

Council Agenda

Date: Thursday, 17th December, 2009
Time: 2.00 pm
Venue: The Assembly 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. **Prayers**
2. **Apologies for Absence**
3. **Minutes of the Meeting held on 15 October 2009** (Pages 1 - 16)

To approve the minutes as a correct record.
4. **Mayor's Announcements**

To receive such announcements as may be made by the Mayor of the Council
5. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda
6. **Public Speaking Time/Open Session**

In accordance with Procedure Rule 35, a total period of 15 minutes is allocated for members of the public to speak at Council meetings.

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

Members of the public must provide 3 clear working days notice, in writing, if they wish to ask a question at the meeting, in order for an informed answer to be given. There is no requirement for notice to be given of the intention to make use of public speaking provision. However, as a matter of courtesy, a period of 24 hours notice is encouraged.

7. **Notice of Motion** (Pages 17 - 18)

To consider the attached Notice of Motion, submitted by Councillors A Moran and D Flude.

8. **Supplementary Estimates Approvals** (Pages 19 - 26)

To approve the Supplementary Capital Estimate and virement requests over £1.0m, or which require funding from later years, or which are funded from reserves, as detailed in Section 11 and Appendix 1 of the report.

9. **Referral to Council of Recommendations from the Governance and Constitution Committee** (Pages 27 - 42)

To consider recommendations to Council from the Governance and Constitution Committee in respect of the following matters:-

- a. Police Authority Representation on the Sustainable Communities Scrutiny Committee (Pages 27-32)
- b. Cabinet Support Members (Pages 33 -38)
- c. Questions at Council (Pages 39 - 42)

10. **Leader's Report to Full Council**

The Leader of the Council to report the following Key Decision, which has been taken under the urgency provisions contained within Council Procedure Rule 44:-

Sale of County Hall, Chester and associated land.

11. **Questions**

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

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

12. **Urgent Items of Business**

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Thursday, 15th October, 2009 at Nantwich Civic Hall, Market Street,
Nantwich, CW5 5DG

PRESENT

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

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

128 COUNCILLOR ALLAN RICHARDSON, OBE DL

The Mayor paid tribute to the late Councillor Allan Richardson who had died on 5th September 2009, aged 89 years. Allan Richardson had been a respected and long-standing Councillor representing the needs of his local community for more than 60 years and had served as a Councillor on the former Cheshire County Council and Crewe and Nantwich Borough Council.

Members stood for a minute's silence in memory of Allan Richardson, OBE DL, following which Members made personal tributes.

129 FORMER COUNCILLORS MOIRA TAYLOR AND MAUREEN CAMPBELL

The Mayor paid tribute to former Macclesfield Borough Councillor, Molra Taylor, and former Crewe and Nantwich Borough Councillor, Maureen Campbell, both of whom had died recently.

130 PRAYERS

The Reverend Charles Razzall said prayers, at the request of the Mayor.

131 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors A Barratt, G Barton, D N Bebbington, S Jones and R Menlove.

132 DECLARATIONS OF INTEREST

The Mayor invited those Members who had any personal or prejudicial interests on general agenda items, to declare them.

Councillor A Moran declared a personal interest in agenda item 8(e) - Crewe Community Governance Review - on the basis that he was a Member of Nantwich Town Council which had been consulted on the proposal. He had spoken and voted in favour of the proposal.

Councillors D J Cannon, D Flude and E Howell each declared a personal interest in agenda item 8(e) on the basis that they were Crewe Charter Trustees.

It was agreed that, for agenda item 8(e), the Borough Solicitor record declarations of personal interest in respect of Councillors who were also members of bodies who had responded to the consultation on the Crewe Community Governance Review, including -

The Worshipful the Mayor, Councillor M J Simon, Councillors B Livesley, G Merry and D Topping by virtue of their membership of Cheshire Fire Authority; and

Councillors W T Beard, R Cartlidge, S Conquest, M A Martin and C G Thorley as Crewe Charter Trustees.

133 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 23rd July 2009 be approved as a correct record.

134 MAYOR'S ANNOUNCEMENTS

The Mayor –

- (1) Announced the recent news from the North-West Employers Organisation, which had confirmed the awarding of the North-West Charter on Elected Member Development, to Cheshire East Council. She commented that this reflected positively on the work of the Member Development Panel, which was chaired by the Leader.

Councillor Fitzgerald responded to the announcement. It was a great honour and he complimented Members for their

conscientiousness; he considered that the shadow year had been an opportunity for dealing with a wide variety of subjects and had enabled Members to learn from that process.

(2) Announced that since the last Council meeting, there had been two notable Civic occasions, namely -

- The Civic Service, held on 20th September, in her Chaplain's Church, which was well-attended by Civic Dignitaries from the neighbouring Councils together with a good many Councillors, and her family and friends; and
- The Mayor's Charity Ball, held on 9th October at Nantwich Civic Hall, which raised much needed funds for her two Mayoral Charities - Hearing Dogs for Deaf People and Action Duchenne, a Charity which lobbied for funding into research into Muscular Dystrophy. Judging by the many kind comments and e-mailed messages received, she said that "we hit the right note by sourcing the food locally, using fantastic local caterers and businesses". Members had also commented that they had enjoyed the entertainment.

These Civic events were not possible without the help and encouragement from the Cheshire East staff who work with the Mayoral Team and she expressed her sincere thanks to all of them.

(3) Announced that take-up of a free swimming programme at Cheshire East's pools was one of the best in the country; Cheshire East was 10th out of 259 participating local authorities across the UK.

The initiative had been set up by the Department of Culture, Media and Sport to encourage people to become more active and enjoy swimming in the run-up to the London 2012 Olympics and Paralympics. It was recognised by London Inspire and supported by Change4Life and was clearly encouraging people to participate in a healthier lifestyle.

The under-16s and over 60s had benefited from this government-led initiative and since its introduction in April 2009, 53,211 free swims had taken place at pools across the borough.

(4) After a stringent assessment by the Institute of Cemeteries and Crematorium Management, the Council's Streetscape and Bereavement Services had achieved first place in the North-West ranking table for organisations providing burial and cremation services. It had also been placed joint second in the National Ranking Table for organisations providing cremation services, from a total of 104 cremation authorities throughout the UK.

New services to ensure the comfort of mourners attending services, such as Braille hymn books, loop systems for the hard-of-hearing and wheelchairs for those who needed them, helped to secure the Council's success, as did the efforts it made to enhance cemetery grounds and attract wildlife, with features such as bat boxes and bird boxes, which could bear a plaque in memory of a loved one.

- (5) Announced that she was pleased to welcome to the meeting, Chris Edwards, the Youth Mayor, who provided Council with an update on his year so far.

He was actively participating in the promotion of young people's activities, becoming involved in youth charities, fund-raising and working closely with the Mayor. Opportunities and achievements so far included collection of the Borough Charter from London, meeting other Mayors across the UK at the Youth Mayors' Conference, and working with Cheshire East Youth Parliament. He had also attended a variety of Cheshire East Council events including the Cheshire Show and Nantwich Show.

