafted. The Council is not necessarily responsible for removing graffiti and fly posting from private property and a notice may be served on property owners to remove defacement. The Council's Street Cleansing Service (correct title to be added here) will remove racist and offensive graffiti within 48 hours of it being reported.</p>

<p>that have been deliberately made by a person or persons on any physical element in the outdoor environment.</p> <p>Fly posting is a form of unauthorised advertising and defined as any printed material and associated remains informally or illegally fixed to any structure. It includes any size of material from small stickers up to large posters.</p>	<p>For fly-posting the organisers of the events being illegal advertised can be found liable for the offence. The Council will use relevant powers to prosecute any person (which includes businesses) found to be responsible for fly posting or anyone benefiting from unauthorised advertisements.</p>	
<p>Abandoned Vehicles</p> <p>It is an offence to abandon a vehicle, or part of a vehicle, on a highway or on any land in the open air.</p>	<p>There is no legal definition of 'abandoned'. Officers use their judgment based on a number of factors when making decisions of whether a vehicle is abandoned. The Council has arrangements in place for the removal of vehicles it considered to be abandoned. Charges will apply for the storage and release of vehicles if they are claimed.</p> <p>Broken down or obstructive vehicles cannot be removed by the Council.</p>	<p>The Council only has powers to remove abandoned vehicles and individual councils have been using them for a significant time.</p> <p>In general, if a vehicle is deemed to be abandoned the vehicle will be removed and a removal notice will be sent to the owner. Consideration should also be given to issuing a FPN to the registered keeper/owner of the vehicle.</p> <p>Further work is currently being undertaken with DVLA in respect of untaxed vehicles which may see the Council taking responsibility for them.</p>
<p>Nuisance Vehicles</p> <p>The way people 'manage' cars on the highway can cause inconvenience to neighbours and environmental problems.</p> <p>The CNEA creates two new offences in relation to nuisance vehicles – businesses selling two or more vehicles on a road or roads, within 500 metres of each other and similarly repairing vehicles on a road.</p>	<p>A person found guilty of selling vehicles on the highway can face a fine of up to £2,500.</p> <p>Those businesses and individuals attempting to use the road as a workshop in contravention of the CNEA may be liable to a fine of up to £2,500.</p>	<p>Enforcement action and the message this sends is an important part of preventing this type of nuisance.</p> <p>FPNs can be issued for both of these offences.</p>

4. OUR ENFORCEMENT APPROACH

- 4.1 The word 'enforcement' covers all actions that the Council undertakes to secure compliance with the aforementioned pieces of legislation and will include education, advisory visits and assisting with compliance as well as formal action such as the issuing of Fixed Penalty Notices and prosecution.
- 4.2 The majority of residents, visitors and businesses recognise that the types of 'enviro-crimes' covered by this strategy are not socially acceptable. However, there will be those who continue to have little respect for their surroundings and this is where appropriately targeted enforcement action is necessary.
- 4.3 Whilst prevention, through a process of education and advice, are important tools of the Service, it is underpinned by enforcement. Court actions in the form of prosecutions may be taken against offenders who refuse to pay the FPNs provided there is sufficient evidence of the offence.
- 4.4 Prosecution is the ultimate sanction in all cases and the guidelines of the Enforcement Concordat should be strictly adhered to. It is expected that the vast majority of businesses and residents will comply with the law when treated respectfully but firmly.
- 4.5 A vital tenet of the whole enforcement strategy is that the Council should be in a position to rigorously progress prosecution cases, as and when appropriate and necessary, in order to show the local communities that the issue of environmental crime is taken seriously. Appropriate legal action may be taken where a fixed penalty has not been paid in the prescribed period and there is sufficient evidence of the offence.
- 4.6 Awareness raising and education initiatives have a major role to play in changing people's attitudes to their local environments and the Service is committed to providing regular educational inputs within local schools, colleges and Junior Neighbourhood Warden schemes as well as to local interest groups.
- 4.7 The Council recognises the importance of ensuring that all enforcement decisions are consistent, proportionate, clearly explained and relate to common standards to ensure the public is adequately protected.
- 4.8 The following basic enforcement options may be used by the Council depending on the seriousness of the offence :-
- **Fixed Penalty Notice (FPN)** - Authorised Officers can offer FPNs for certain environmental crime offences (listed in Appendix 1). FPNs are used as an alternative to prosecution and the alleged offender being taken to court. Further information relating to FPNs can be found below.
 - **Written Warning** – Where a FPN is challenged and the mitigating circumstances mean a prosecution is not in the public interest, the Service has the option to serve the recipient of the FPN with a written warning. The warning will note that no formal action will be taken, but if necessary it will stay on file for 12 months and can be used as a factor in any future assessment where a similar offence occurs.

- **Serving a Statutory Notice** - Some offences require the serving of a formal notice on businesses and individuals requiring them to carry out specific legal requirements. Offences of this type include (but are not limited to) street litter control, unauthorised advertising, willful obstruction of the highway and abandoned vehicles.

The notice will explain what is wrong, what is required to put things right and what the consequences are if the notice is not complied with.

- **Prosecutions** - Court actions in the form of prosecutions will be taken against offenders who refuse to pay the FPNs where there is sufficient evidence of the offence. Fair and effective prosecution is essential and the decision to prosecute an individual is a serious step.

4.9 **The use of Fixed Penalty Notices (FPNs)**

A number of offences listed in this Strategy can be dealt with through the use of FPNs. FPNs may be issued when an authorised officer believes that an offence has been committed. The FPN gives the alleged offender an opportunity to avoid prosecution by payment of the penalty. The standard of evidence required for the issue of a FPN is exactly the same as for a prosecution at court. It is essential, therefore, that FPNs are only issued where an authorised officer believes there is adequate evidence to support a prosecution if a notice is not paid, and that unpaid notices are followed up.

- 4.10 The Council sees the issues covered by FPNs under the various Acts covering 'enviro-crime' as important to individuals' quality of life and wants to send out a strong message, through their usage, to those who deface the Council's environment.
- 4.11 The FPN must be paid within 14 days of it being served. If the FPN is not paid the case will be considered for prosecution in the Magistrates' Court.
- 4.12 The use of FPNs is one of the powers we shall use to meet the strategy's aim in an effective and efficient manner. The Council will retain any funds accrued from the serving of FPNs. These funds will be used to help offset the costs of the enforcement function, by helping fund, for example, educational initiatives and publicity.
- 4.14 Any FPN **must by law** state the following :-
- the full amount of the fixed penalty;
 - that no proceedings for the offence will be taken if it is paid within 14 days;
 - the name and address to whom payment may be made by post (without ruling out other methods of payment).
- 4.15 A FPN is an auditable document. As such, the FPNs will need to be managed by the Service's software system which enables all notices to be tracked and monitored. A FPN which is defective may be cancelled by the Service Manager.
- 4.16 **Issuing Fixed Penalty Notices to Juveniles**
In law, a FPN can be issued to anyone over the age of 10. However, this Council has taken the decision that they should not be served on persons under the age of 16. There is no upper limit.

4.17 **Dog Control Orders**

The Cheshire East Council will use the existing dog fouling enforcement powers, granted to the old District Councils under the Dogs (Fouling of Land) Act 1996 and the dog control orders made by Macclesfield Borough Council.

When issuing FPNs for Dog Control Order offences the Council's paperwork must specify the actual Order that created the offence. Failure to do so might result in challenge in court.

4.18 **Investigations**

All investigations will be carried out in accordance with the Police and Criminal Evidence Act 1984 Code of Practice and with strict adherence to the Regulation of Investigatory Powers Act 2000 as and when required.

5. IMPLEMENTATION OF THE STRATEGY

5.1 Resources

The Service has been created from existing resources across the three Boroughs. This Service will investigate the environmental crimes covered by this strategy and take the necessary actions. The Service also incorporates the Council's Dog Warden duties. These Wardens and others within the Directorate will be authorised under the relevant legislation.

