

Cabinet Agenda

Date: Tuesday, 20th April, 2010
Time: 2.00 pm
Venue: The Capesthorpe Room - Town Hall, Macclesfield SK10 1DX

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.

In order for an informed answer to be given, where a member of the public wishes to ask a question of a Cabinet Member three clear working days notice must be given and the question must be submitted in writing. It is not required to give notice of the intention to make use of public speaking provision but, as a matter of courtesy, a period of 24 hours notice is encouraged.

Please contact Cherry Foreman on 01270 686463
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

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

To approve the minutes of the meeting held on 16 March 2010.

5. **Key Decision CE09/10-39 Dementia Strategy - Building Based Services Review** (Pages 5 - 14)

To consider recommendations for the further implementation of the Council's approach to the redesign of adult social care services and to its strategy for dementia services.

6. **Transformation of Highways Services** (Pages 15 - 22)

To consider how the Council is seeking to transform the delivery of highway services.

7. **Notice of Motion - Highway Winter Maintenance** (Pages 23 - 26)

To consider a response to the Notice of Motion submitted to Council on 25 February 2010.

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

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

9. **Managing Workforce Change** (Pages 27 - 32)

To consider the report of the Head of Human Resources and Organisational Development.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 16th March, 2010 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor W Fitzgerald (Chairman)
Councillor B Silvester (Vice-Chairman)

Councillors R Domleo, D Brown, P Findlow, F Keegan, A Knowles, J Macrae
and R Menlove.

Councillors in attendance:
Councillors R Fletcher, O Hunter, A Moran, D Stockton and A Thwaite.

Officers in attendance:
Chief Executive, Borough Solicitor, Borough Treasurer and Head of Assets,
Head of Services for Children and Families, Human Resources Delivery
Manager and Strategic Director Places.

197 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor P Mason.

198 DECLARATIONS OF INTEREST

There were no declarations of interest.

199 PUBLIC SPEAKING TIME/OPEN SESSION

There were no questions from members of the public.

200 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 16 February 2010 were approved as a
correct record.

201 DETERMINATION OF ADMISSION ARRANGEMENTS

Consideration was given to the outcome of consultations held during the
spring term on the Councils proposed coordinated scheme and admission
arrangements for community and controlled schools; in accordance with
statutory requirements these needed to be determined by 15 April 2010.

Once determined the coordinated scheme would apply to applications for
places in maintained schools and academies for the school year 2011-
2012, and to 'in year' applications from September 2010. For community

and controlled schools admission arrangements the effective date would be from September 2011.

It was noted that since the circulation of the report the proposals had been considered by the Admissions Forum at its meeting of 9 March, as stated in paragraphs 11.17 and 11.18 of the report. In light of the Forum's recommendations references to a tenancy agreement of 12 months; contained in Appendix 1 (paras 4.4, 7.2 and 8.1) and Appendix 2 (page 5 and 6), had been removed. In addition, the published admission number of 17 contained in Appendix 4 in respect of Ash Grove Primary and Nursery School had been amended to 15: amended copies of these documents were circulated at the meeting.

RESOLVED

For the reasons set out in the report, that approval be given to:

1. the proposed coordinated admission scheme (Appendix 1 of the report as amended), 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;
2. the proposed admission arrangements (Appendix 2 of the report as amended) 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
3. notification of the determined arrangements being given to all consultees within 14 days of determination.

202 **PEOPLE AND ORGANISATIONAL DEVELOPMENT STRATEGY
2010 - 2015**

Consideration was given to the first comprehensive People and Organisational Development Strategy for Cheshire East Council for 2010 – 2015. It set out how the Council would ensure it had a skilled, motivated and high performing workforce which in turn would support the Council in realising its vision and enable continued improvements and transformation.

RESOLVED

For the reasons set out in the report: -

1. That the People and Organisational Development Strategy 2010 – 2015 be approved.
2. That Cabinet receive a bi annual progress report on the Strategy.

203 **EXCLUSION OF THE PRESS AND PUBLIC**

That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

204 **MANAGING WORKFORCE CHANGE**

Consideration was given to the report of the Head of Human Resources and Organisational Development.

RESOLVED

For the reasons set out in the report: -

That Cabinet supports the decision of the Chief Executive to release the employees whose roles are listed on Appendix A, Section A of the report under the arrangements agreed in relation to voluntary severance provisions for employees in the Council.