In conclusion, he stated that the last few months had provided a great opportunity to become involved with Cheshire East Council which had been worthwhile and interesting.

135 PUBLIC SPEAKING TIME/OPEN SESSION

Hon. Alderman Peter Kent used Public Speaking Time to make a statement in respect of the Crewe Community Governance Review and urged Members to consider a number of issues.

He had attended the Governance and Constitution Committee meeting which had made recommendations to Council, earlier in the day and suggested that the evidence submitted to the Committee indicated that many people had been confused by the proposals and that several speakers at the meeting had accepted that this may have been the case.

He contended that there was sufficient doubt about the validity of the result to justify the Council trying again to establish the views of residents.

His final point was that the Council may not be acting legally under the provisions of the Local Government and Public Involvement in Health Act 2007.

The Mayor thanked Hon. Alderman Kent for his comments and observations.

136 URGENT BUSINESS - COMMUNITY GOVERNANCE REVIEW

Prior to consideration of agenda Item 7 (Notice of Motion), it was proposed that the Order of Business to be dealt with by the meeting of Council be

revised to enable Item 7 to be taken after Item 12 (Urgent Items of Business).

The motion at Item 7 related to the proposed Community Governance Review for the unparished areas of Wilmslow, Handforth and Styal. The Governance and Constitution Committee had met earlier in the day and its recommendations had been circulated to Members in the form of an extract from the minutes of the meeting. The recommendations were relevant to the Notice of Motion at Item 7, and it was, therefore, appropriate to postpone consideration of the Notice of Motion until Council had considered the recommendations of the Committee.

The Mayor agreed that –

(A) In accordance with the provisions of Section 100B(4)(b) of the Local Government Act 1972, in view of :

- the Notice of Motion on the agenda (Item 7),
- the timescale which applied to the conducting of any Community Governance Review which may be required, and
- the fact that the Governance and Constitution Committee had only today made its recommendations to Council

the Community Governance Review (Wilmslow, Handforth and Styal) be considered as an urgent item of business under Item 12 on the agenda; and

(B) The reasons be recorded in the minutes.

RESOLVED

That

Agenda Item 7 (Notice of Motion) be dealt with following agenda item 12 (Urgent Items of Business).

137 REFERRAL TO THE COUNCIL OF RECOMMENDATIONS FROM GOVERNANCE AND CONSTITUTION COMMITTEE

Consideration was given to recommendations to Council from the Governance and Constitution Committee in respect of the following matters –

(A) Delegation of Licensing Functions (Expedited Reviews)

The Governance and Constitution Committee had considered a report on the delegation of functions in relation to expedited reviews under the Licensing Act 2003 from the full Licensing Committee to the Licensing Sub-Committee. The report submitted sought approval for the resulting changes to the Constitution.

At its meeting held on 22nd May 2009, the Licensing Committee had delegated certain functions in relation to “expedited” review applications (ie applications for the urgent review of a premises licence or club premises certificate) to the Licensing Sub-Committee. Whilst the Licensing Committee had the authority to delegate its functions to a sub-committee, any consequential amendments to the Constitution were required to be approved by Council, on the recommendation of the Governance and Constitution Committee.

RESOLVED

That

Following the delegation of functions in relation to expedited reviews under Sections 53A, 53B and 53C of the Licensing Act 2003, from the full Licensing Committee to the Licensing Sub-Committee, the consequential changes to the Constitution, as set out in Appendix 2 to the report submitted be approved.

(B) **Local Ward Members’ Protocol and the Councillor Call-for-Action Protocol**

The Local Government and Public Involvement in Health Act 2007 had emphasised the importance of the role of Ward Members as community leaders and had advocated their empowerment to deal with local issues. The proposed protocols considered by the Governance and Constitution Committee demonstrated how Members, with Officer support, could achieve this.

RESOLVED

That

The Local Ward Members’ Protocol (Appendix A of the report submitted); and the Councillors’ Call-for-Action Protocol (Appendix B of the report submitted) be adopted for incorporation into the Council’s Constitution.

(C) **Public and Member Questions and Statements at Meetings**

At its meeting held on 16th April 2009, the Governance and Constitution Committee had reviewed the arrangements for public and Member questions and statements at meetings following proposals to disapply those provisions of the Council’s Constitution from the meetings of Planning, Licensing and Scrutiny bodies. The Committee decided to seek the views of both the Corporate Scrutiny Committee and the Cabinet. The matter was subsequently considered by the Corporate Scrutiny Committee on 12th June and the Cabinet on 14th July. Cabinet had endorsed the views of the Scrutiny Committee and the recommendations of both bodies were subsequently considered by the Governance and Constitution Committee which had resolved to make recommendations to Council.

RESOLVED

That

The recommendations of the Corporate Scrutiny Committee and Cabinet in relation to public and Member questions and statements at meetings be approved as follows:

- (a) That the existing Planning and Licensing Protocols which override the Member and public speaking and questioning provisions that apply to other committees, be retained;
- (b) That the facility to allow questions by members of the public at meetings of Overview and Scrutiny Committees be removed, but a period of 15 minutes be provided at the beginning of meetings to allow members of the public to make a statement(s) on any matter that falls within the remit of the relevant committee, subject to individual speakers being restricted to 5 minutes each;
- (c) That whilst acknowledging that Planning and Licensing Committees had separate arrangements in place for public involvement, in all other cases, members of the public should provide 3 clear working days notice, in writing, if they wished to ask a question at any other decision-making meeting, in order for an informed answer to be given, but they should not be required to give notice of intention to make use of public speaking provision (although as a matter of courtesy, a period of 24 hours notice should be encouraged);
- (d) That Members of Council, in accordance with the current rules, be required to provide 3 clear working days notice in writing if they wished to ask a question at full Council meetings or Cabinet in order for an informed answer to be given;
- (e) That the existing provisions of the Council's Constitution relating to the way in which questions may be answered be preserved; and
- (f) That the relevant provisions of the Council's Constitution be amended accordingly.

(D) **Cabinet Decision-Making Arrangements**

The Governance and Constitution Committee had considered a proposed change to the existing Cabinet Decision-Making arrangements. Despite Council having agreed that individual Cabinet Members should have their own decision-making powers, the collective Cabinet was still expected to deal with many decisions which could be dealt with on an individual basis. There was a reluctance on the part of Officers to refer decisions to

individual Portfolio Holders and Cabinet Members themselves were reticent in using their powers.

A further reduction in the volume of Cabinet business could be achieved by removing paragraph (d) of the existing restrictions on individual Cabinet Member decision-making. This related to decisions which “are significant in terms of their effect on communities living or working in an area comprising two or more wards”. Many decisions were “significant in terms of their effect on communities” but could readily be taken by the relevant Portfolio Holder. By removing this provision, Council would bring clarity and certainty to its executive decision-making arrangements. There were no implications for the Council’s call-in provisions which would continue to apply to all executive decisions whether taken collectively or individually.