- 5.2 Along with enforcement, the Service will continue to deliver its current remit on National Indicators, anti-social behaviour, community cohesion and waste management, these being accommodated within the new structure by existing staff continuing to deliver their respective responsibilities.

- 5.3 Training will be provided to ensure all authorised personnel have the skills and knowledge required to undertake their enforcement duties and to ensure a consistent approach.

5.4 Awareness Raising and Education

Awareness and education are fundamental to the success of any enforcement strategy. The community must know and understand what standards are expected of them so that they can operate to these levels. We aim to carry out this element of enforcement by providing consistent advice and guidance about relevant duties and responsibilities through face-to-face operations, leaflets, the Service's webpage, local press, educational talks, specific campaigning and work alongside our partners and stakeholders.

- 5.5 Over and above the targeted awareness raising and education work, specific focused campaigns will be developed to highlight certain local environmental quality problems to a certain group or within a certain area. Through the strategy we will, where resources allow, support any appropriate regional and national campaigns.

5.6 Partnership Working

The Council will work closely with the Police, Fire and Rescue Service, town and parish councils, educational establishments, the Environment Agency, resident's organisations, local housing service providers, business groups, utility companies, community groups, other Council departments and other public bodies. Through partnership working the aims of the strategy can be met in a shared and efficient manner.

- 5.7 The partners involved in this strategy will help raise awareness, through consistent information and advice, to assist in the education of the community regarding their responsibility to help maintain and enhance a clean and pleasant area.

6. REPORTING, MONITORING AND REVIEWING THIS STRATEGY

- 6.1 The Service will utilize the IT system to record ongoing workload. This system has the capability of providing a full historical record for all entries, which allows persons, properties, and businesses with which we have occasion to deal with to be accurately recorded, with all correspondence being attached to the relevant files. This will allow the Service to accurately monitor each case and in turn will provide the audit trail for all enquiries.
- 6.2 The system would also afford an easy monitoring facility to provide statistics as and when required to show the work of the Service.
- 6.3 The implementation of this strategy will be periodically reported to the Council. The Council can then publicise the actions it has taken to tackle environmental crime in the area.
- 6.5 The strategy will be reviewed annually from its date of adoption.

7. Human Rights

- 7.1 In carrying out its duties, the Council will respect the rights and freedoms guaranteed to individuals under the Human Rights Act 1998.
- 7.2 Consideration has been given to the compatibility of this strategy and its related procedure, with the Human Rights Act 1998. Particularly with references to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making processes and outcomes of action.

	QUESTION:	RESPONSE/EVIDENCE:	REFERENCE:
1.	Is there within this Strategy (or any attendant powers, authorities or directions within it) potential to interfere or infringe an individual's convention rights?	No – Where information is gained about individuals who are not connected with the enquiry going about their lawful business such information will be ignored.	Section 5
2.	Is there within this Strategy, any potential for it to be discriminatory in relation to the application or provision of such rights?	No	Section 5
3.	Does the Strategy provide a statement or clear guidance on establishing :- The legal basis for any infringement of rights authorised by it?	Yes	Section1
4.	Does the Strategy provide a statement or clear guidance on establishing :- A legitimate aim(s) in respect of its potential to interference of rights?	Yes	Section 3
5.	Does the Strategy provide a statement or clear guidance on establishing :- Whether the actions are justified and proportionate/ least intrusive and damaging in seeking to achieve the legitimate aim(s)?	Yes	Section 5

8 Race Relations Amendment Act 2001

8.1 In 2001, the Race Relations Act was amended to give public authorities a new statutory duty to promote race equality. The aim is to help public authorities to provide fair and accessible services, and to improve equal opportunities in employment.

8.2 The legislation helps ensure public authorities become more accountable to the people they serve and allows everyone the opportunity to give their views about the services that affect them. That means it helps provide the kind of public functions and services all of us need, want and deserve as well as helping to further equality of opportunity and better race relations.

8.3 The general duty applies to all public authorities listed in Schedule 1A of the Act. It requires them :-

- To eliminate unlawful racial discrimination;
- To promote equality of opportunity between persons of different racial groups;
- To promote good relations between persons of different racial groups.

Does the strategy have a positive or negative impact upon the duty to eliminate discrimination?

NO

Could the strategy have a positive or negative impact upon the duty to eliminate discrimination?

NO

Does the strategy have a positive or negative impact upon the duty to promote equality of opportunity?

NO

Could the strategy have a positive or negative impact upon the duty to promote equality of opportunity?

NO

Does the strategy have a positive or negative impact upon the duty to promote good race relations?

NO

Could the strategy have a positive or negative impact upon the duty to promote good race relations?

NO

9 Crime and Disorder Implications

- 9.1.1 Section 17 Crime and Disorder Act places a duty on responsible authorities to exercise their various functions, with due regard to the likely effect of the exercise of those functions and the need to do all that it reasonably can to prevent, crime and disorder in it's area.
- 9.2 Currently the three districts have corporate strategies that address community safety issues. It is anticipated that such a strategy will be developed for Cheshire East. In the meantime the CDRP strategic assessment and consultation on the priorities identified in the assessment, CDRP tasking and co-ordination process and local community action meeting processes will provide an ongoing process for auditing needs and demands for crime and disorder reduction within the local community.

APPENDIX 1**FIXED PENALTY NOTICE OFFENCES AND AMOUNTS**

DESCRIPTION OF THE OFFENCE	LEGISLATION	FPN AMOUNT
Dog Fouling	Section 3 Dog Fouling of Land Act 1996	£50
Nuisance parking	Section 6(1) CNEA 2005	£100
Abandoning a vehicle	Section 2A(1) Refuse Disposal Amenity Act 1978	£200
Littering	Section 88(1) Environmental Protection Act 1990	£75 *
Breach of a Street Litter Control or Litter Clearing Notice	Section 94A(2) Environmental Protection Act 1990	£100 *
Unauthorised distribution of literature on designated land	Section 3A paragraph 7(2) Environmental Protection Act 1990	£75 *
Defacement – graffiti and fly-posting	Section 43 Anti-social Behaviour Act 2003	£75 *
Failure to produce a controlled waste transfer note	Section 5B(2) Control of Pollution (Amendment) Act 1989	£300
Failure to present a Waste Carrier's Licence	Section 34(2) Environmental Protection Act 1990	£300
Offence in relation to waste receptacles	Section 47ZA(2) Environmental Protection Act 1990	£100 *
Breach of Dog Control conditions	Section 59(2) CNEA 2005	£75 *

* Indicates a minimum default amount specified by statute but where the Council would have power to charge a different amount if it wished.

APPENDIX 2**SUPPORTING DOCUMENTS**

Enforcement Concordat

*Guidance on the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005 and related legislation covering:

- Dog Control Orders
- Abandoned Shopping Trolley and Luggage Trolleys
- Noise
- Litter and Refuse
- Statutory Nuisance from Insects and Artificial Light
- Fixed Penalty Notices Issuing Fixed Penalty Notices to Juveniles
- Defacement Removal Notices
- Nuisance Parking Offences and Abandoned Vehicles
- Code of Practice on Litter and Refuse
- Waste

Preventing Cigarette Litter in England – Guidelines for Local Authorities

Guidance on the Management of Shopping Trolleys

Getting to grips with the Clean Neighbourhoods and Environment Act 2005 – a parish council guide to environmental enforcement

Tackling drug related litter - Guidance and good practice

Reducing litter caused by 'food on the go' - A Voluntary Code of Practice for local partnerships

Circular 03/07 Town and Country Planning Act – Control of Advertisement Regulations

Human Rights Act 1998

Race Relations Amendment Act 2000

Crime and Disorder Act 1998

Anti-Social Behaviour Act 2003

Police and Criminal Evidence Act 1984

Regulation of Investigatory Powers Act 2000

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CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Borough Treasurer & Head of Assets
Title: Corporate Procurement Strategy

1.0 Purpose of Report

- 1.1 To consider the Corporate Procurement Strategy for 2009 – 2012 that sets the direction for procurement within the Council and establishes a framework for individuals and Directorates to operate in and be measured against.

