

Governance & Constitution Committee

Agenda

Date: Thursday, 21st May, 2009
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

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

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

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

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

Please contact	Paul Mountford
E-Mail:	paul.mountford@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 - 6)

To approve the Minutes of the meeting held on 16 April 2009.

5. **Procedural Matters** (Pages 7 - 10)

To bring to the attention of the Committee any procedural matters which are in need of consideration and/or recommendation to Council.

6. **North West Charter on Elected Member Development** (Pages 11 - 16)

To consider supporting an application by Cheshire East Council for the North West Charter on Elected Member Development (Level One).

7. **Member Attendance at Annual Conferences and Seminars** (Pages 17 - 22)

For the Committee to make recommendations to Cabinet in respect of Member attendance at conferences and seminars.

8. **Outside Organisations** (Pages 23 - 24)

To consider the re-appointment of the Task Group (Appointments to Outside Organisations).

9. **Community Governance Review – Crewe Petition** (Pages 25 - 32)

To consider the receipt of a petition calling for a Community Governance review in respect of the unparished areas of Crewe Town.

10. **Member Speaking at Planning Committees** (Pages 33 - 38)

To propose an amendment to the Constitution in order to apply a Planning Public Speaking Protocol to Members` general speaking rights at Planning Board and Committees.

11. **Anti-fraud and Corruption Strategy** (Pages 39 - 54)

The purpose of this report is to present a draft Anti-fraud and Corruption Strategy (Appendix A) for the Committee to consider.

12. **Anti Money Laundering Policy** (Pages 55 - 62)

To present a draft Anti-Money Laundering Policy for the Committee's consideration.

13. **Internal Audit Update Report** (Pages 63 - 72)

To update the Committee on the work of the internal audit section and key findings to date.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Thursday, 16th April, 2009 at Committee Suite 1, 2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Ranfield (Chairman)
Councillor A Kolker (Vice-Chairman)

Councillors D Topping, M Asquith, D Cannon, Mrs S Jones, Mrs G Merry,
A Moran, R Parker, R West and P Whiteley

Substitute

Councillor B Livesley

In attendance

Councillors A Richardson, Mrs L Smetham and A Thwaite

Apologies

Councillor Mrs S Bentley

Officers present

Brian Reed, Democratic Services Manager
Paul Mountford, Democratic Services Officer
Mark Nedderman, Democratic Services Officer
Kate Khan, Solicitor

92 DECLARATIONS OF INTEREST

There were no declarations of interest.

93 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Byron Evans from Crewe attended and asked about the process for making changes to the Constitution and when the Constitution was likely to be available to the public.

At the request of the Chairman, the Officers outlined the process by which changes to the Constitution were made, including the role of the Governance and Constitution Committee in making recommendations to full Council on proposed Constitutional changes. They also indicated that

the Constitution would shortly be available on the Council's website and would be accessible thereafter at libraries and information centres.

94 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the previous meeting held on 9th March 2009 be approved as a correct record.

With regard to Minute 90, Members were informed that a report would be submitted to the next meeting with proposals for the re-appointment of the Task Group on appointments to outside organisations.

95 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

The Committee considered proposed procedure rules relating to the budget and Policy Framework.

In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the Council at its meeting on 24th February 2009 had approved a list of documents which would form part of the Council's Policy Framework requiring approval by full Council.

Regulation 4 of the Regulations provided that Cabinet had overall responsibility for preparing the draft budget, plans and strategies for submission to full Council for consideration.

A set of Budget and Policy Framework Procedure Rules had been drafted to comply with Government Guidance. The adoption of such Rules would ensure that the documents which formed part of the budget and Policy Framework were developed in accordance with legislative requirements. In addition such rules would ensure that there were systems in place for resolving conflict in the setting of the budget or Policy Framework and for dealing with urgent decisions.

RESOLVED

That

- (1) subject to (2) below, the draft Budget and Policy Framework Procedure Rules set out in Appendix B to the report be recommended to Council for adoption and incorporation into the Constitution;
- (2) consideration be given to extending the minimum period for consultation on the budget to six weeks and the Officers be authorised in consultation with the Chairman to make a final determination on the appropriate provision in the draft Rules for recommendation to Council.