RESOLVED

That

- (1) An amendment be made to the decision-making powers of individual Cabinet Members by the removal of paragraph (d) from the existing restrictions on individual Cabinet Member decision-making, the revised restrictions being as follows:

“Cabinet Members may 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 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.”

- (2) The Constitution be amended accordingly.

(E) **Crewe Community Governance Review**

The Crewe Community Governance Review Sub-Committee had been established by the Committee in May to carry out a community Governance Review in respect of the whole of the electoral wards of

Coppenhall, Delamere, Grosvenor, Maw Green, St John's Valley and Waldron; and those parts of Alexandra, Leighton, St Barnabas and Wistaston Green which did not fall into an existing parish.

Stage 1 of the consultation process had concluded on 30th September 2009 and the results and feedback received from stakeholder organisations had been submitted to the Sub-Committee for consideration at its meeting on 5th October 2009. The Sub-Committee had debated the outcome of the consultation process and remitted the matter to the Governance and Constitution Committee without any recommendation.

At its meeting held on 15th October the Governance and Constitution Committee had taken into account the views of the Sub-Committee and resolved to recommend that the results of the vote of the people of Crewe be accepted and that the notion of a Town Council for Crewe be rejected at this time.

RESOLVED

That

The recommendation of the Governance and Constitution Committee be accepted, namely –

“to accept the vote from the people of Crewe and to reject the notion of a Town Council for Crewe at this time.”

138 MEMBERSHIP OF COMMITTEES AND ELECTION OF CHAIRMEN

Council was invited to note changes in membership of Committees and to elect chairmen and Vice-Chairmen of Committees.

RESOLVED

That

(a) The following changes in Committee membership be **noted** -

Councillor Rachel Bailey	Corporate Scrutiny Committee	Added to fill vacancy
Councillor Rachel Bailey	Cheshire East/Cheshire West & Chester/Wirral Joint Scrutiny Committee	Added to fill vacancy
Councillor Rachel Bailey	Health and Adult Social Care Scrutiny Committee	Added to fill vacancy

Councillor R W Parker	Southern Planning Committee	Added to fill vacancy
Councillor O Hunter	Northern Planning Committee	To replace Councillor H Davenport
Councillor H Davenport	Governance and Constitution Committee	To replace Councillor A Ranfield

(b) The following changes in Chairmanship and Vice-Chairmanship be **approved** with immediate effect –

Councillor Rachel Bailey	Chairman	Health and Adult Social Care Scrutiny Committee
Councillor J Hammond	Vice-Chairman	Strategic Planning Board (to replace Councillor Rachel Bailey)
Councillor S Wilkinson	Vice-Chairman	Sustainable Communities Scrutiny Committee (to replace Councillor J Hammond)
Councillor H Davenport	Chairman	Governance and Constitution Committee (to replace Councillor A Ranfield)

139 SUPPLEMENTARY ESTIMATE APPROVALS

Consideration was given to a report which requested formal approval to Supplementary Estimates which had been contained in reports submitted to Cabinet during the course of the year. These items, which had been approved by Cabinet required the approval of full Council in accordance the Finance and Contract Procedure Rules.

RESOLVED

That

- (a) Approval be granted to the following items contained within the Quarter 1 Financial Update report –
 - (i) a Supplementary Capital Estimate of £1,150,000 for the Modernisation Grant 09/10 (para,11.1.1);
 - (ii) Supplementary Capital Estimate of £2,227,195 for the Devolved Formula Capital Grant in Advance (para.11.1.2); and

- (iii) that Cheshire East Borough Council enters into a partnership with Cheshire West & Chester Borough Council and Warrington Council to deliver a sub regional Future Jobs fund programme and a Supplementary Revenue Estimate of £1.440m be approved. (para.11.1.3 – 11.1.5)
- (b) The following Supplementary Revenue Estimates be approved to be funded by calls on general reserves as approved by the Cabinet:-
 - (i) £137,966 for match funding from April 2009 – December 2010 in support of the People into Jobs bid, together with contributions from other partners, equal to the amount from the European Regional Development Fund, as approved by Cabinet on 3 February 2009. (para 11.2.1 – 11.2.4);
 - (ii) £331,000 for additional investment linked to the proposals outlined in the Recession Mitigation Action Plan, as approved by Cabinet on 19 May 2009. (para 11.2.5 – 11.2.9);
 - (iii) up to £3.8m (originating from unspent Social Care specific grants) as part of the funding package to deliver Adult Social Care redesign implementation, insofar as these costs cannot be contained within the outturn position of the People Directorate. (para 11.2.10 – 11.2.12); and
 - (iv) up to £125,000, if required, to support the Crewe Masterplanning project, as approved by Cabinet on 14 July 2009. (para 11.2.13 – 11.2.14)
- (c) The following Supplementary Capital Estimates be approved -
 - (i) a Supplementary Capital Estimate of £1m for the development of Lincoln House in 2009/10, funded from prudential borrowing charged direct to the revenue budget of the Adults service, as approved by Cabinet on 16 June 2009. (para 11.3.1 – 11.3.3); and
 - (ii) a Supplementary Capital Estimate of £2.2m to acquire land, build and establish a suitable football facility in Sandbach fully funded via a variety of sources, including a grant from the Football Foundation, a contribution from the external football Club and either capital receipt on the sale of existing land owned or internal transfer of existing capital funds from Adults service within Cheshire East, as approved by Cabinet on 11 August 2009. (para 11.3.4 – 11.3.8).

140 **PUBLIC SPEAKING AND QUESTIONS AT COUNCIL MEETINGS**

The Mayor reported that Councillor Shirley Jones had submitted a question under Procedure Rule No. 11 (Public Speaking and Questions at Council Meetings) but this had been omitted in error. The question, together with the response, would be issued by e-mail to all Councillors.

Questions and responses were as follows:

Question 1

Councillor M Parsons: regarding the account taken by Cabinet of the results of call-in and public objections to its decision on car parking charges.

The **Cabinet Member for Environmental Services** responded to the effect that there had been a consultation period of five weeks and five public meetings had been held in addition to the discussions at Cabinet and Scrutiny Committee. The views of the public had been taken into account by Cabinet which had amended its decision for two of the five towns (Alsager and Holmes Chapel). The revised decision had been issued for further consultation and Cabinet would be holding a special meeting on 10th November 2009 to review the matter.

Question 2

Councillor C G Thorley: regarding the time taken to pay invoices and grants.

The **Cabinet Member for Resources** responded. Procedures for payment of invoices and grants had been established and these were monitored to ensure that standards were being met. Processing times for payment was averaging eight days which exceeded the service delivery standard. There were no certified invoices awaiting payment.

Councillor Thorley asked a supplementary question in respect of a grant to "Dial-a-Ride" and this was answered by the Cabinet Member.

Question 3

Councillor C G Thorley: regarding the procedure to deal with neglected derelict houses.

The **Cabinet Member for Prosperity** responded by outlining the process of dealing with all matters of enforcement, which was to carry out a risk assessment and determine the most appropriate course of action. The approach to enforcement was to build a working relationship with the property owner(s) and, in cases where an informal approach was ineffective, the Council had powers to act under the Housing Act 2004.