That Cabinet notes those employees whose roles are listed on Appendix A, Section B of the report who may become compulsorily redundant and would receive payments under the arrangements agreed in relation to severance provisions for employees.

The meeting commenced at 2.00 pm and concluded at 2.25 pm

W Fitzgerald (Chairman)

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CHESHIRE EAST COUNCIL**REPORT TO: CABINET**

Date of Meeting:	20 April 2010
Report of:	Phil Lloyd – Head of Adult Services
Subject/Title:	Dementia Strategy - Building Based Services Review
Portfolio Holder:	Councillor Roland Domleo

1.0 Report Summary

- 1.1 This report contains recommendations for the further implementation of the Council's approach to the Redesign of Adult Social Care Services and to its strategy for Dementia Services, which was agreed by the Cabinet at its meeting on 16th June, 2009.
- 1.2 In particular, it recommends the Cabinet to decide that a Procurement exercise should be undertaken to commission consultants (it is hoped, in partnership with Central and Eastern Cheshire Primary Care Trust) to develop costed options for the development of new facilities to meet the needs of Older People suffering from Dementia.

2.0 Decision Requested

The Cabinet is recommended to decide:-

- 2.1 To note the further work described in this report which has been taken forward to progress the implementation of the Cabinet's policy of gradually developing more specialised provision for those with Dementia, and of reducing over time the extent of the Council's reliance upon institutional, building based services.
- 2.2 To agree that negotiations should be undertaken with Central and Eastern Cheshire Primary Care Trust (CECPCT) to seek their support for consultants to carry out an exercise to develop specific proposals for how Cheshire East Council and the CECPCT should provide services for older people suffering from dementia in the area in the future.
- 2.3 To agree, subject to the outcome of those negotiations, that a procurement exercise should be undertaken to secure the services of consultants.
- 2.4 To acknowledge that any capital and revenue implications which arise from the proposals generated by this exercise, will be presented in a further report to the Cabinet, setting out the options and their potential impact upon the financial situation of the Council.
- 2.5 To agree that an exercise should be undertaken to gather the views of existing and recent service users (and their carers) of Cypress House, a Community Support Centre in Handforth, around the option of closing that provision, both to contribute to the re-commissioning of resources

for the creation of new specialist services, and to address its significant under-utilisation.

- 2.6 To request that a report be made to the Cabinet setting out the views expressed during that exercise and the proposed response to them.

3.0 Reasons for Recommendations

- 3.1 There are a number of reasons for the recommendations made in this report.
- 3.2 First and foremost, the Council's objective must be to secure better services for users and their carers. Cheshire East has an older population than the average English Local Authority. It can therefore be anticipated that the needs of older people with Dementia will become an increasing focus of strategic attention. Moreover the expectations of service users and carers are changing significantly, rendering some of our old service responses no longer relevant. It will be crucial for the Council to respond to those changes appropriately.
- 3.3 The Council is committed to developing its response to the National Dementia Strategy. A specific group to focus attention upon Services for Older People has been established as part of the Health and Wellbeing Thematic Partnership of the Local Strategic Partnership. A key deliverable from that group will be a joint commissioning strategy in relation to Services for Older People. The commissioning of services for Older People with Dementia will necessarily be a key part of that overall joint commissioning strategy.
- 3.4 The Redesign of Adult Social Care Services is one of the big Transformation projects of Cheshire East Council. A fundamental element within that Redesign is a shift away from reliance upon Building Based Services. As a Council we have inherited some traditional service provision. A key transformational challenge is to develop service solutions which are relevant to today's needs, rather than the needs of yesterday.
- 3.5 The Council is required to make effective use of its assets and its staff and to deliver Value for Money. In that context, it cannot ignore significant under-utilisation of resources, which arises as potential service users turn away from old fashioned provision.
- 3.6 More specifically, the Council's revenue budget for 2010/2011, as agreed by Full Council at its meeting on 25th February, 2010, requires the Adult Services of the People Directorate to deliver a reduction of £750,000 within its Provider Services. The recommendations contained within this report are fundamental to the delivery of that agreed reduction.