96 **CABINET DECISION-MAKING ARRANGEMENTS**

The Committee considered a report on proposed decision-making powers and procedures relating to individual Members of the Cabinet.

Previous attempts to define individual decision-making powers for Cabinet Members had relied in part to the statutory definition of a Key Decision. It was felt that an alternative approach should be adopted and it was therefore proposed that Cabinet Members should 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 were significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.
- (e) Decisions which the Leader wished 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.

On a related matter, the Council has previously resolved to include the following provision within its Constitution to exclude certain decisions from the definition of a key decision:

"The Council has decided that the letting of any contract by the Council's [Business Services Officer] or the Council's [Policy Officer], which involves the provision of services to, or the purchase of goods and services by, the Council shall be excluded from the definition of a Key Decision where such contracts relate mainly to the internal workings of the authority and do not therefore have a significant impact directly on local communities in the same way as other Key Decisions. Such contracts include advertising, library books, vehicles, consumables, food, gas, electricity and cleaning of Council premises."

On further consideration, this provision was regarded as flawed and it was therefore proposed that it be removed from the Constitution.

The Cabinet on 24 March 2009 had supported the proposals and had also approved arrangements for public decision-making by individual Cabinet Members, details of which had been reported to the Committee for information.

RESOLVED

That Council be recommended that

- (1) the alternative approach in respect of the decision-making powers of individual Cabinet Members be approved;
- (2) the provision within the Constitution excluding the letting of certain contracts from the definition of a key decision be rescinded; and
- (3) the Constitution be amended accordingly.

97 PUBLIC AND MEMBER QUESTIONS AND STATEMENTS AT MEETINGS

The Committee reviewed the arrangements for public and Member questions and statements at Meetings.

The Council on 24th February 2009 had approved the adoption of the new Constitution to take effect from Vesting Day but in doing so had resolved that the issue of questions and statements by Members and the public at meetings be considered further.

Members had before them a report summarising the current provisions relating to Member and public speaking and questions at meetings as set out in the Constitution. The report also contained details of proposals for disapplying those provisions from meetings of Planning, Licensing and Scrutiny bodies.

RESOLVED

That the views of the Cabinet and the Corporate Scrutiny Committee be sought on the issue of Member and public questions and statements at meetings, including the proposals to exclude the existing provisions from the meetings of certain bodies, and the Committee consider the matter further in the light of any advice received.

98 SUBSTITUTION AT PLANNING COMMITTEE

This item was withdrawn.

99 COMMUNITY CALL FOR ACTION

The Committee considered a report outlining new arrangements to allow individual Members to pursue particular problems affecting their wards via overview and scrutiny committees, where other methods of resolution had been exhausted. This

way of empowering ward Members was known as “Councillor Call for Action” (CCfA).

The report set out the principles governing CCfA, indicating the benefits but also emphasising where such an approach would be inappropriate.

Some of the authorities piloting the scheme had adopted a checklist which assisted individual ward Members in resolving issues before it became necessary to involve an overview and scrutiny committee. Such checklists also provided a framework for the authority to manage CCfA and ensured that overview and scrutiny could add value. A suggested checklist for Cheshire East Council was set out in paragraph 11 of the report.

The views of the Corporate Scrutiny Committee were also being sought.

Members felt that overview and scrutiny involvement should be a last resort and that Members should receive the necessary training, information and support to fulfil their roles under CCfA. Members also stressed the need to ensure that the process did not distract the Council from addressing the ‘greater needs and priorities’ within Cheshire East as a whole.

RESOLVED

That subject to the views of the Corporate Scrutiny Committee

- (1) the proposed arrangements for dealing with requests for overview and scrutiny committees to consider matters raised under the Community Call for Action as set out in the report be adopted;
- (2) the Borough Solicitor be requested to draw up a suitable checklist, based on the issues listed in paragraph 11 of the report, to assist Members with requests for Community Call for Action;
- (3) appropriate information and advice be prepared for circulation to all members, outlining the main components of Community call for action; and
- (4) appropriate Member training and awareness sessions be arranged.