Councillor Thorley asked a supplementary question in respect of a property within his ward and the Cabinet Member responded.

Question 4

Councillor D Flude: regarding a petition from the Safer Pavements Action Team Crewe, calling for pavement repairs in Crewe.

The **Cabinet Member for Environmental Services** informed Council that the petition had been received and considered. However, it would not take precedence over the professional assessment of highways and the Council would continue to apply a consistent and fair policy across the whole of the borough, making repairs based on need and priority.

Members were informed of overall budget details and levels of investment in various aspects of highway maintenance.

Question 5

Councillor D Flude: regarding Sunday parking charges and its effect on shop-keepers in Crewe.

The **Cabinet Member for Environmental Services** responded. The Sunday parking charge (introduced by the former Crewe and Nantwich Borough Council) had contributed approximately £50,000 to the budget for the current financial year.

The Chairman of the Environment and Prosperity Scrutiny Committee had agreed that he would request a Task Group to consider the issue of car parking charges across the borough. Its findings would be reported to the Committee, which, in turn, would make recommendations to inform the budget-setting process for 2010-2011.

Question 6

Councillor Flude: regarding the Council's intentions towards recording and filming its proceedings.

The **Leader of the Council** responded that as this was Local Democracy Week, it had brought to the fore the need to identify more creative ways of opening up meetings for residents.

Some of the former authorities in Cheshire had webcast its meetings, but it was understood that there had been limited public interest in viewing them. The cost of the technology was expensive and Officers had been asked to consider the potential costs and benefits of introducing such a system. A report would be submitted to the Corporate Scrutiny Committee in due course.

141 **URGENT ITEM OF BUSINESS (COMMUNITY GOVERNANCE REVIEW)**

The Mayor, having agreed to take this item as urgent business, invited Councillor Kolker, who had chaired the Governance and Constitution Committee meeting earlier in the day, to speak to the item.

The Committee had considered the receipt of a petition calling for a Community Governance Review in respect of the unparished area of Handforth.

The petition, received on 21st September 2009, had been signed by at least 10% of local government electors for the area and was, therefore, judged to be valid. The petition had identified recommendations arising from a review.

The Committee considered that as the area of Handforth formed part of the wider unparished area of Wilmslow (comprising the former electoral wards of Dean Row, Fulshaw, Handforth, Hough, Lacey Green and Morley and Styal), it would be expedient to extend the remit of the Community Governance Review to encompass the whole of the unparished area as specified and agreed to recommend this to Council.

The Committee had RESOLVED –

- (a) *That for the purposes of Section 80 of the Local Government and Public Involvement in Health Act 2007, the petition from residents of Handforth be confirmed as valid and this be confirmed to the petition organisers;*
- (b) *A Community Governance Review be carried out in respect of the whole of the electoral Ward of Handforth, as known in 2007, to be completed by 20th September 2010;*
- (c) *The receipt of a petition from residents of Wilmslow be noted and Council be recommended to resolve that the Community Governance Review be extended to cover the whole of the unparished area of Wilmslow (ie the former electoral Wards of Dean Row, Fulshaw, Handforth, Hough, Lacey Green and Morley and Styal); and*
- (d) *A Sub-Committee of six Members be established (4 Conservative: 1 Lib-Dem: 1 Labour) to oversee the Review and to make appropriate recommendations to the Governance and Constitution Committee.*

The only issue before Council was Item (c) of the resolution.

RESOLVED

That the Community Governance Review be extended to cover the whole of the unparished area of Wilmslow (ie the former electoral wards of Dean Row, Fulshaw, Handforth, Hough, Lacey Green and Morley and Styal).

142 **NOTICE OF MOTION**

A Notice of Motion, submitted by Councillor R Menlove and seconded by Councillor P Whiteley had been submitted, as detailed below.

"I hereby move that the Council instigates a Community Governance Review for the unparished areas of Wilmslow, Handforth and Styal in total, to meet the emerging operating requirements of Cheshire East Council for the provision of locally-managed services; the Review to consider the recommendations that –

- *a new parish be constituted under Section 87 of the Local Government and Public Involvement in Health Act 2007*
- *the new parish should have a parish council to be known as "Wilmslow and Handforth Town Council"*
- *the area to which the review is to relate, be defined as shown on the map (attached to the Notice of Motion) being the Electoral Wards of Dean Row, Fulshaw, Handforth, Hough, Lacey Green and Morley and Styal."*

It was reported that although Councillor Menlove was not at the meeting, he had written indicating his willingness to withdraw the Notice of Motion, dependent on the outcome of the above item (Community Governance Review – Wilmslow, Handforth and Styal). Councillor P Whiteley, the second signatory to the Motion consented to the Notice of Motion being withdrawn in the light of the decision made at Minute No. 141 above.

The Mayor, therefore, agreed that the Notice of Motion be withdrawn and provided her written conformation to that effect.

143 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED: That the press and public be excluded from the meeting during consideration of the following item, pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and the public interest would not be served in publishing the information.

144 **FOOTBALL FACILITIES AND EXTRA CARE HOUSING PROVISION IN SANDBACH**

At its meeting held on 11th August 2009, Cabinet had given consideration to a report on partnership working which had been undertaken to secure

leisure provision and extra-care housing for older people, on land in Sandbach. At its meeting held on 11th August 2009, Cabinet had resolved to recommend approval of the proposals to Council.

RESOLVED:

That

- (a) A Supplementary Capital Estimate of £2.2m be approved to acquire land, build and establish a suitable football facility in Sandbach fully-funded via a variety of sources, including a grant from the Football Foundation, a contribution from the external football Club and either capital receipt on the sale of existing land owned or internal transfer of funds from Adults service within Cheshire East;
- (b) In principle, and subject to the relevant planning consents being obtained, the submission of the land at Newhall Avenue, Sandbach described in Paragraph 12.1 of the report submitted, be allocated as one of the sites offered by Cheshire East for inclusion in the Round 5 Extra Care Housing Programme;
- (c) If the site was not able to be included in the Round 5 Extra Care Housing Programme as anticipated in (b) above, the sale of the land at Newall Avenue, Sandbach described in Paragraph 12.1 of the report be authorised;
- (d) Authorisation be given to purchase a site at Hind Heath Road, Sandbach for the provision of football facilities; and
- (e) As far as may be necessary, authorisation be given for the internal transfer of the Newall Avenue site from The Health & Well-being Service to the Adult Service, within Cheshire East Council, accompanied by the appropriate transfer of capital funds from the Adult Service to the Health and Wellbeing Service.

145 URGENT ITEMS OF BUSINESS

There were no items of urgent business to be considered under this item.

The meeting commenced at 6.00 pm and concluded at 8.37 pm

Councillor M Simon (Chairman)

Council – 17 December 2009**Notice of Motion submitted by Councillors Arthur Moran and Dorothy Flude**

This Council calls upon the Executive to recognise the need to improve the conduct of decision-making and consultation in relation to all matters relating to the Council's responsibilities as a Highways Authority and its responsibilities through its Transport Policies.