4.0 Wards Affected

- 4.1 All wards could be affected by these proposals

5.0 Local Ward Members

- 5.1 n/a

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 These proposals are in line with the Council's approach to the redesign Adult Services and the further development of our approach to the National Dementia Strategy as it affects building based services.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 None.

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

- 8.1 This strategy is designed to improve outcomes for users while delivering the challenging budget set for Adult Services involving an overall reduction of £2.995M in 2010/11 before corporate procurement reductions are allocated out. These reductions which form part of the 2010/11 budget specifically include a reduction of £750k in respect of Provider services Building Based Services. The rationalisation of one centre will help to achieve the targeted savings for one element of the 2010/11 budget. The cost of the commission to develop proposals will be funded from Social Care Reform Grant.

The capital cost of provision of new facilities will potentially be shared with partners and also part funded through the realisation of land and buildings where current provision is located – some of which is prime development land. Longer term capital and revenue implications will be presented as part of the options appraisal and will then be fed into the Council's medium term financial strategy and future budget setting exercise.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 The proposals contained within this paper will enable the Authority to continue into the future to comply with its statutory duty to meet the needs of persons with a critical or substantial need for community care services under Section 47 National Health Service and Community Care Act 1990.
- 9.2 There is no statutory requirement for consultation in respect of the possible closure of Cypress House. However, it is appropriate to seek the views of affected service users and for these to be taken into account before any final decision is taken as to closure. Any consultation must contain four elements, known as the Sedley Requirements (R v Brent London Borough Council, ex parte Gunning (1985))

84 LGR 168) and it would be good practice for these principles to be followed in this matter. The Sedley Requirements are as follows:

- 1 The Consultation must be at a time when proposals are still at a formative stage
- 2 The proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response
- 3 That adequate time must be given for any consideration and response
- 4 That the result of the consultation must be conscientiously taken into account in finalising any proposals

9.3 It should further be noted that it was stated in *R (Madden) v Bury MBC* [2002] EWHC 1882 (Admin) that consultation will be held to be inadequate if the residents are not given the true reason for the closure and for why one home was favoured to remain open rather than another. Therefore in seeking the views of affected users and carers of Cypress house it is important that they be provided with full information as to why it has been selected for possible closure in preference to any of the other Community Support Centres.

9.4 The Authority has a duty under the Disability Discrimination Act 2005 to take into account the impact of these proposals upon affected service users and to carry out an Equality Impact Assessment before reaching any final decision to substantially vary service provision.

9.5 The Local Authority is permitted to work jointly with other bodies to provide services to its residents. However, there are restrictions in respect of some of the work that can be undertaken jointly e.g. procurement exercises and therefore officers will seek legal advice in respect of the specific options that are identified for future joint working.

10.0 Risk Management

10.1 As with all major transformation projects, risks will be identified and mitigating actions taken. A risk register will be maintained by the Steering group implementing this project.

11.0 Background and Options

11.1 The Council's internal Provider Service has already undergone significant transformation in line with the redesign of Adult's Social Care and its underpinning principles of addressing changing demand, maximising efficiency, and responding to personalised needs. The overarching strategy for the Internal Provider Service has been to redefine its core purpose to deliver services in the following areas:

- Reablement to improve outcomes and reduce care costs.
- Specialist Services for Long Term Conditions (e.g. Dementia / Complex Needs).
- Back up & benchmark for Market Failure.

- 11.2 On 16 June 2009 Cabinet agreed that the recommissioning of the Council's Community Support Centres (CSCs) is fundamental to its implementation of the National Dementia Strategy. To that end it further agreed that the development of new and enhanced services at Lincoln House in Crewe should *constitute the first phase* of the Council's implementation plan, with services currently provided at Santune House being transferred to Lincoln House and Santune House closing. As the agreed approach continued the report indicated that other CSC's would be considered at a later stage to help address capacity issues which in turn, helps to maximise the quality of the project delivered. It should be noted that there are no permanent or long-term residents in the Council's Community Support Centres.

The report also noted specifically that, "Cypress House at Handforth and Mountview in Congleton- will be considered as the impact of the social care re-design process becomes apparent". This impact is now apparent and is outlined in this report.