2.0 Decision Required

- 2.1 To endorse the Corporate Procurement Strategy to enable it to progress to publication and commence its implementation.

3.0 Financial Implications for Transition Costs

- 3.1 There are no implications for transitional costs

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Corporate Procurement Strategy will make a significant contribution to the target of 3% net cash releasing value for money gains set as part of the CSR07.

5.0 Legal Implications

- 5.1 There are no specific legal implications related to the issues raised in this report, however as Public sector body procurement is subject to the Public contracts regulations 2006 and the EU procurement Directives.

6.0 Risk Assessment

- 6.1 A fragmented approach to procurement conducted outside of a structured framework will restrict the ability of Cheshire East Council to achieve value for money and achieve its efficiency targets In addition there would be a negative impact upon the Comprehensive Area Assessment.

7.0 Background and Options

- 7.1 The Corporate Procurement Strategy sets out the procurement direction for the Council and how it will support the Council vision to 'work together to improve community life'.
- 7.2 The Gershon review and the National Procurement Strategy place an obligation on the Council to achieve continuous year on year efficiency improvements and savings targets highlighted in CSR07 through smarter procurement practices, increased collaboration and partnerships with other public sector, private and 3rd sector organisations. The strategy outlines how procurement will contribute to these targets.
- 7.3 The strategy aims to ensure that the latest procurement methodology and techniques are adopted throughout the Council through the establishment of a clear framework in which all procurement activity will take place and be measured against.

8 Structure of Procurement

- 8.1 Cheshire East will adopt a devolved structure of procurement with each service responsible for leading their own procurement activity to meet their specific needs.
- 8.2 A strategic Category management approach will be adopted where procurement will be based upon achieving desired outcomes. The Strategy will detail a targeted approach to those areas where the need is greatest and where the opportunities for efficiencies and savings are greatest to ensure the release of resources.
- 8.3 The Strategy will detail a commissioning led approach to procurement that will challenge the need and ensure that the needs of the users or business need are predominant in the procurement cycle.
- 8.4 Cheshire East Council proposes to adopt a lead role in the Cheshire and Warrington Sub Regional Procurement Hub. Benefits will include economies of scale, collaboration, increasing capacity and the targeted use of expertise. This will raise the profile of procurement and avail collaborative opportunities throughout the sub region, regionally and nationally.
- 8.5 The Corporate Procurement strategy details the approach to the following:
 - E-Procurement
 - Sustainable Procurement
 - Local Procurement
 - 3rd Sector procurement
 - Equality and Diversity

All of which will be embraced to release efficiency savings and achieve the balance of economical, environmental and social considerations in the procurement activity.

8.6 Milestones for development of the strategy

March 2009	Draft Strategy to Cabinet to agree content
April 2009	Add graphics and illustrations and publish on Web
April 2009	Produce printed version
July 2009	Development of Procurement plan, Action plan and Efficiency plan
March 2010	Review of Strategy and achievements; update.

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

- 9.1 The procurement strategy will provide a framework for procurement principles on Day one. The strategy will be implemented during year one and will be reviewed as the Corporate Plan develops.

10.0 Reasons for Recommendation

- 10.1 It is important for the new Council to set out its Corporate Procurement strategy for 2009 – 2012, to link with the Council's Corporate Plan and key strategies and to provide a clear framework in which all procurement activity will take place and be measured against.

For further information:

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PROCUREMENT STRATEGY

2009 – 2012

CONTENTS

	Page
Forward by Portfolio Holder Assets, Shared Services and Procurement	
Executive Summary	
SECTION 1	
Introduction	
What is Procurement?	
What is a Corporate Procurement Strategy?	
Scope	
National Drivers	
SECTION 2	
Procurement vision and objectives	
Procurement vision	
Procurement objectives	
SECTION 3	
Delivery of the Strategy	
Organisational structure of procurement	
Portfolio Holder Assets, Shared Services and Procurement	
Procurement Board	
Corporate Procurement Unit	
Procurement Coordinators	
Cheshire and Warrington Sub Regional Procurement Hub	
Procurement planning	
Procurement principles and action	
Spend analysis	
Category management	
Supplier Relationship Management	
Commissioning led procurement	
Efficiency savings plan	
Collaboration	
Contract management and the control of contracts	
E-procurement	
Sustainable procurement	
Local economy and 3 rd sector	
Equality and Diversity	
Leadership	
Skills and capability	
Performance management and measurement	

Forward By Portfolio Holder Assets, Shared Services and Procurement

Cheshire East Council recognises that effective and efficient procurement is key to delivering our plans.

Our new unitary Council brings together four existing authorities and gives us the opportunity to deliver more efficient, high quality joined-up public services.

We want to put the people of Cheshire East first, provide value for money and be locally responsive. How we decide what type of goods, works and services we buy, how we buy them and how the suppliers perform all impacts upon our partners, local businesses, the local economy and the environment. We are committed to supporting economic regeneration through local buying wherever possible.

The Council will establish its own distinctive characteristics, priorities and ways of working, especially with the public, business community and stakeholders to create a Council of which we can all be proud.

The Council will target our procurement resources initially on the major areas of spend where potential efficiencies and savings are greatest. Consideration will be given to economic, social and environmental impacts of our buying decisions.

Cheshire East will fully participate in the newly-formed Cheshire and Warrington Sub-Regional Procurement Hub which will co-ordinate a joint approach to procurement with other authorities and organisations.

This strategy sets out the overall direction for procurement within the new Cheshire East Council and I commend it to staff and partners with whom the Council works as a measure of commitment from the Council to achieving excellence in procurement.

Councillor Peter Mason
Portfolio holder Assets, Shared Services and Procurement

Executive summary

Welcome to the Procurement Strategy for Cheshire East Council. This Strategy details how procurement will be structured and managed using the latest strategic procurement techniques.

Procurement, when strategically managed, can actively contribute to the delivery of the corporate objectives and release much needed resources to deliver front line services. In recent years this has been recognised by central government with a number of drivers advocating the adoption of modern innovative procurement solutions. The profile of procurement subsequently increased accordingly.

Structure

This Strategy aims to ensure that procurement is a high profile activity that the Cheshire East Council will undertake, as one, in a professional manner.

A cabinet member has procurement as a portfolio responsibility and will act as an advocate or spokesperson on procurement matters to encourage communication and a positive interaction.

A Procurement Board will be established that will have responsibility to oversee the implementation of this strategy, contribute to its development and monitor levels of compliance.

Cheshire East Council will adopt a devolved structure of procurement with each service responsible for leading their own procurement activity to meet their specific needs.

All services will be required to provide details of their proposed procurement activity as part of their service planning. Each service will identify Procurement Coordinators who will act as the coordinator of all strategic procurement activity and communication within that service.

Cheshire East Council propose to adopt a lead role in the Cheshire and Warrington Sub Regional Procurement Hub. Benefits will include economies of scale, collaboration, increasing capacity and the targeted use of expertise. This will raise the profile of procurement and avail collaborative opportunities throughout the sub region, regionally and nationally.

Action

A strategic Category Management approach will be adopted where procurement will be based upon achieving desired outcomes. There will be a targeted approach to those areas where the need is greatest and where the opportunities for efficiencies and savings are greatest to ensure the release of resources.

Cheshire East Council will adopt a commissioning led approach to procurement that will challenge the need and ensure that the needs of the users or business need are predominant in the procurement cycle.

A formal approach to Supplier Relationship and Contract Management will be adopted to ensure compliance with contracts and that relationships are developed to achieve ongoing value for money, and reduce the risk of poor performance or non-delivery or non-availability.

Cheshire East Council will look to embrace e-procurement where there are efficiency benefits to the Council including the use of e-auctions and e-tendering solutions.

Sustainable Procurement will be embedded into the procurement process with the adoption of a whole life costing approach to procurement activity.

There are legislative restrictions which prevent the Council from showing favour to local businesses. The Strategy details how we will seek innovative solutions to increase the level of business that is awarded to local companies and the 3rd sector.