100 GOVERNANCE AND CONSTITUTION WORK PLAN

The Committee considered an updated version of its Work Plan.

It had previously been accepted that the timescales within the Work Plan needed to be flexible in order to account for work priorities, changes in legislation etc. The Committee would therefore receive regular updates.

RESOLVED

That the current Work Plan be noted and reviewed further in due course.

The meeting commenced at 2.00 pm and concluded at 3.40 pm

Councillor A Ranfield (Chairman)

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Democratic Services Manager
Title: Procedural Matters

1.0 Purpose of Report

- 1.1 To bring to the attention of the Committee any procedural matters which are in need of consideration and/or recommendation to Council.

2.0 Recommendation

- 2.1 That the recommendation set out in the Appendix to this report be approved.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 None

5.0 Legal Implications

- 5.1 The legal implications of this report will be addressed in the Appendix.

6.0 Risk Assessment

- 6.1 Any risk issues will be addressed in the Appendix.

7.0 Background and Options

- 7.1 From time to time, the Committee will need to consider issues of a procedural nature and make recommendations to Council.
- 7.2 The Appendix to this report identifies the issue in question and the recommendation of officers to the Committee.

For further information:

Officer: Brian Reed, Democratic Services Manager

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Background Documents: Nil

Documents are available for inspection at:

The offices of Cheshire East Borough Council

Westfields

Middlewich Road

Sandbach

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Appendix

Procedural Matter

At its Annual Meeting on 2nd April 2009, Council agreed nominations of Members to various Committees and other bodies.

From time to time, seats on committees and other bodies can be expected to change. Section 16 of the Local Government and Housing Act 1989 enables political groups to notify the Borough Solicitor of any proposals to change their representation on committees and other bodies.

The Borough Solicitor has been notified of the Conservative Group's proposed changes as set out below.

The terms of reference of the Governance and Constitution Committee include: "recommending to the Council, as appropriate, the appointment of Members to Committees.....".

The Committee therefore needs to make recommendations to Council upon the proposed changes.

Licensing Committee

Replace Cllr Parker with Cllr Hardy

Governance and Constitution Committee

Replace Cllr Bentley with Cllr Livesley

Public Rights of Way Committee

Replace Cllr Rhoda Bailey with Cllr Wray

Recommended

That Council be recommended to approve the proposed changes to Committee places set out above.

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Democratic Services Manager
Title: North West Charter on Elected Member Development

1.0 Purpose of Report

- 1.1 To consider supporting an application by Cheshire East Council for the North West Charter on Elected Member Development (Level One).

2.0 Recommendations

- 2.1 That
- (1) Cheshire East Council sign the Declaration of Commitment to the principles of the North West Charter on Elected Member Development; and
 - (2) a signing ceremony be arranged; invitations to attend to be extended to the Chief Executive, Leader of the Council and the Group Leaders.

3.0 Reasons for Recommendations

- 3.1 The North West Charter on Elected Member Development is a regionally recognised standard for Member Development and is the minimum level to which a high performing Council, such as Cheshire East should seek to achieve.

4.0 Wards Affected

- 4.1 Not applicable

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications

- 6.1 Not applicable

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

7.1 None identified.

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

8.1 There is no direct cost to the authority from signing the document.

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 None identified

10.0 Risk Management

10.1 If Cheshire East Council wishes to attain Charter standard during its first year, the application will need to be submitted and assessed no later than July 2009. If the document is not signed until this date, the commitment of the authority to meet the principles of the Charter could be brought into question adversely affecting the authority's application.

11.0 Background and Options

11.1 From its inception, Cheshire East Council's vision has been to "*work together to improve community life*". The authority values the contribution each of its 81 Councillors makes towards delivering this goal, seeking to ensure that each elected member has the necessary skills required by providing support and learning opportunities by way of its Member Development Strategy/Programme.

11.2 To formalise its commitment to the development of its Members, the authority has indicated that it wishes to apply for accreditation with North West Employers Organisation (NWEO) by seeking to achieve the standard required for the North West Charter on Elected Member Development (Level One). Authorities that meet the six principles set out in the document (Appendix A) are awarded Charter status for a period of three years at which time the authority can choose to be reassessed.