In particular, the Council calls upon the Executive Members with responsibility for Strategic Planning and the Environment to recommend the establishment of bodies, which would effectively carry out the public functions which were previously the responsibility of the three Joint Highways Committees and the Public Transport Liaison Committees, within the area now governed by Cheshire East

These responsibilities should include the public consideration of decisions in relation to parking, Traffic Regulation Orders, Speed limits and engineering improvements and all other matters where effective transparent consultation and decision making is required.

The Council asks for Committees of local Councillors to be established in each of the previous areas covered by Macclesfield, Congleton and Crewe and Nantwich Borough Councils and provision to be made for the involvement of the police and where relevant town and Parish Councils. The Committees to be empowered to receive and consider representations by the public where these are appropriate.

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CHESHIRE EAST COUNCIL

REPORT TO: COUNCIL

Date of Meeting:	17 th December 2009
Report of:	Borough Treasurer and Head of Assets
Subject/Title:	Supplementary Estimates Approvals
Portfolio Holder:	Cllr Frank Keegan

1.0 Report Summary

- 1.1 At its meeting on 10 November, Cabinet considered the Financial Update - Quarter 2 report which set out the financial position of the Council at the mid-year stage. Cabinet recommended that Council approve Supplementary Capital and Revenue Estimates in excess of £1m, those which require funding from later years, and those funded from reserves, in accordance with Finance Procedure Rules.
- 1.2 Since the mid-year review, a further request for a Supplementary Capital Estimate (SCE) is now required relating to a bid for the Common Assessment Framework Demonstrator Site in Adults Services.
- 1.3 Consequently this report seeks Council approval to the items shown below.

2.0 Decision Requested

- 2.1 Cabinet requests Council to approve the following SCE and Virement requests over £1.0m, or which require funding from later years, or which are funded from reserves, as detailed in Section 11 and Appendix 1 :-
- | | |
|---|------------|
| a. Christ the King Catholic & C of E Primary School | £3,039,000 |
| b. Stapeley Broad Lane Primary School | £906,000 |
| c. Offley Primary School | £845,000 |
| d. Energy Efficiency – Invest to Save | £75,000 |
- 2.2 Council are asked to approve, subject to grant approval, an SCE of £2.2m to be fully funded by Connected for Health grant for the Common Assessment Framework Demonstrator Bid, as detailed in Section 11;
- 2.3 Cabinet requests Council to approve the use of General Reserves to fund the following items as detailed in Section 11 :-
- a. £75,000 in 2009-10 for energy efficiency measures to reduce Carbon Emissions.

- b. Round 2 Voluntary Redundancy costs of up to £5m, together with the additional future payment of actuarial costs.

2.4 Cabinet requests Council to approve the use of General Reserves to create the following new earmarked reserves as detailed in Section 11 :-

- a. Invest-to-Save Projects (£2m)
- b. Enabling Local Working (£625,000)

3.0 Reasons for Recommendations

3.1 Finance Procedure Rules require the approval of Council to requests for supplementary estimates in excess of £1m, or which require funding from general reserves, or which have significant implications for future years' budgets.

4.0 Wards Affected

4.1 Not applicable.

5.0 Local Ward Members

5.1 Not applicable.

6.0 Policy Implications including - Climate change - Health

6.1 None.

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 As covered in the report.

9.0 Legal Implications (Authorised by the Borough Solicitor)

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

10.0 Risk Management

10.1 Financial risks are assessed on a regular basis and will be reported to members quarterly. Remedial action will be taken if and when required.

11.1 Requests for Supplementary Capital Estimates

11.1.1 Common Assessment Framework (CAF) Demonstrator Site Bid

On 3 November 2009, Cabinet approved Phase 2 of the Transformation of Adults Services, incorporating a number of radical and progressive proposals to accelerate changes required to deliver more personalised, lean, local and integrated services.

Within that report reference was made to the intention to apply for funding to become a CAF demonstrator site for a number of critical ICT developments which support that transformation programme in general, but the aspiration to streamline the social care assessment process in particular:

'Members are also asked to note that the service intends to bid for Specific Government Grant of £2.2m to support a common assessment framework and related critical ICT implementation and integration of systems such as PARIS and Sharecare. This will require the Council to operate as a demonstrator site but there are benefits in taking this approach to deliver the redesign and improve current systems and information as well as taking pressure off the current capital programme. The outcome of the bid will be known in December.'

Cheshire East Council's initial expression of interest to Connected for Health (CfH), which relates to the Department of Health, has been well received and the Council has been shortlisted to the final seven authorities being considered due to the strength of its business case. Four authorities will be selected to receive the funding available.

If successful, the funding will replace provision made in the Council's forthcoming capital programme as these are essential developments which will improve our responsiveness and information to users, streamline processes for all staff (including health partners) and enhance performance and financial monitoring information.

The Council is asked to be the Accountable Body for the programme however the main deliverable is to provide learning regarding the development of Common Assessment for other interested parties and as such does not carry a high risk. There may be some ongoing commitments arising from the work in terms of system maintenance and development but these would exist for the Council in any event as it needs to undertake this programme of work. Such commitments will be incorporated into the Council's budget setting process at the appropriate stage. A Memorandum of Understanding is currently being agreed between the Council and CfH, and the Council has been reassured that flexibility exists within the arrangement in terms of how the funding is deployed and how the programme is run, within a broadly agreed framework.

Overall this is seen as an exciting opportunity to adequately resource key ICT developments for the Council and demonstrate its progress to others.

Subject to the grant approval, it is recommended that: Council approves a supplementary capital estimate of £2.2m to be fully funded by CfH grant.

11.1.2 Christ the King Catholic & Church of England Primary School

Council is asked to approve a Supplementary Capital Estimate of £3.039m for this scheme to develop the new school on the former St Edwards site. The scheme will be fully funded from the Primary Capital Programme, schools Devolved Formula Capital (DFC) and a contribution from the Diocese (LCVAP).

11.1.3 Stapeley Broad Lane Primary School

Council is asked to approve a Supplementary Capital Estimate of £906,000 for this new scheme to replace 3 temporary classrooms with permanent accommodation. The scheme is fully funded from Modernisation grants and schools DFC.

11.1.4 Offley Primary School

Council is asked to approve a Supplementary Capital Estimate of £845,000 for this scheme to refurbish the infant and junior schools and provide covered links between the buildings. The scheme will be fully funded from the Primary Capital Programme and DFC.

11.1.5 Energy Efficiency Invest to Save Scheme

Council is asked to approve a Supplementary Capital Estimate of £75,000 for this scheme to fund energy efficiency measures such as boiler controls, lighting controls, voltage optimisation and insulation that are calculated to reduce energy bills by nearly £34,000 per annum. The investment will be recouped in 2.2 years and will be funded from capital reserves.

11.2 **Use of General Reserves**

11.2.1 The report to Cabinet contained the updated Reserves Strategy. Taking account of the latest available data, including budgeted use of reserves and the requests contained in this report, forecast balances at 31 March 2010 are £23.725m. This is sufficient to cover the assessed value of potential risks facing the reserves of the council.