SECTION 1

INTRODUCTION

- 1.0 The importance of good procurement cannot be understated. The national profile of Public sector procurement has increased significantly in recent years and Local authorities are being encouraged to use procurement as a means to deliver financial and efficiency savings to release resources that can be utilised in the provision of services provided by the Council. There is a responsibility to ensure that there is a professional and consistent approach to the Councils commercial activity.
- 1.1 Procurement activity can sometimes be fragmented and uncoordinated. This Strategy outlines how we will:
- Increase opportunities to improve the overall cost effectiveness of Council services.
 - Ensure a consistent and coordinated approach to savings and efficiency.
 - Reduce overall procurement and transaction costs.
 - Increase capacity through partnerships and collaborations with other Public bodies, the private sector and the 3rd sector.
 - Promote social, environmental and equality of opportunity benefits to the community and Council staff.
- 1.2 The Council has a duty to secure Best value and continuous improvement from its expenditure whilst having regard to economy, efficiency and effectiveness. This Strategy details how the Council will achieve this.
- 1.3 We will ensure that the latest procurement methodology and techniques are adopted throughout the Council through the establishment of a clear framework in which all procurement activity will take place and be measured against.
- 1.4 Cheshire East Council has a Corporate vision to 'work together to improve community life'. Key objectives have been established through the Corporate Plan to achieve this vision.
- 1.5 Procurement within Cheshire East Council will be effective, efficient and will support the Council in achieving these objectives and obtaining best value.
- 1.6 The Cheshire East Corporate Plan has been developed as an interim plan to set service direction for 2009/10 and allow Cheshire East to set the budget.

- 1.7 This Procurement Strategy is intended to be a living document and as the plan for the period 2010/11 – 2012/13 is developed this Strategy will be updated to reflect the new Corporate objectives and priorities.

Core Values and Behaviours

- 1.8 Cheshire East Council has developed a set of core values and key behaviours. These are collected together as ASPIRE. Cheshire East Council Procurement will:
- Take **Action** to engage with the Local economy and the 3rd sector, implement e-procurement, sustainable procurement, category management and commissioning led procurement.
 - **Support** communication of our procurement opportunities.
 - **People's** needs will be at the forefront of procurement activity.
 - Operate with **Integrity** in all our procurement activity ensuring that we are fair, open and transparent.
 - Give **Recognition** to the views of all stakeholders involved in procurement including Local suppliers and the 3rd sector.
 - Adopt **Excellent** procurement practice that is modern, innovative, targeted and efficient.

What is Procurement?

- 1.9 Procurement is more than just buying or purchasing. It is the process of acquiring goods, works and services covering both the acquisition from third parties and from in-house providers.
- 1.10 The process spans the whole life cycle from the identification of need through to the end of a services contract or the end of the useful life of an asset.
- 1.11 It involves options appraisal and the critical 'make or buy' decision which may result in the provision of services in-house in certain circumstances.
- 1.12 The procurement process aspires to achieve the best value solution. This is not necessarily the lowest cost but the optimum combination of whole life costs and benefits to meet the needs of the Council.
- 1.13 Procurement decisions must be taken in the context of the broader objectives of the Council.

What is a Corporate Procurement Strategy?

- 1.14 The Council will spend a large proportion of its budget on the procurement and commissioning of goods, works and services. There is a responsibility to ensure that it achieves best value from this

spend. This will release the maximum amount of resources to support the delivery of the objectives as detailed within the Corporate Plan.

- 1.15 This Strategy is a mechanism for ensuring that procurement and commissioning within Cheshire East Council takes place in a controlled and structured manner that will support the Council vision and Corporate Plan.
- 1.16 A Procurement Strategy provides a framework for individuals and Directorates to operate in and be measured against.
- 1.17 This Strategy details the procurement vision, aims and objectives that are required for a flagship Council.
- 1.18 The Strategy will seek to challenge procurement activity, raise the profile of procurement and drive improvements in procurement performance and deliver best value and contribute to the shaping of supply markets.

Scope

- 1.19 This Strategy is targeted at all internal and external stakeholders including employees, trade unions, the 3rd sector, partner agencies, suppliers and potential suppliers.
- 1.20 The principles of this Strategy are to be applied to **ALL** procurement activity that the Council undertakes.
- 1.21 Consideration of this Strategy is not optional – it is mandatory. It is not intended to be a procurement manual nor does it attempt to prescribe in detail every action that should be undertaken in all procurement activity, however it does detail the approach and considerations that should be made when committing the Council to expenditure. It should be read in conjunction with the Financial Procedure Rules and the developing procurement guidance.

National Drivers

- 1.22 There have been numerous reviews of Local Government procurement activity all raising the profile of procurement and the contribution it can make to improve the delivery of Local authority services.

National Procurement Strategy

- 1.23 The National Procurement Strategy for Local Government published in 2003 built upon the previous reports such as that by Sir Ian Byatt, “Delivering Better Services to Citizens”, and detailed how central and local government, working together with partners from the public, private and voluntary sectors, can improve local government

procurement. The Strategy set a series of clear objectives and targets (milestones). Those milestones were categorized under 4 themes:

- Providing Leadership and building capacity:
- Partnering and collaboration:
- Doing business electronically:
- Stimulating markets and achieving community benefits.

Gershon Savings

- 1.24 The report by Peter Gershon on Public sector Efficiency “Releasing Resources to the Frontline” set out a challenging agenda for better, more co-coordinated procurement and service delivery between public bodies, and overall savings in procurement costs. The Report which had significant influence on the Government’s Comprehensive Spending Reviews set tough targets for efficiency savings to be gained from improved procurement practices.
- 1.25 The Local Government White Paper further indicates that pressures to achieve even greater savings and efficiencies will continue to increase; promoting greater collaboration across the public sector in procurement and shared services; the use of alternative methods of delivery and a diverse and competitive marketplace will be instrumental in the realisation of those savings.

Sustainable Procurement Task Force (SPTF 2006)

- 1.26 This was established in response to the UK Sustainable Development Strategy. The Task Force made recommendations to Government in June 2006, to improve the sustainability of Public Sector procurement to deliver social, environmental and economic benefits through local authority procurement activity. They identified a range of actions for public sector procurement including;
- Developing the evidence base on sustainable procurement; identifying priority areas with specific targets and key performance indicators.
 - Extend the range of mandated products reaching minimum environmental standards.
 - Work with key public sector suppliers to raise sustainability awareness and performance.
 - Ensure that public sector employees receive appropriate training.
 - Remove barriers and increase opportunities for increased sustainable procurement activity.

- 1.27 The Task Force also developed a flexible framework identifying 5 key themes of People, Policy, Strategy & Communications, Procurement Process, Engaging Suppliers and Measurement & Results. With the appropriate milestones to be achieved by Local authorities.

North West Improvement and Efficiency Partnership

- 1.28 The North West Improvement and Efficiency Partnership was established in response to the National Improvement and Efficiency Strategy to drive the region's ambitions for excellence through improvement and efficiency.
- 1.29 The procurement programme will encourage savings to be achieved through collaborative procurement, both at a regional and sub-regional level. A regional Procurement Strategy has been developed that forms the basis of the North West Improvement and Efficiency Partnership's (NWIEP) Regional Procurement Action Plan for the CSR 07 period to support the 46 local authorities, plus the national park, in seeking to achieve regional savings.
- 1.30 Each Sub-region is expected to establish its own Procurement Hub to facilitate the delivery of the efficiency agenda.

Value for money

- 1.31 The Government has set a challenge for the public sector: to build on the progress already made in enhancing value for money and further embed a culture of innovation. All public services have been set a target of achieving at least 3% net cash releasing value for money gains per annum over 2008/09 to 2010/11.
2007 Comprehensive Spending Review
- 1.32 The Government has stated that there is considerable potential from effective harnessing of efficiency and innovation techniques, such as smart procurement and service redesign. The reorganisation of local government in Cheshire creates a fantastic opportunity for change and the realisation of improvements and Cheshire East has the scale, capacity and commitment to deliver on this agenda.