- 11.3 The Report noted that the CSCs have begun to show their age in recent years. Their service offer is a traditional one and it is building based. The buildings themselves have not been updated and they now require very significant investment if they are to be brought up to modern standards. There are few en-suite rooms in any of our Centres. Older People are obliged to share communal bathroom facilities. Few today would tolerate those arrangements if they were staying in a hotel. Additionally, Health and Safety requirements are proving more and more difficult to meet. It is hardly surprising that potential service users have been increasingly turning away from this old-fashioned provision. In recent years, the take up of short stay care in the CSCs has been declining, with consequent increases in unit costs.
- 11.4 The increasing availability of Direct Payments and Individual Budgets has also had an impact, and can be expected to have an increasing impact over time. More and more Older People and their families are becoming able to make arrangements for their own for short stay care and daytime occupation. It can be anticipated that fewer and fewer of them will want to make use of traditional, institutional settings.
- 11.5 The approach agreed by the Cabinet was to close those CSCs which were particularly problematic and which were located very close to another CSC or a significant facility like extra care housing, and to recycle the resources (subject to the approval of a robust Business Case) into the development of new services, particularly for Older People with dementia. The report also noted specifically that, "Cypress House at Handforth and Mountview in Congleton – will be considered, as the impact of the social care redesign process becomes apparent". This impact is now apparent and is outlined in this report.

- 11.6 The future model involves integrating and rationalising current facilities and part of this work will be to determine the final shape of provision. However, current thinking suggests a model on the following lines:
- Two main specialist centres for Dementia – i.e. 1 each in the north and south of the Borough.
 - Two main specialist centres for Adults with Severe and Complex Conditions – i.e. 1 each in the North and South of the Borough.
 - New facilities to provide both short stay residential and nursing care in seamless, integrated and co-located services between the Council and PCT.
 - Investment in Telecare / Assistive Technology for individuals to remain safely in their own homes for longer, to be funded from existing resources.
 - Investment and acknowledgment for carers and respite, to be funded from existing resources.
 - Maximising use of underutilised external provision.
 - Maximising use of Extra Care Housing developments in the Borough.
- 11.7 As noted earlier the Council is already aware that its current provision of Community Support Centres is, to some extent, struggling to respond to user needs and expectations. This is reflected in the current usage of the centres. The level of vacancies across all 5 centres has averaged 21% (i.e. 37 beds) over the last year. In some centres occupancy has peaked at just 58%.

Existing provision and average usage for 2009/10 are:

	Total Capacity	Aver. bed use	Aver. vacant beds
Bexton Court , Knutsford	23 beds	80% (18)	5
Cypress House, Handforth	31 beds	69% (21)	10
Hollins View, Macclesfield	40 beds	65% (26)	14
Mountview , Congleton	36 beds	68% (25)	11
Lincoln / Santune, Crewe	45 beds	64% (29)	16
Total:	175 beds	119 beds	56

- 11.8 Current figures indicate an average demand of 119 beds.. The net effect of this under usage is heavily subsidised individual beds which are neither economical nor competitive. A more efficient use of resources could be achieved by meeting the demand in less centres whilst still allowing for peaks in activity.

12.0 Which is the most appropriate Centre to close?

- 12.1 A public consultation exercise was carried out by the former County Council to establish an appropriate strategy to address this issue and the closure of some Centres was concluded to be the solution. The consultation emphasised the value placed on specialist dementia services and the need to articulate the vision for alternative services of the future before any closures took place. This feedback has informed the revised proposals, together with

learning from the project at Lincoln House which has illustrated the costs of re-providing specialist dementia facilities in the current buildings as an alternative to new purpose build accommodation.