11.2.2 The council has budgeted for changes to the reserves position, allowing for items such as transitional costs, and for their repayment. Approval is now sought for the following additional changes in the use of General Reserves:

(a) Carbon Reduction Commitment (2009/2010)

The council is embarking on a program of energy efficiency measures to reduce Carbon Emissions. £75,000 is anticipated to be spent within 2009/2010.

(b) VR Round 2 (and ongoing actuarial costs)

The establishment of structures and service priorities within Cheshire East has created a need for further Voluntary Redundancy measures. £5m is currently recommended to support this requirement, with the additional future payment of actuarial costs also being met from General Reserves.

11.3 Earmarked Reserves

11.3.1 Cabinet have recommended that two additional earmarked reserves are created at this stage:

(a) Invest-to-Save Projects

The council is committed to promote efficient ways of working that can be demonstrated by a genuine business case. Following the identification of un-allocated balances in September, the proposal is to earmark £2m of general reserves to support invest-to-save projects.

(b) Enabling Local Working

Local working forms part of the business case for re-organisation and this reserve will enable activity in this area to be developed. £625,000 of the general reserve is proposed to be earmarked to support this.

12.0 Access to Information

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

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Matters for Decision - Requests for Supplementary Capital Estimates (SCEs) & Virements

Appendix 1

					Virement FROM ...	
Capital Scheme	Starts Year	Amount Requested £	SCE/ Virement	Funding of SCE/Virement	Starts Year	Amount Requested £
Council are asked to approve SCE and Virements over £1.0m and funding from future years and funding from reserves						
People						
Adults						
Common Assessment Framework Demonstrator Site	2009/10	2,000,000	SCE	Connected for Health Specific Grant		2,000,000
Children & Young People						
Christ the King Catholic & C of E PS	2009/10	3,039,000	SCE	Central Government Grant 2010-11		2,330,000
			SCE	DFC Contribution		160,000
			Virement	Primary Capital Programme 09/10	2009/10	29,000
			SCE	LCVAP		520,000
Stapeley Broad Lane PS - Replacement of temp accomodation.	2009/10	906,000	Virement	Schools Modernisation Programme	2009/10	576,000
			SCE	DFC Contribution		39,000
			SCE	Modernisation Grant 2010-11		291,000
Offley Primary School	2009/10	845,000	SCE	DFC Contribution		95,000
			SCE	Primary Capital Programme 2010-11		650,000
			Virement	TLC 2006-07	2006/07	100,000
Performance & Capacity						
Assets						
Energy Efficiency - Invest to Save	2009/10	75,000	SCE	To be funded from Capital Reserve	2009/10	75,000
Total value of Supplementary Capital Estimates/Virements		6,865,000				6,865,000

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Item A**EXTRACT FROM THE MINUTES OF THE GOVERNANCE AND
CONSTITUTION COMMITTEE MEETING HELD ON 19 NOVEMBER
2009****144 POLICE AUTHORITY REPRESENTATION ON THE
SUSTAINABLE COMMUNITIES SCRUTINY COMMITTEE**

Members considered proposals for Police Authority representation on the Sustainable Communities Scrutiny Committee.

The Council had designated the Sustainable Communities Scrutiny Committee as the committee to discharge the Council's responsibilities for crime and disorder functions in accordance with Section 19 of the Police and Justice Act 2006. The Home Office had issued guidance in connection with Sections 19 and 20 of the Act which stated that 'Local Authorities should, in all cases, presume that the Police Authority should play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present'.

The guidance contained three options for ensuring Police Authority involvement in community safety matters. Members considered the merits of each in relation to the circumstances of Cheshire East Council and its representation on the Police Authority. Option 2, which involved issuing the Police Authority with a standing invitation to attend the Sustainable Communities Scrutiny Committee as an 'expert adviser', appeared to give the Police Authority flexibility to send different representatives to individual meetings of the Scrutiny Committee depending on the subject matter before the Committee.

The guidance also recommended developing a protocol between partners.

RESOLVED

That Council be recommended that

- (1) Cheshire Police Authority be informed that the Council supports the appointment of a Police Authority representative to the Sustainable Communities Scrutiny Committee in accordance with option 2 as contained in the Home Office Guidance on Sections 19 and 20 of the Police and Justice Act 2006;**
- (2) the Borough Solicitor be authorised to make such changes to the Council's Constitution as he considers necessary to give effect to the wishes of Council to recognise that Cheshire Police Authority receives a standing invitation to attend meetings of the Sustainable Communities Scrutiny Committee, in order for the**

Police Authority representative to act as an 'expert adviser' in respect of Community Safety matters; and

- (3) the Sustainable Communities Scrutiny Committee be requested to develop a Protocol which sets out the mutual expectations of Scrutiny Members and partners in connection with the involvement of the Committee in the Community Safety Scrutiny Process.**

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting: 19 November 2009
Report of: Democratic Services Manager
Subject/Title: Police Authority Representation on the Sustainable Communities Scrutiny Committee

1.0 Report Summary

- 1.1 To enable the Governance and Constitution Committee to consider proposed changes to the existing arrangements in relation to the membership of the Sustainable Communities Scrutiny Committee and to make a recommendation to Council in order for changes to be made to the Constitution.

2.0 Recommendations

2.1 That

- (1) Cheshire Police Authority be informed that the Council supports the appointment of a Police Authority representative to the Sustainable Communities Scrutiny Committee in accordance with option 2 as contained in the Home Office Guidance on Sections 19 and 20 of the Police and Justice Act 2006;
- (2) the Borough Solicitor be authorised to make such changes to the Council's Constitution as he considers necessary to give effect to the wishes of Council to recognise that Cheshire Police Authority receives a standing invitation to attend meetings of the Sustainable Communities Scrutiny Committee, in order for the Police Authority representative to act as an 'expert adviser' in respect of Community Safety matters; and
- (3) the Sustainable Communities Scrutiny Committee be requested to develop a Protocol which sets out the mutual expectations of Scrutiny Members and partners in connection with the involvement of the Committee in the Community Safety Scrutiny Process.

3.0 Reasons for Recommendations

- 3.1 In order to ensure that the Council's statutory responsibilities in respect of Scrutiny of Community Safety matters are discharged.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications

6.1 Any changes to the Council's governance arrangements, which are agreed by Council must be reflected in the Constitution. These will then govern the way in which the Council, its Members and Officers operate.

7.0 Financial Implications for Transition Costs

7.1 There appear to be no financial implications for Transition Costs.

8.0 Financial Implications 2009/10 and beyond

8.1 There appear to be no identifiable financial implications 2009/10 and beyond.

9.0 Legal Implications

9.1 Any changes to the Council's governance arrangements must be reflected in the Constitution. Constitutional changes cannot take place until Council has considered a recommendation of the Committee and Council approval has been given.