SECTION 2

PROCUREMENT VISION AND OBJECTIVES

- 2.1 Effective and transparent procurement has been increasingly promoted by central government and is a key factor in achieving increased efficiency and productivity.
- 2.2 To be effective, procurement must be measured as much by the social and community benefits that result from its activity as by the financial and efficiency gains it delivers.
- 2.3 Cheshire East Council has a Corporate vision to 'work together to improve community life' and has developed the Corporate objectives detailed below to deliver this vision.

	Corporate Objectives
1	We will enable all children and young people to fulfil their potential.
2	We will improve the wellbeing, health and care of people.
3	We will ensure that people in local communities have a greater say about how resources are targeted in their area
4	We will work with others to make all of our communities safer places to live, work and play
5	We will enable people to have a good quality of life irrespective of where they live or their social or economic background.
6	We will shape and maintain strong and prosperous neighbourhoods in which our residents are skilled and economically active, where businesses want to invest and where people want to visit.
7	We will provide an attractive and sustainable environment which communities can be proud of.

- 2.4 Cheshire East Council aspires to become a flagship authority. In order to support this aspiration and to support the delivery of these Corporate objectives Cheshire East Council will adopt the following Procurement vision and objectives.

Procurement vision

To adopt excellent procurement practice that is modern, innovative, targeted and efficient that will release the maximum amount of resources for Cheshire East Council and support the delivery of the Corporate vision and plan.

Procurement Objectives

1	All procurement activity undertaken by Cheshire East Council will be fair, legal, ethical and transparent.
2	Procurement activity will seek to support the local economy with a mixed economy of service provision including SME's and the 3 rd sector encouraging local sourcing and local employment wherever possible.
3	Cheshire East Council will develop specifications and evaluation processes that support social, environmental and community benefits by the development and adoption of appropriate specifications and evaluation processes.
4	Cheshire East Council will seek to undertake Procurement and Commissioning in partnership with other Public sector Organisations where this is beneficial to the community.
5	Cheshire East Council will seek to adopt the latest e-procurement solutions to contribute to the maximisation of efficient procurement processes.
6	Sustainable Procurement will be embedded into the procurement cycle to realise wider social, environmental and economic objectives.
7	Cheshire East Council will contribute to the Council savings targets by continually challenge the procurement activity and practices through the development of an efficiency plan.
8	All staff involved in procurement and commissioning activity will have the appropriate skills and competencies to carry out the activity.
9	All Procurement will be strategically managed by a team of professionally qualified staff.
10	Cheshire East Council shall seek to ensure compliance with the Corporate Procurement Strategy through formal performance management and measurement.

SECTION 3

DELIVERY OF THE STRATEGY

Organisational Structure of Procurement

Portfolio holder Assets, Shared Services and Procurement

- 3.1 Cheshire East Council has a cabinet member with a Portfolio responsibility that includes Procurement. The role is to be an advocate or spokesperson on procurement matters to encourage communication and a positive interaction.

Procurement Board

- 3.2 A Procurement Board comprising of the Borough Treasurer and Head of Assets, Procurement Manager, Borough Solicitor and representatives of the People and Places Directorates will be established. Project sponsors will be co-opted to the board as and when necessary.
- 3.3 The Boards' prime responsibility will be to oversee the implementation of this Strategy and steer its future direction.
- 3.4 In order to achieve this function the Board will:
- Support the development of the Procurement Strategy.
 - Monitor the implementation of the Strategy.
 - Monitor levels of compliance.
 - Contribute to the development and implementation of major strategic partnerships.
 - Support the introduction of gateway reviews for all projects over £500,000
 - Oversee the establishment and achievement of procurement efficiency targets.
 - Accept reports from Officers and make decisions relating to Council wide procurement.
- 3.5 The Procurement Board will meet quarterly.

Corporate Procurement Unit

- 3.6 The Unit will act as a centre of procurement excellence providing advice and guidance and be a corporate resource to all services. The Corporate Procurement Unit will not be a central buying unit.
- 3.7 Cheshire East Council will operate a devolved structure of procurement with each service responsible for leading their own

procurement activity to meet their specific needs. As a result most of the transactional elements of purchasing are devolved to the relevant service area.

- 3.8 The team will have a targeted approach to its activities to those areas where the need is greatest and where there are the maximum opportunities for efficiencies and savings that will ensure the release of resources. The Unit will however, influence **ALL** procurement activity to a greater or lesser degree. It will lead on letting corporate contracts whilst supporting officers from all service areas to procure within a clear corporate framework.

Procurement Coordinators

- 3.9 Each service will have a nominated Procurement Coordinator who will be informed of new corporate contracts and developments within procurement and act as the coordinator of all strategic procurement activity and communication within that service.
- 3.10 Cheshire East Council will act as one organisation in the planning and buying of goods works and services. A key role of the Corporate Procurement Unit will be to ensure that this is a view shared by the whole Council in order to maximise the benefits of a strategic approach to procurement.
- 3.11 Service plans will be expected to include details of the proposed future procurement activity. The Unit will use this detail to inform the procurement plan. This will ensure that procurement is able to be undertaken in a structured manner and that there are adequate resources, targeted at the appropriate areas.

Cheshire and Warrington Sub Regional Procurement Hub

- 3.12 Cheshire East Council proposes to lead the Cheshire and Warrington Sub Regional Procurement Hub The partners to the hub include Cheshire West and Chester, Warrington BC and Cheshire Fire and Rescue service.
- 3.13 The aim of the Hub is to examine procurement across the Sub Region to determine areas of procurement where a collaborative approach can drive down prices, improve services, improve supplier engagement, encourage SMEs and Third Sector organisations to trade with local government and lead in areas of diversity and sustainability.
- 3.14 Objectives include:
- To Identify and implement opportunities to increase efficiency through smarter procurement and maximise value for money across Cheshire East, Chester West and Chester, Warrington and the sub region.

- To Identify and implement the opportunity for strategic procurement and shared services with other agencies where it will add value to services in terms of quality and efficiency.
- Development of a benefits realisation policy to monitor efficiency savings and the release of resources.

3.15 The Hub will give consideration to the following

- Contract Procedure Rules/Standing Orders/Terms and Conditions.
- E-procurement.
- Strategic, operational and transactional procurement.
- Contractual opportunities both existing and new to address efficiencies.
- Shared service provision for the two Cheshire authorities and joint working initiatives with partners.
- Structured engagement with the relevant stakeholders including the 3rd sector.
- National, Regional and Corporate Procurement Strategies and initiatives.
- All operational aspects of the Procurement Hub.
- The development of a Hub procurement work plan referenced to the member procurement work plans.
- The development of a procurement action plan that will develop procurement capacity.

Procurement planning

- 3.16 The Corporate Procurement Unit will develop a three year procurement plan to include all future proposed procurement exercises in the Directorates.
- 3.17 The plan will be initially developed from Service Plans and knowledge of contracts due for renewal. It will then be continuously updated to reflect a current picture of the Councils anticipated procurement activity. This plan will be a living document and be published and freely available.
- 3.18 The Corporate Procurement Unit will ensure early engagement with internal customers, suppliers (both current and potential), to assess the needs and understand the market and the most appropriate procurement plan with needs analysis.

PROCUREMENT PRINCIPLES AND ACTION

- 3.19 The Corporate Procurement Unit will develop a Procurement Action Plan that will detail the priority actions required to deliver the Strategy and the Procurement Objectives. This will be referenced to the business plan of the Sub Regional Procurement Hub.
- 3.20 The Unit will adopt a strategic approach to managing procurement using strategic procurement tools that will aid decision making and support the efforts of commissioners. These strategic tools will include:
- Spend analysis
 - Category Management
 - Supplier Relationship Management
 - Commissioning lead procurement

Spend analysis

- 3.21 Spend analysis is a powerful and invaluable tool for identifying and manipulating detailed spend data by, for example, category, supplier and area and combinations/permutations of these. It will identify key suppliers, key spend areas and how many suppliers may be delivering the same goods and services.
- 3.22 This information is the key foundation for other strategic procurement decisions such as Category Management, Supplier Relationship Management and the Procurement Strategy. It forms an important part of resource mapping and planning as it will allow the Council and their commissioning partners to identify where financial resources are being allocated currently and commitments in the future. We will seek to undertake a spend analysis.