- 12.2 Whilst Bexton Court is the smallest centre it has a Service Level Agreement in place with CECPT for the 18 bedded Tatton Ward and until they find a location for this service its closure could have a considerable impact on the Intermediate Care Strategy. That is our key, joint strategy for ensuring smooth transition from hospital to the community. Bexton Court is also a specialist centre for dementia providing a service for all Cheshire East Borough Council and some residents of Cheshire West and Chester Council (CWAC).
- 12.3 Cypress House is the next smallest of the centres with 31 beds, of which 7 are purchased by CECPT for Intermediate care. The PCT has been consulted and would be able to relocate these beds to under-occupied provision at Hollinsview in Macclesfield and for those with dementia at Bexton Court. Evidence shows that service users are already accessing these services from the Handforth locality
- 12.4 During the last twelve months, the remaining 24 beds were used by 255 service users. Of these, the equivalent of 2 beds were used by 46 carers to access respite care using the one call system (an instant access service for carers). Service users are no longer restricted to the use of in house provision to meet their short term respite needs and some of this demand could be met by alternative local provision using individual budgets. Ten former services users are now resident in the Oakmere, the nearby Extra Care Housing facility. The proximity of Oakmere as a modern facility is relevant to the proposals in this report, as it demonstrates commitment to investment in an area before proposed withdrawal of facilities
- 12.5 The demand for core services – reablement, complex care and crisis Response - could be absorbed in the remaining Community Support Centres pending new build accommodation.
- 12.6 Cypress House also provides day care to 38 service users. Those who are assessed as still requiring this service would be relocated either to Redesmere Day Care in Redesmere Road, Handforth, Wilmslow or community activities at Oakmere Extra Care Housing in Spath Lane, Handforth. Cypress House and Redesmere are currently only averaging 50% and 49% attendance respectively and the proposal is to amalgamate those services.

It is therefore proposed that consideration be given to the possibility of closing Cypress House, as the preferred centre, with users enabled to access similar services at other facilities as part of migrating to the future model because

- It involves a loss of the least number of beds
- Its services can be re-provided in the remaining centres/services

- There is alternative local provision in the new Extra Care Housing scheme and day centre.
- There are alternative independent providers of short stay residential care in the vicinity.
- All the current community support centres are utilised by Cheshire East citizens from throughout the borough.

12.7 The current sale value of Cypress House has been estimated on the basis of current and alternative use and this will generate a capital receipt, once the building has been declared surplus and sold. In addition, the centre has a net revenue budget of £760K some of which will be realised as an annual saving once users and some staff have been relocated to other more effective provision. The remaining staff would be redeployed, but it must be acknowledged that for some redundancy may be the outcome. The closure would therefore provide the opportunity to enhance staffing levels where appropriate at remaining centres to deliver a more intensive level of support, in line with the emerging model of dementia care, while still achieving efficiencies for the Council.

12.8 This would partly meet the revenue saving target included within the 2010/11 budget. It is requested that any capital receipt should be taken into account in developing the business case for the development of new facilities. The cost of redundancies would be funded from an earmarked corporate fund against which this development has already been identified as a potential claim. The Council needs to carry out an exercise to ascertain the views of, and address the impact on, affected users and carers and this will be undertaken immediately. An Equality Impact Assessment will also be carried out. The Cabinet will be asked to make a final decision in the summer of 2010 when the results of the above exercises are available.

13.0 Overview of Year One and Term One Issues

13.0 n/a

14. Access to Information

The first Cabinet Report on Dementia Strategy is available on [http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000241/M00002477/\\$\\$ADocPackPublic.pdf](http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000241/M00002477/$$ADocPackPublic.pdf)

The background papers relating to this report can be inspected by contacting the report writer:

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CESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting: 20th April 2010
Report of: Strategic Director - Places
Subject/Title: Transformation of Highways Services
Portfolio Holder: Cllr Rod Menlove/Cllr Jamie Macrae

1.0 Report Summary

- 1.1 This report outlines how the Council is seeking to transform the delivery of highway services, including replacement of the current term maintenance contract, to drive improvement in highway condition, improve customer perception across Cheshire East and deliver increased value for money. The first objective is to agree a preferred model of service delivery for Cheshire East following the timetable set out in Appendix 1
- 1.2 Our highway network is a corporate priority and in particular the condition of our roads has been deteriorating for several years. The recent pre-budget consultation has confirmed that most stakeholders recognise that the service should be a priority for Cheshire East Council. As a customer-focussed Council, the customer service aspects of highway services are crucial to managing our residents' perception of the new Council.
- 1.3 The procurement of arrangements to replace the existing Highway Maintenance Contract is a key workstream within the Total Transport Transformation programme, one of six major transformation projects supported by the Council. In replacing the existing contract, the Council has the opportunity to modernise the whole of the service by adopting a fresh delivery model.

2.0 Decision Requested

- 2.1 That Cabinet endorse the approach to transforming highways delivery as outlined in this report.
- 2.2 That a Cabinet Sub-Committee is established to manage the delivery of the project in line with the timescales outlined in this report.

3.0 Wards Affected

- 3.1 All Wards are potentially affected by the proposal.