10.0 Risk Management

10.1. There would seem to be no risks associated with the proposed change. The change proposed will provide clarity for Officers and Members as to the role of Sustainable Communities Scrutiny Committee in relation to the scrutiny of public safety matters.

11.0 Background and Options

11.1 The Council has designated the Sustainable Communities Scrutiny Committee as the committee to discharge the Council's responsibilities for crime and disorder functions in accordance with Section 19 of the Police and Justice Act 2006.

11.2 The Home Office has issued guidance in connection with Sections 19 and 20 of the Police and Justice Act 2006 which states 'Local Authorities should, in all cases, presume that the Police Authority should play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present'.

11.3 The guidance contains 3 options for ensuring Police Authority involvement in community safety matters.

Option 1

One Member of the committee should be a member of the Police Authority. This is not possible, however, if the Member is an Executive Member.

Option 2

A member of the police authority is issued with a standing invitation to attend the committee as an 'expert adviser'. Ideally, this should be a Police Authority member, but subject to local agreement, there may be some circumstances, and meetings, where a police officer may be more appropriate. The guidance suggests that steps should be taken to ensure that, where appropriate, the Police Authority should have a direct input into the delivery of task and finish groups. These details should form part of a protocol between the Council and its partners.

There should be clear and sustained engagement between the police authority and local authority, beyond attendance at the committee.

Option 3

Committees can co-opt a Police Authority member onto a committee when police matters are being considered. It would be for the Police Authority to decide the most appropriate member to appoint. It could either be a Council Member or independent member.

The Police Authority has written to the Chief Executive in support of option 1, on the grounds that this is the option the Home Office expects that most authorities will adopt.

12.0 The Way Forward

- 12.1 Cheshire East Council has three Police Authority representatives: Councillors J P Findlow, B Silvester and A Arnold. Councillors Findlow and Silvester are ruled out of options 1 and 3, as Cabinet Members cannot be members of overview and scrutiny committees. It is also debatable whether it would be appropriate for the Cabinet Members to receive the standing invitation in option 2 on the grounds that there should be a clear and distinct separation between the 'Executive' and Scrutiny functions and Cabinet Members would only be allowed to advise, but not influence, the Committee.
- 12.2 The Council has not introduced a scheme under Schedule 1 of the Local Government Act 2000 to allow Co-opted members to have full voting rights on O&S committees and therefore in order for the Police Authority representative to have voting rights, only one Member, Councillor Arnold, could fulfil this roll in accordance with option 1, but

he has indicated that due to other commitments he would support option 2.

- 12.3 Option 2 would appear to give the Police Authority flexibility to send different representatives to individual meetings of the Scrutiny Committee depending on the subject matter before the Committee.
- 12.4 The guidance also recommends developing a protocol between partners and this is to be welcomed.
- 12.5 Scrutiny of Community Safety matters will receive greater prominence as the new CAA regime develops. The Council has a duty to involve the Police Authority at a formal level in Overview and Scrutiny committees when Community Safety matters are the subject of Overview and Scrutiny Activity. The wishes of the Police Authority and the interest of the Council have to be balanced in order to achieve the best solution for all parties. At the moment it would better suit the Council to make arrangements in accordance with option 2, but to perhaps undertake a review in twelve months' time. Option 2 also gives the Police Authority flexibility to change its representative at the Sustainable Communities Committee when the need arises.

13.0 Access to Information

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

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Item B

**EXTRACT FROM THE MINUTES OF THE GOVERNANCE AND
CONSTITUTION COMMITTEE MEETING HELD ON 19 NOVEMBER
2009**

144 CABINET SUPPORT MEMBERS

The Committee considered proposed changes to the arrangements for Cabinet Support Members in relation to scrutiny committees.

All four Cabinet Support Members had been appointed as members of overview and scrutiny committees.

It was felt, for reasons set out in the report, that there was potential for conflict between the role of the four Cabinet Support Members and their membership of overview and scrutiny committees, due to the executive nature of their role, albeit without direct responsibility for executive decision-making.

RESOLVED

That

- (1) Council be recommended to agree that Cabinet Support Members should not be permitted to be members of overview and scrutiny committees and accordingly, the following Members should not take their place(s) on overview and scrutiny committees:**

Children and Families	- Councillors Rhoda Bailey, Olivia Hunter, Lesley Smetham
Health and Adult Social Care	- Councillor Olivia Hunter
Environment and Prosperity	- Councillors Rod Menlove, Lesley Smetham

- (2) nominations be sought from the Conservative Group to fill the vacancies on each of the above overview and scrutiny committees; and**
- (3) Council be recommended to authorise the Borough Solicitor to make such changes to the Constitution as he considers necessary to give effect to the wishes of Council.**

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting: 19 November 2009
Report of: Democratic Services Manager
Subject/Title: Cabinet Support Members

1.0 Report Summary

- 1.1 To enable the Governance and Constitution Committee to consider proposed changes to the existing arrangements for Cabinet Support Members and to make a recommendation to Council in order for changes to be made to the Constitution.

2.0 Recommendations

- 2.1 That

- (1) it be recommended to Council that Cabinet Support Members should not be permitted to be members of Overview and Scrutiny Committees and accordingly, the following Members should not take their place on Overview and Scrutiny Committees:

Children and Families – Councillors Rhoda Bailey, Olivia Hunter, Lesley Smetham

Health and Adult Social Care – Councillor Olivia Hunter

Environment and Prosperity – Councillors Rod Menlove, Lesley Smetham

- (2) nominations be sought from the Conservative group to fill the vacancies on each of the above Overview and Scrutiny Committees; and

- (3) it be recommended to Council that the Borough Solicitor be authorised to make such changes to the Constitution as he considers are necessary to give effect to the wishes of the Council..

3.0 Reasons for Recommendations

- 3.1 In order to ensure that the roles of Members involved in Executive arrangements are distinct from, and independent of, Overview and Scrutiny.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications

6.1 Any changes to the Council's governance arrangements which are agreed by Council must be reflected in the Constitution. These will then govern the way in which the Council, its Members and Officers operate.

7.0 Financial Implications for Transition Costs

7.1 There appear to be no financial implications for Transition Costs.

8.0 Financial Implications 2009/10 and beyond

8.1 There appear to be no identifiable financial implications for 2009/10 and beyond.

9.0 Legal Implications

9.1 Any changes to the Council's governance arrangements must be reflected in the Constitution. Constitutional changes cannot take place until a recommendation of the Committee has been considered by Council and Council approval has been given.

10.0 Risk Management

10.1. There would seem to be no risks associated with the proposed changes. The changes proposed will bring further clarity for officers and Members as to the roles of Cabinet Support Members in relation to the work of Overview and Scrutiny Committees and the collective Cabinet.

11.0 Background and Options

11.1 All four Cabinet Support Members appointed by the Leader on 21 April 2009 are also members of Overview and Scrutiny (O&S) Committees.

No constraints have been placed upon the way in which Cabinet Support Members undertake their duties and nothing is documented in the Constitution to this effect, other than their areas of responsibility.