Category Management

- 3.23 Cheshire East Council will operate a strategic Category Management approach to its procurement activity where procurement will be based upon achieving desired outcomes.
- 3.24 Category Management is a process of identifying categories of goods or services and managing these as business units so that value for money is maximised. It comprises a wide number of tools and techniques including Portfolio analysis.
- 3.25 Portfolio analysis allows procurements to be mapped against a cost/risk matrix (see diagram). It highlights categories where a more hands-on style of management may be appropriate (the Strategic/Critical quadrant in particular) and where it will be in the

interests of the Council to build relationships with providers. It will also identify categories most suitable for automated, streamlined management through the use of frameworks or e-catalogues for example (the acquisition/routine quadrant in particular).

Portfolio analysis (Kraljic Matrix)

Criticality/ Risk/ Market difficulty	High	Critical /Bottle neck	Strategic /Critical
	Low	Acquisition/ Routine	Leverage
		Low	High

Spend/Cost Impact

- 3.26 Activity will focus on key spend areas targeting resources where they are most effective.
- 3.27 Procurement solutions will be different for each category of spend. These will vary from national collaborative solutions to local ones to ensure a mixed economy of service provision.
- 3.28 Category strategies and action plans will be developed that will clearly identify, how, when and where efficiency savings are going to be delivered. The plans will give consideration to:
- An appraisal of the supply base to determine the level of competition within the marketplace.
 - An appraisal of the contract landscape both within the Council and outside to determine the suitability of collaboration with potential partners at a sub regional, regional and National level.
- 3.29 Cross Council teams will be developed that will be led by the category managers. The teams will include the procurement coordinators from various services. This will ensure that procurement has a broader role as a centre of commercial expertise and a strategic partner in service delivery capable of developing innovative solutions.
- 3.30 Category managers will work together with procurement coordinators to ensure compliance with procedures and corporate contracts to ensure value for money and management of risk through the avoidance of off contract expenditure.

Supplier Relationship Management (SRM)

- 3.31 Supplier Relationship Management is an important element of Category Management. It is an ongoing activity that will be applied to all current, significant suppliers.
- 3.32 SRM recognises that different relationships will be required with different suppliers/providers. The type of relationship will depend largely on the criticality and/or value of the goods or services they supply, and factors such as the number of suppliers in the market, and the global availability of a requirement.
- 3.33 SRM will allow the development of strategies for dealing with suppliers to achieve ongoing value for money, and reduce the risk of poor performance or non-delivery or non-availability. It allows the Procurement Unit to focus effort on the right suppliers and ensure that the supplier is not managing us.
- 3.34 For many suppliers, it will not be necessary to expend significant resources building a relationship, and an operational-type management style will be sufficient, but for others it may be necessary to enter into full relationship management. This will not be a 'cosy' option – it will require a drive for continuous improvement and ongoing communication management, cost management and benchmarking.
- 3.35 The success of this approach will depend on the buy-in from suppliers and we will have to determine how they value our business. Supplier preferencing will assist with this and is based on the matrix below.

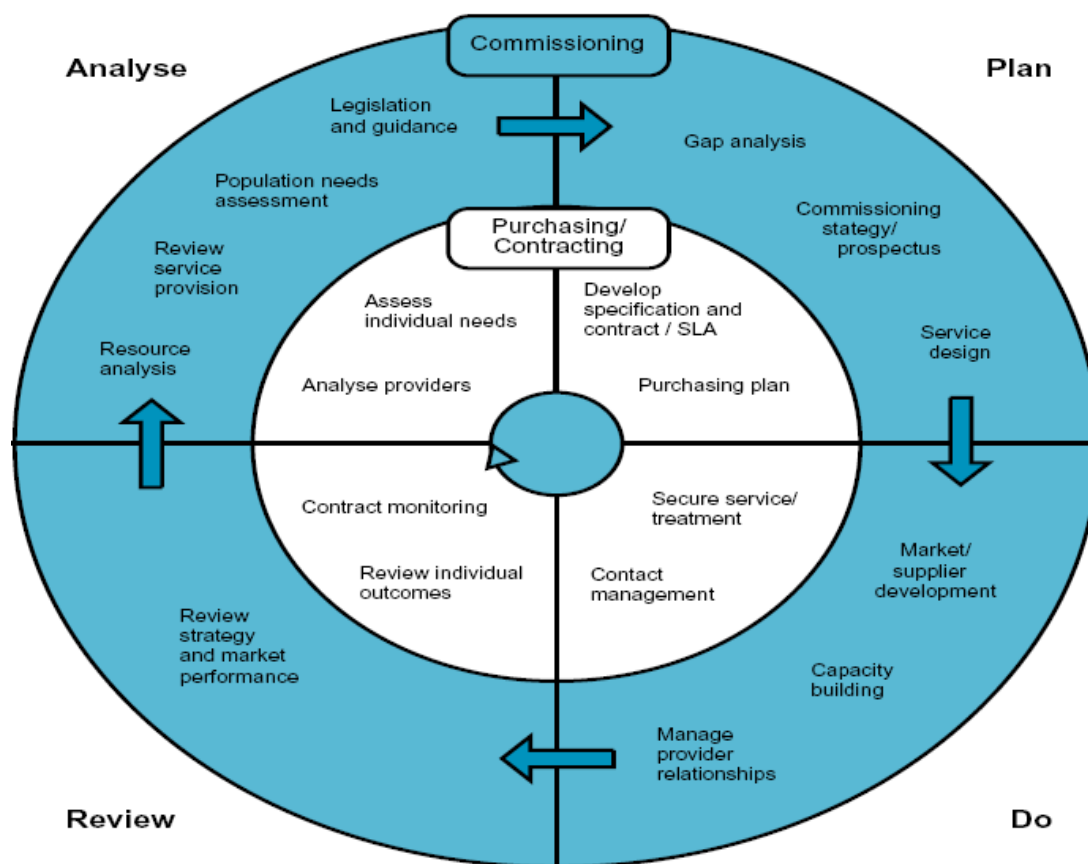
Supplier perception of clients

Attractiveness of Account	High	Develop	Core
	Low	Nuisance	Exploit
		Low	High
		Customer Spend	

Commissioning led Procurement

- 3.36 Cheshire East Council will adopt a strategic Commissioning led approach to procurement.
- 3.37 Commissioning can be defined as “The Strategic Activity of assessing needs, resources and current services and developing a Strategy to make best use of (available) resources”

- 3.38 This is about ensuring the needs of the users or the business needs are predominant in the commissioning and procurement process. This ensures that the emerging needs, best practice, market analysis and available resources are taken into full account when developing procurement plans and strategies. It further ensures historical provision patterns (including in-house) do not unduly distort future purchasing decisions.
- 3.39 The diagram below details a typical commissioning and procurement cycle. It must be noted that commissioning activity drives the procurement activity.



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(DCLG Needs analysis, Commissioning and procurement for housing related support)

Efficiency Savings Plan

- 3.40 The Corporate Procurement Unit will develop an annual procurement efficiency savings plan that is informed by the category management plans.
- 3.41 This plan will identify the areas of spend that the Unit will target, benchmark the current position and detail the anticipated savings.

- 3.42 The plan will apply consistency to the approaches to definition, approval and reporting of savings by the Council and the Sub Regional Hub.

Collaboration

- 3.43 We will seek to collaborate on procurement activities at the widest possible level, both internally with services and externally with other Public sector organisations mainly through the Sub Regional Procurement Hub.

- 3.44 Benefits will include:

- Improved value for money due to economies of scale
- Greater leverage in the market and greater provider loyalty
- Access to resources and ideas from others working in the same environment
- Sharing of the procurement burden.