4.0 Local Ward Members

- 4.1 All Ward Members are potentially affected by the proposal.

**5.0 Policy Implications including - Climate change
- Health**

- 5.1 The Total Transport Transformation programme is providing the framework for this project and will address major policy issues including climate change. One of the drivers for the new highways service will be to deliver cost efficiencies and to limit our carbon emissions.

6.0 Financial Implications 20010/11 and beyond (Authorised by the Borough Treasurer)

- 6.1 Significant in house resources from across Legal, HR, Procurement, and the Places Directorate will be required to deliver this project. The identification of the preferred option by end April 2010 will determine the exact scope and nature of the procurement, legal and HR resources required over the next 18 months.
- 6.2 One of the main drivers for this project however is to deliver a higher quality service in the medium term and achieve the efficiency targets of £1m during 2011/12 as identified in the Medium Term Financial Strategy for the Council.

7.0 Legal Implications (Authorised by the Borough Solicitor)

- 7.1 It is difficult to comment with any precision upon the legal implications at this stage, but it is clear that there will be a need for significant legal input (as there will be from other support services, including procurement, human resources and finance) and the project will need to be properly resourced if the challenging timescale is to be adhere to.
- 7.2 Clearly, there will be a need to settle upon the appropriate procurement route and prepare a contract (or contracts) that will best protect the Council's interests. There is a tendency to refer to 'partnering'. However, the Council's interests can only be protected by adequate contractual arrangements. The legal advice is likely to cover a broad range of issues.
- 7.3 Whilst the use of external legal resource may be required in any event, this will certainly be the case if a joint venture or arm's length arrangement is to be pursued. Some early input from independent advisers may be useful in helping to scope out and assess the range of options being considered.
- 7.4 The greater the innovation involved in the process, the more difficult it will be to achieve the deadline, as it is more likely that the Council will

need to follow the competitive dialogue process (which is both resource hungry and lengthy).

8.0 Risk Management

8.1 The timescales involved in procuring a new arrangement by October 2011 are very challenging and present a risk to the Council which can be mitigated in the following ways:

- Agreement on the preferred model of delivery by end April 2010 at the latest
- Utilising existing models that have been procured by other authorities rather than developing a completely new arrangement
- Using a standard contract procurement route rather than entering into a 'Competitive Dialogue' route which is both costly and time consuming.
- Ensuring adequate resources are in place to facilitate the options analysis and procurement process. HR, legal and procurement support is essential to delivery of this project.

8.2 Selecting the appropriate service delivery model is an important decision because it begins to assist in establishing the long-term risk limitation and management levels for the Authority. The type of model selected can influence:

- The allocation of risk and hence cost (where and how risk is managed and priced), the more risk borne by the provider, the more costly the contract, the more risk taken by the client, the cheaper the contract but the risk of unexpected costs falls to the client (Cheshire East Council).
- The culture and structure under which the client and partners work together.
- The methods of appointing and working with the service provider and suppliers.
- Management of requirements and cost of the procurement process.
- The amount of overlap between client and provider – supervision/ administration.
- Client contingency that is required.

9.0 Background and Options

9.1 The Adopted Highway is the Council's largest asset and is maintained to a safe standard through the identification of works required and the implementation of these by Contractors. The Council's highway network has a replacement value of £2.2bn and currently approximately £23M via revenue and capital is spent each year on its maintenance and improvement.