12.0 Executive Decisions where Cabinet Support Members have been Involved

12.1 In accordance with the Scrutiny Procedure Rules, there may be circumstances in which, as a consequence of a Scrutiny Member's role as a Cabinet Support Member, that Member will consider that they should not take part in Scrutiny Committee business. This would accord with Scrutiny Procedure Rule 2.9 ("No Member of the Council

shall be involved in scrutinising a decision where he/she has been directly involved”). “Direct involvement” would have to be interpreted in each case but Members should err on the side of caution. If they have been involved in a matter in a support role, they should not then become involved in the same matter at Scrutiny.

- 12.2 If Cabinet Support Members adopt this cautious approach, it should be assumed that they attend Scrutiny Committees in an "executive" capacity, and like full Cabinet members, should attend in an advisory role to listen and, as appropriate, contribute to the discussion, and help to build constructive relationships with the Scrutiny bodies.

13.0 Working Arrangements and Ground Rules

- 13.1 The Centre for Public Scrutiny in its “Good Scrutiny Guide” advises that “non-executives and executives need to agree appropriate working arrangements or “ground rules””.

- 13.2 On the question of establishing roles and relationships, the Guide states that “ Public Scrutineers should be confident of the ground on which they stand – which does not need to be approved or sanctioned by the Executive. This formal independence from the Executive is an important principle which underpins the scrutiny role”.

- 13.3 It was envisaged by Cabinet, when it originally considered the proposal to appoint Cabinet support members, that the support members would also be able to help develop relationships between O&S and Cabinet in sharing work programmes and priorities, review business, and commission scrutiny to undertake policy development work, etc. This reinforces the “executive” nature of the role of Cabinet Support Members and emphasises the need for clarity in relation to O&S activity.

14.0 Conflict

- 14.1 For the reasons outlined above, it can be seen that there could be conflict between the role of the four Cabinet Support Members and their current membership of O&S Committees, due to the “executive” nature of their role, albeit without direct responsibility for decision-making.
- 14.2 There are two possible options. The first is that arrangements continue as they are now, with the potential risk that because of their involvement with Cabinet, the four Cabinet Support Members will have to judge, on a case-by-case basis, whether they will have to rule themselves out of formal Scrutiny, under Scrutiny Procedure Rule 9.
- 14.3 Secondly, for the avoidance of doubt and in order to make the two sides of the Council’s political management structure clear and distinct,

Cabinet Support Members should be excluded from membership of O&S committees.

14.4 Prejudicial Interests

14.5 Cabinet Support Members have, on two recent occasions, sought to attend call- in meetings to support of the relevant Portfolio Holder. A strict interpretation of the Scrutiny Procedure Rules would not preclude them from attending call-in meetings since they are not a “member of the Executive” (Para 11(b) Member Code of Conduct).

14.6 However, the spirit of the Member Code of Conduct would appear to suggest that they should not attend such meetings since they would be regarded as being very close indeed to the Cabinet and it may be suggested that their presence might influence the meeting.

15.0 The Way Forward

The Corporate Scrutiny Committee is in the process of producing a “Scrutiny Toolkit” which will set out various protocols to support the Scrutiny Procedure rules. The Toolkit will also include specific guidance to cover the working arrangements between O&S and Cabinet. This will be expanded to cover the relationship between Cabinet Support Members and O&S.

15.1 The Leader of the Council has been consulted on this matter and he has given his support to the exclusion of Cabinet Support Members from membership of O&S Committees. If the Council approves this option, the Governance and Constitution Committee would need to make recommendations to Council to revise the constitution to reflect this position.

16.0 *Access to Information*

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

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Item C

**EXTRACT FROM THE MINUTES OF THE GOVERNANCE AND
CONSTITUTION COMMITTEE MEETING HELD ON 19 NOVEMBER
2009**

144 **QUESTIONS AT COUNCIL**

At the Chairman's request, the Committee reviewed the current arrangements with regard to questions by Members at Council meetings.

After nearly eight months of operation of the Council Procedure Rules relating to Members' questions at Council meetings, and three meetings of Council during which these Rules had been put into practice, there was an opportunity for the Committee to consider whether the Rules were working effectively or were in need of change.

The current Rules provided for Members to ask questions at Council of the Mayor, the appropriate Cabinet Member, or the Chairman of a Committee, about a matter for which the Council, the Cabinet or the Committee had powers, duties or responsibilities (Council Procedure Rule 11.1). Questions must be provided in writing at least three clear working days before the meeting (Council Procedure Rule 11.3).

The Rules provided for the questioner to ask a supplementary question which related to the initial answer.

RESOLVED

That Council be recommended to agree that the provision giving Members the right to ask supplementary questions at Council meetings be removed from the Constitution.

Note: in accordance with Paragraph 31.4 of the Committee Procedure Rules, Councillors R Cartlidge and S Jones asked that the minutes of the meeting record their having voted against the motion.

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting:	19 November 2009
Report of:	Democratic Services Manager
Subject/Title:	Questions at Council

1.0 Report Summary

- 1.1 At the request of the Chairman, this report will enable the Committee to consider the current rules relating to questions at Council.

2.0 Recommendations

- 2.1 That consideration be given to the current rules relating to questions at Council.

3.0 Reasons for Recommendations

- 3.1 In order to comply with the request of the Chairman of the Committee

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications

- 6.1 This report deals with the Council's rules relating to questions at Council.

7.0 Financial Implications for Transition Costs

- 7.1 There are no such implications.

8.0 Financial Implications 2009/10 and beyond

- 8.1 There are no such implications.

9.0 Legal Implications

- 9.1 The existing rules are contained within the Council's Constitution. Any recommended changes to the Constitution must be agreed by Council before they can take effect.

10.0 Risk Management

- 10.1 No risks can be identified which arise from the consideration of this report.

11.0 Background and Options

- 11.1 As provided for in the Council Procedure Rules, a Member may request that an item of business be included on the agenda of a Committee meeting.
- 11.2 The Chairman of the Committee has asked that, after nearly eight months of operation of the Council Procedure Rules relating to the asking of questions at Council meetings, and three meetings of Council during which these Rules have been put into practice, the Committee give consideration to whether they are working effectively or whether they are in need of change.
- 11.3 The current rules provide for Members to ask questions at Council of the Mayor, the appropriate Cabinet Member, or the Chairman of a Committee, about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities (Council Procedure Rule 11.1).
- 11.4 Questions must be provided in writing at least three clear working days before the meeting (Council Procedure Rule 11.3).
- 11.5 Questions are to be asked and answered without discussion. In replying, the Member responding is to use reasonable endeavours to address the matter raised in the question. The Member responding may: decline to answer the question, reply direct, reply by reference to a publication, reply by written answer, or refer the question to an appropriate committee/the Cabinet (Council Procedure Rule 11.5).
- 11.6 The Rules provide for the questioner to ask a supplementary question which relates to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate. The Member answering the supplementary question will decide whether or not to reply (Council Procedure Rule 11.6).
- 11.7 The Committee is asked to consider the current rules in the light of the experience of the last eight months and three Council meetings.

12.0 Access to Information

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

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