- 3.45 Collaboration will be eased by:

- Working with organisations which enable collaboration such as the North West Improvement and Efficiency Partnerships, Office of Government Commerce Buying Solutions and other Councils through the Sub Regional Procurement Hub who may already have a contract in place
- The pooling of procurement resource and/or budgets
- Clear supportive statements in Commission Strategies, Procurement Strategies etc and senior management commitment
- Written agreements with partners on the split of roles and responsibilities, or Service Level Agreements if necessary
- Involving partners in the requirement, development and evaluation processes

Contract Management and the control of contracts

- 3.46 All contracts over £50K in contract value will be detailed in the contracts register and any renewal requirements reflected in the procurement plan.

- 3.47 Contract management is an integral part of procurement. We will ensure that all contracts are adequately managed and monitored to ensure completion of service delivery on time, within budget and in accordance with the specification.

- 3.48 As a minimum, for contracts at £100,000 or over, we will allocate clear responsibility for contract management, schedule regular contract review meetings (where appropriate), monitor current performance and performance trends and know the level of mutual business dependency.

E- Procurement

- 3.49 E-Procurement is the use of electronic tools and systems to increase efficiency and reduce costs during each stage of the procurement process.
- 3.50 The Council will look to embrace this technology where there are demonstrable benefits to the Council. This will include:
- Continuing the development of electronic internal procurement processes and procedures
 - Increased use of on line market catalogues
 - Introduce the use of Tender and Contract management software for the quotation and full tender process including e-tendering
 - Advertising all tender opportunities on an on line regional portal
 - Increase the use of purchase cards for low value purchases where appropriate.
 - Financial evaluation of suppliers, through use of an electronic on line system,

Sustainable Procurement

- 3.51 Sustainable Procurement is about the optimum combination of environmental, social and economic considerations. The Procurement Unit will develop a sustainable procurement policy that will seek to address the following:
- The introduction of a whole life costing approach to procurement activity rather than the purchase price.
 - The inclusion of environmental and social considerations into the specifications and evaluation criteria where this is appropriate and legal to do so.
 - Developing the evidence base on sustainable procurement; Identifying priority areas with specific targets and key performance indicators.
 - Introduction of a range of mandated products reaching minimum environmental standards.
 - Work with key public sector suppliers to raise sustainability awareness and performance.
 - Ensure that officers involved in procurement activity receive appropriate training.
 - Remove barriers and increase opportunities for increased sustainable procurement activity.
 - We will seek to undertake disposals in the most cost effective manner having due regard for the wider environmental considerations.
- 3.52 In addition we will seek to achieve the appropriate level and milestones detailed within the flexible framework introduced by the Sustainable Procurement Task Force around the 5 key themes of

People, Policy, Strategy & Communications, Procurement Process, Engaging Suppliers and Measurement & Results.

Local Economy and 3rd sector

- 3.53 All procurement activity that the Council undertakes is subject to strict Public sector procurement legislation. This prevents the Council from showing favour to local businesses.
- 3.54 The Council has one of the largest spends in the area and recognises the impact that this can have on the local economy. As such we will seek to increase the level of business that is awarded to local companies and 3rd sector organisations.
- We will engage with local businesses and the 3rd sector to explain how to obtain Council business.
 - We will publish long term procurement plans.
 - We will make the procurement process simple, fair and transparent.
 - All tender opportunities will be advertised on a regional portal.
 - We will manage procurement professionally and strategically.
 - We will encourage good practice between prime and sub-contractors.
 - We will use standard documentation wherever possible including a Council wide pre-qualification questionnaire containing common core questions with limited bespoke additions for each contract.
 - Where possible we will package requirements in a manner that does not preclude Local and regional companies, SME's and social enterprises from tendering.

Equality and Diversity

- 3.55 The Council has a duty to ensure that its expenditure does not lead to unlawful discrimination and social exclusion.
- 3.56 We will use all the powers available, including the provisions of the Local Government Act 1988, the Transfer of Undertakings - Protection of Employment Regulations (TUPE) 1981, the Race Relations Act 1976 (Amended 2000), the Disability Discrimination Act 1995, the Sex Discrimination Act 1975 and the Code of Practice on Workforce Matters in Local Council Service Contracts to ensure that equalities issues are addressed in the procurement of goods, works and services.

Leadership

- 3.57 The Unit will act as a centre of excellence and expertise on procurement. It will forge close relationships with the services becoming aware of their outcome requirements and supporting their delivery.

Skills and capability

- 3.58 The unit will seek to develop a training solution to ensure that all officers involved in procurement activity have the appropriate skills to the activity undertaken. We will look to deliver this through an e-learning package that will be modular in design.

Performance Management and Measurement

- 3.59 Procurement will be subject to a series of performance measures. The performance of the procurement function will influence a number of National indicators and ultimately our Comprehensive Area Assessment review.
- 3.60 The performance of Procurement within Cheshire East Council will make a significant contribution to the managing resources score within the Comprehensive Area Assessment review. This strategy details how procurement activity will support the four underpinning concepts of sustainable development, equality, diversity and human rights, vulnerable people and value for money.
- 3.60 The wider procurement activity is subject to a number of milestone achievements in respect of e-procurement and sustainability against which our performance will be measured.
- 3.61 The Procurement Unit will develop a series of internal performance measures which will be reported upon accordingly and be used to measure performance outcomes.
- 3.62 We will manage performance by:
- Ensuring that specifications have measurable outcomes.
 - Producing a procurement plan to enable a coordinated, structured approach to the procurement with adequate resources and opportunity for challenge.
 - Ensuring that there is adequate contract management at the appropriate level.
 - Undertake risk analysis and management of the procurement process including gateway reviews on high value / high risk procurements.

Code of Conduct for Procurement

- 3.63 All procurement activity must be undertaken to the highest standards of ethics and probity. The Council insists on ethical standards from its suppliers, and in turn it must exhibit the highest ethical standards itself. Officers and members must not only be fair and above board in all business dealings, but should also avoid any conduct that is capable of having an adverse interpretation put on it.

Contact details

3.64 Any queries relating to this strategy should be directed to:

David Wharton,
Procurement manager,
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Westfields,
Middlewich Road,
Sandbach,
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CHESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Borough Solicitor
Title: Borough Status – Council Name

1.0 Purpose of Report

- 1.1 To consider the practical implications that flow from the grant of borough status and agree a consistent approach to the use of the word 'borough' (which does form part of the Council's 'official name').

2.0 Decision Required

- 2.1 It is recommended that:
- 2.1.1 The name Cheshire East Council if required be used for any purpose except the circumstances at 2.1.2 below.
- 2.1.2 The name Cheshire East Borough Council be used where on the advice of the Borough Solicitor it is appropriate to protect the Council's legal position.

3.0 Financial Implications for Transition Costs

- 3.1 There are none anticipated.

4.0 Financial Implications 2009/10 and beyond

- 4.1 There are none anticipated.

5.0 Legal Implications

- 5.1 It is critical that the Council utilises its official name of Cheshire East Borough Council for a range of formal purposes to ensure the legality and enforceability of its actions.

6.0 Risk Assessment

- 6.1 Failure to utilise the Council's official name for formal purposes could render its actions void and unenforceable. There is the attendant risk of reputational damage as a result.