- 9.2 The highway network inherited by Cheshire East is deteriorating and after consistent under investment, this is estimated to be £100M maintenance backlog which to address would require double the amount of investment over 10 years ie. an additional £100M, which is about ten years worth at current spend levels.
- 9.3 The operating model inherited from Cheshire County Council involves a large in house team which is currently split between the Regeneration Service (Strategic Highways and Transportation) and the Environment Service (Highway Operations) within the Places Directorate.
- 9.4 Works vary from repairing potholes and replacing street lighting lamps to full carriageway reconstruction and improvement schemes. Works are identified as a result of regular inspections of the highway; surveys using purpose built scanning machines and reports from the public.
- 9.5 The works are delivered through a variety of contracts that are specific to a particular type of work. The Highway Maintenance Term Contract is by far the largest single contract and it relates to the day to day repairs undertaken on the footways, carriageways and to street lighting, relatively small scale structural maintenance works, including new lighting and signage (with a current maximum value of about £150k). 24hr emergency cover and winter maintenance arrangements. Larger works are tendered and let separately as individual projects.
- 9.6 Cheshire County Council appointed Edmund Nuttall Limited (now known as BAM Nuttall) as Highways Term Maintenance Contractor in 2004. The contract will end at the start of October 2011. Extension of the current contract has been considered; however there are significant drivers to securing improvements in service delivery that we believe cannot be achieved under the current service delivery model. These are:
- The projected reduction of capital funding allocated by DfT – current estimate is between a 15% and 40% reduction from 2011.
 - The major backlog of works necessary to stop the deterioration of and achieve the restoration of the highways network.
 - The priority our communities gave to highways during the recent pre-budget consultation.
 - The important effects of the highway service on customer perception.
 - The need to direct as much resource as possible into front-line delivery and investment into the network
- 9.7 The end of the current term contract provides the opportunity to fully explore the benefits that may accrue from approaching highway services in different ways. In order to address the issues outlined in 9.5 above and to deliver the savings agreed in the Medium Term Financial Strategy it is proposed that the procurement of the new highway services arrangements commences as outlined in this report.

9.8 The range and complexity of arrangements for the delivery of highway maintenance and related services have evolved considerably over the last five years. There are many examples of arrangements that have been implemented to suit the needs of a particular Authority. There is no right or wrong model and each Authority needs to take account of its own specific drivers for change, as well as taking into consideration best practice elsewhere. Some possible approaches are outlined below:

- Highways Term Contract with Professional services all in-house. Projects greater than £150k individually contracted with the private sector (ie. our current arrangements).
- Direct service delivery of routine maintenance and professional services in-house with private contractors delivering medium and larger construction works.
- Direct service delivery of routine maintenance and professional services in-house with partnership with a consultant to take the peaks in design demand, and private contractors delivering medium and larger construction works.
- All professional and operational services integrated into one contract and out-sourced.
- Joint venture, virtual or real, partnership for all highways professional and operational services.
- Council arms length company provision of operational services with internal professional services and projects greater than £500k contracted with the private sector.
- Council arms length company provision of operational services and framework arrangements for projects and professional services.
- All highway maintenance works contracted out and all professional services contracted out under separate contract arrangements.

9.9 A key issue for consideration, in relation to the procurement of highway services is the nature and scale of the 'client' role. Early models of professional services contracting out exhibited wide variations in this, with some Authorities retaining a significant in-house capability and others only retaining a very low level in terms of both numbers and experience. With the newer service delivery models involving more integrated and flexible partnering arrangements, this may be less of an issue, but will remain a key consideration in other cases. One significant issue to consider is transfer of risk and determining where best a risk should lie under the new arrangements as this may well shape the scope and nature of a client organisation.

10.0 Project management/delivery arrangements

10.1 A project of this scale and complexity requires robust project management arrangements therefore, it is proposed that in addition to a Sub-Committee of the Cabinet the project will be managed through an officer project steering group comprising of;

- Strategic Director - Places
- Head of Regeneration
- Head of Environmental Services
- Legal representative
- Finance representative
- Procurement representative

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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APPENDIX 1

Indicative Time Scale

Highways Services Contract - Procurement Process

The indicative timescales for the various stages of the project are:

Determine scope of contract & procurement route ***April 10***

Start Procurement process ***May 10***

(Procurement model will define detailed timetable)

Contract Award / Commence Mobilisation ***May 11***

Contract Start ***October***
11

The above process assumes that the Term Contract is not extended and the existing contract ends on 5 October 2011.

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CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting: 20 April 2010
Report of: Strategic Director - Places
Subject/Title: Notice of Motion – Highway Winter Maintenance
Portfolio Holder: Councillor Rod Menlove

1.0 Report Summary

- 1.1 At its meeting on 25 February 2010, Council considered the following Notice of Motion submitted by Councillors A Arnold and R I Fletcher and resolved that the motion stand referred to Cabinet:

"Cheshire East Council acknowledges and gives thanks to the hard work carried out by its staff, in extremely difficult weather conditions, whilst gritting some of Cheshire East's roads and footways.

Council also calls for the adoption of a Cheshire East policy, by a review of priorities for future years especially with regard to bus routes and roads in the vicinity of primary schools".