7.0 Background and Options

- 7.1 The Cheshire (Structural Changes) Order 2008 states that Cheshire East Council is a district council (but does not include a requirement to utilise the work 'district' in its title).
- 7.2 The Council successfully petitioned for borough status which takes effect on the 1st April 2009.
- 7.3 Section 245 of the Local Government Act 1972 deals with the method to secure and the effect of gaining borough status and states that 'the council of the district shall bear the name of the council of the borough'.
- 7.4 Cheshire East Council will become Cheshire East Borough Council on the 1st April 2009.
- 7.5 Members have already indicated that they do not want the word 'borough' to appear generally and that they wish to have a consistent approach to branding.
- 7.6 There is no further guidance on the use of branding by local authorities, but the practice is relatively common. Whilst there appears little risk that the use of branding would be challenged, there is no specific legal power authorising it.
- 7.7 It is essential that the Council is clear when the official name must be utilised and when it is able to deploy branding.
- 7.8 The official name must be used whenever a failure to do so could bring into question the legal authority to take action, namely:
- Legal proceedings
 - Legal notices and orders
 - Contracts (including insurance)
 - Land transactions
 - Bank accounts
 - Invoices
 - Council summonses, agendas and minutes (but not necessarily reports)
- 7.9 The official name should also be used wherever a failure to do so could cause confusion or where there is any risk that the Council's interests could be prejudiced by failing to include it. That is not to say that it need affect the use of branding, but the full name would appear somewhere e.g. as a footnote (perhaps 'Cheshire East Council is the brand name of Cheshire East Borough Council'). An example where this would apply is in correspondence utilised in debt management. Ultimately, the documents may be used in proceedings and will refer to financial documents (invoices) which will include the official name.
- 7.10 Branding will be used in a variety of situations without the need for the official name, e.g. promotional items (leaflets, Cheshire East News, pens, bags, banners, flags etc); on vehicles and uniforms; identity badges (although some may need additional wording if they authorise officers to enter premises); signs

on council buildings; notepaper and compliments slips; and the Website (though some linked documents may include the official name).

- 7.11 The Council Seal will include the official name Cheshire East Borough Council, but for the time being it be plain and just include those words. Usually councils have armorial bearings that are used on the seal. It would not be appropriate to adopt the logo for these purposes. This can be updated when a grant of arms is secured when the armorial bearings can feature on the seal.

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

- 8.1 It is essential that a consistent approach to naming and branding be adopted from Day One to avoid prejudice to the Council's interests.

9.0 Reasons for Recommendation

- 9.1 To ensure that clear instructions can be given to officers and Members about the use of the Council's official name.

For further information:

Portfolio Holders: Councillor Frank Keegan and Councillor David Brown

Officer: Andrew Leadbetter and Jo Rozsich

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Background Documents:

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CESHIRE EAST COUNCIL

CABINET

Date of meeting: 24 March 2009
Report of: Borough Solicitor
Title: Cabinet Decision-Making Arrangements

1.0 Purpose of Report

- 1.1 To redefine individual decision-making powers for Cabinet Members.

2.0 Recommendations

- 2.1 That

- (1) Governance and Constitution Committee recommend to Council that the provisions set out in paragraph 8.2 of this report be adopted in respect of individual Cabinet Member decision-making;
- (2) Governance and Constitution Committee recommend to Council that the extra provision regarding Key Decisions referred to in paragraph 8.4 be rescinded;
- (3) the proposed arrangements for individual Portfolio Holder decision-making as outlined in this report be approved and implemented with effect from 1 April 2009; and
- (4) Governance and Constitution Committee recommend to Council that these arrangements be incorporated into the Council's Constitution as appropriate.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 None

5.0 Legal Implications

- 5.1 The proposals in this report depend on Cabinet Members making decisions in public. Were this not to be the case, the definition would have to be revisited.

6.0 Risk Assessment

- 6.1 Having clearly documented decision-making arrangements will minimise the risk of legal challenge.

7.0 Background/Context

- 7.1 Local authority decisions are taken either by the Council or by the executive (the Cabinet). The division of functions is determined by law. Executive functions may be delegated to an individual Cabinet Member (Portfolio Holder), a committee or sub-committee of the Cabinet or an officer.
- 7.2 Previous attempts to define individual decision-making powers for Cabinet Members have resorted in part to the definition of a Key Decision, as contained in paragraph 8 of Part III of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. This is:

an executive decision which is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

8.0 Alternative Approach to Individual Decision-Making

- 8.1 The existing scheme for individual decision-making by Cabinet Members requires further clarification. Members have found the concept of a 'Key Decision' difficult to interpret and confusing. It is therefore suggested that we do not attempt to redefine it and adopt simpler categories.
- 8.2 It is suggested that the Constitution be amended to empower individual Cabinet Members to make all executive decisions in respect of their portfolio areas except:
- (a) Decisions already taken by Cabinet or an officer acting under delegated powers.
 - (b) Decisions involving a departure from the Council's Budget and Policy Framework or any Cabinet or regulatory committee policy.
 - (c) Decisions involving expenditure or savings of £1 million or more.
 - (d) Decisions which are significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.

(e) Decisions which the leader wishes to be taken by full Cabinet.

PROVIDED THAT all such decisions shall be taken in public and that regard shall be had to the advice of the Borough Solicitor by the decision-maker in interpreting these provisions.

8.3 It should be noted that expenditure of under £1 million could still technically be significant in terms of its effect on local communities and Members might therefore wish to abandon exemption (d) on the basis that the scale of the operations of a large unitary council make this less relevant. Individual Members might still wish to refer such decisions to full Cabinet as a matter of commonsense.

8.4 The Council has previously resolved to include the following provision in respect of Key Decisions. This provision was taken from the County Council's Constitution.

"The Council has decided that the letting of any contract by the Council's [Business Services Officer] or the Council's [Policy Officer], which involves the provision of services to, or the purchase of goods and services by, the Council shall be excluded from the definition of a Key Decision where such contracts relate mainly to the internal workings of the authority and do not therefore have a significant impact directly on local communities in the same way as other Key Decisions. Such contracts include advertising, library books, vehicles, consumables, food, gas, electricity and cleaning of Council premises."

However, on further consideration, this provision is flawed. Significant expenditure on internal matters can still be a Key Decision because it is significant with regard to the budget or service. It should therefore be deleted.

8.5 Under the Constitution, Officers have delegated powers to take decisions up to specified financial thresholds. Any decisions exceeding these thresholds would be referred to individual Portfolio Holders or to full Cabinet as appropriate. It is therefore suggested that the exemption in paragraph 8.4 be rescinded.

9.0 Public Decisions by Individual Cabinet Members

9.1 The Cabinet, at its meeting on 6 January, approved outline arrangements for decision-making by individual Cabinet Members. These included arrangements for consultation with key Officers and for the recording of decisions. However, the question of whether such decisions should be taken at formal public meetings was left open, as was the question of participation by non-executive Members.

9.2 Full Cabinet meetings are held in public except during the consideration of confidential or exempt information. It is suggested that individual Portfolio Holders also take their decisions at formally constituted public meetings. This would serve to demonstrate that the new Council was open, inclusive and accountable, and would also ensure a consistent approach to all executive decision-making by

Members. It would furthermore enable non-executive Members to participate more fully in the democratic process by attending and contributing to such meetings.

- 9.3 It is suggested that as with full Cabinet, the relevant scrutiny chairman/spokesmen for the portfolio in question be entitled to attend such meetings and speak on any matter on the agenda. Members may wish to extend similar rights to any local Members whose areas are affected by a particular decision on the agenda for a meeting. In addition, as with full Cabinet, any other Member of the Council would have a right to attend any formal meeting and, with the permission of the person presiding, speak on an item. Agendas and reports would be produced for Cabinet Member meetings in the usual way and relevant Officers would be in attendance. Following the meeting, the decisions would be published on the Council's website.
- 9.4 It is proposed that scheduled meetings for individual Cabinet Members be included in the calendar of meetings. It may be possible to group some individual Members together for this purpose where there is a close relationship between portfolio areas. For instance, at the County Council, the two Executive Members responsible for Planning and Waste and for Highways and Transportation attend an 'Environment Executive' meeting.
- 9.5 There would also be no reason why individual Cabinet Members should not be able to take their individual decisions at meetings of the full Cabinet. This would be useful in those circumstances where a decision could not await the next scheduled meeting of the Portfolio Holder and a full Cabinet meeting was imminent. Such arrangements currently operate at the County Council and provide greater flexibility. The alternative approach would simply be to take the matter to full Cabinet for collective decision. It is suggested that both approaches be allowed in order to provide maximum flexibility in decision-making.
- 9.6 If Members decided not to adopt public decision-making, the more generous formula in section 8 would have to be revisited because of the implications for Key Decisions.

10.0 Reasons for Recommendation

- 10.1 To determine the arrangements for Cabinet decision-making within the Cheshire East Council from 1 April 2009.

For further information:

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Background Documents: None

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

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