2.0 Decision Requested

- 2.1 That Cabinet requests that the planned Environmental Scrutiny of our 'Winter Learning' includes the priority to be given to bus routes and roads in the vicinity of primary schools.
- 2.2 That Cabinet endorses the actions of the Chief Executive and Strategic Director Places in thanking all staff that worked hard to respond to the most challenging winter in almost 30 years.

3.0 Reasons for Recommendations

- 3.1 To ensure that when scrutinising this winter's events Environmental Scrutiny Committee Members consider the priority to be given to bus routes and roads in the vicinity of schools when formulating recommendations for Cabinet approval.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

5.1 All Ward Members.

**6.0 Policy Implications including - Climate change
- Health**

6.1 None arising immediately from this report.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 There are no immediate significant costs in the work proposed.

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 Most highway maintenance and management activities are based upon statutory powers and duties contained in legislation and precedents developed over time as a result of case law, notably the Highways Act 1980, which imposes under Section 41 a duty to maintain a highway at public expense. This duty was expanded with effect from 31 October 2003, by virtue of section 111 of the Railways and Transport Safety Act 2003, to include a duty to ensure, so far as reasonably practicable, that safe passage along a highway is not endangered by snow or ice.

9.2 Even in the absence of specific powers and duties, highway authorities have a general duty of care to users and the community to manage the highway in a condition that is safe and fit for purpose.

10.0 Risk Management

10.1 The Council maintains a Winter Service Plan to address the duties of a Highway Authority in relation to the removal of snow and ice.

11.0 Background

11.1 In its first year, the Council has been challenged by the worst winter conditions for many, many years and steps to make the winter service

more resilient, such as the training of extra gritter drivers and increasing salt storage, have been proven to be sound. Above all the commitment of our staff and contractors in delivering services throughout the whole of this severe period has been commendable.

- 11.2 The Chief Executive and Strategic Director Places have provided highly visible leadership through this demanding period. This has included supporting and recognising the hard work of the staff and contractors bearing the brunt of these strains through site visits, briefings (verbal and written) and in many cases by letter. It is considered that this aspect of the Motion has already been ably executed on behalf of the Council and should be endorsed by Cabinet.
- 11.3 As a Highway Authority, Cheshire East Council has a duty to maintain the highway as set out by Section 41 of the Highways Act 1980 and amended by S111 of the Railways and Transport Safety Act 2003. In particular, the Council is under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice. To comply with this duty the Council has a Winter Service Policy and Strategy contained in its Winter Service Plan 2009/10. Of course, the Duty does not mean that all highways have to be free from ice or snow at all times.
- 11.4 The Winter Service Plan 2009/10 was produced during last summer and the Head of Environmental Services will again oversee the production of our plan for 2010/11. Learning from this year will inform the 2010/11 Plan and the specific suggestions in relation to bus routes and roads near primary schools made in the Motion can ably be included in the considerations that inform next year's plan, as can other former policies such as those relating to Safer Routes to Schools. The Plan contains all the policy requirements for the Council and indicates clearly the priorities for clearing snow and ice. Therefore, the Motion in calling for 'the adoption of a Cheshire East policy, by a review of priorities for future years especially with regard to bus routes and roads in the vicinity of primary schools' will be addressed through the Council's current review arrangements.
- 11.5 The longest and deepest winter for some thirty years has been testing for a new council in its first year. It is widely accepted, particularly as the challenge of the winter conditions were better understood by all commentators that the Council has worked well in most areas once the resources of the Council were fully mobilised. However, we know we can do better and expectations are high and rising. A determination to address this situation has led to a request that Environmental Scrutiny Committee receive a 'Winter Learning' report produced by the Head of Environmental Services as the basis for examining the challenges of the recent winter events.
- 11.6 This report suggests that the main lines of inquiry for Scrutiny Members may be:

- **Minimising travel difficulties, particularly keeping highways open**
- **Supporting isolated communities.**
- **Ensuring all vulnerable people are supported**
- **Managing communications**
- **Disruption/suspension of the waste collection services**
- **Avoiding school closures**

11.7 These lines of inquiry will, of course, enable the specific areas of concern in the Motion to be examined by Elected Members.

12.0 *Access to Information*

The background papers relating to this report can be inspected by contacting the report writer:

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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