11.3 The first step in the process is for the Chief Executive and Leader of the authority to sign the Declaration of Commitment and the Committee is invited to pass a formal resolution to this effect to illustrate the authority's support for the application. In addition, to raise the profile of the Charter amongst elected members and the public, the Committee is also invited to resolve that a signing ceremony be arranged involving the Chief Executive, Leader of the Council and Group leaders to which appropriate publicity could be given.

12.0 Overview of Year One and Term One Issues

- 12.1 It is important that Cheshire East Council makes clear its intentions during year one. By signing up to the principles of the Charter, the authority is setting a high standard which can be built upon in subsequent years.

13.0 Access to Information

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

Name:	Diane Moulson
Designation:	Acting Senior Member Development Officer
Tel No:	01270 529729
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NORTH WEST CHARTER
on
Elected Member Development

Municipal Journal and North West Employers

We believe that at the heart of any Local Authority dedicated to meeting the needs of its community will be a commitment to the development of its Elected Members. Members will be supported and assisted in playing their vital role in modernising local government.

Signing up to the principles of the Charter commits the local authority to work towards expressing their commitment in practice by implementing the six key points of the Charter.

- Having a statement of intent.
- Ensuring that all Members are made aware of training and development opportunities.
- Having a process to identify individual development needs which involves Members.
- Having an Officer allocated to assist Members and Groups in identifying needs and providing information on resources.
- Having a strategy to meet the training and development needs of Elected Members.
- Implementing the strategy locally.

Signed by Chief Executive: _____

Signed by Leader: _____

Signed by Chair of
Employers' Organisation _____

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CHESHIRE EAST BOROUGH COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009

Report of: Democratic Services Manager

Title: Member Attendance at Annual Conferences and Seminars

1.0 Purpose of Report

- 1.1 For the Committee to make recommendations to Cabinet in respect of Member attendance at conferences and seminars.

2.0 Recommendation

- 2.1 That the Committee give consideration to the proposed policy set out at Appendix B to this report, and make appropriate recommendations to Cabinet.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 Democratic Services does not hold a budget to pay for attendance by Members at conferences and seminars: separate provision is made for Member training and development. Unless such a budget is created, the cost of attendance must be met from departmental budgets.

5.0 Legal Implications

- 5.1 It is appropriate for the Committee to make recommendations to the Cabinet upon the proposed arrangements for Member attendance at conferences and seminars, as this is an executive function.

6.0 Risk Assessment

- 6.1 Having an agreed policy will minimise risks to the authority and to individual Members.

7.0 Background

- 7.1 Appendix A to this report sets out a list of conferences and seminars which are often attended by local authority Members. Some of the organisations listed place their own attendance requirements upon local authorities eg Leader,

Portfolio Holder, Chairman etc to attend. Attendance at others is determined by the local authority in question.

- 7.2 Discussions have recently taken place, including at a meeting of the Member Learning and Development Panel, as to the way in which decisions should be made in response to requests for Members to attend such events. Such requests sometimes come from the Council's Directorates, or from Members themselves.
- 7.3 In order for officers to have certainty about how to deal with these requests, there should be an agreed policy. Such a policy would need to be adopted by Cabinet upon the recommendation of the Governance and Constitution Committee.

8.0 Proposed Policy

- 8.1 The Council should have a simple policy which clearly sets out the rules which will guide officers and Members.
- 8.2 Discussion at the Member Learning and Development Panel centred around the following points:
 - 8.2.1 Any requests from Members for attendance should first be filtered by the Group Leader of the Member in question.
 - 8.2.2 Approval of requests must be made on the basis of need, taking into account the Member's Council responsibilities.
 - 8.2.3 Attendance must be within budget. Payment would be expected to be made from within the budget of the Service Area in question.
- 8.3 The Council needs a flexible and responsive mechanism to deal with requests for Member attendance at conferences and seminars. It is therefore proposed that an officer should have responsibility for approving such requests but that, prior to doing so, consultation should take place with the Leader or, where non-executive responsibilities apply, with the chairman of the appropriate committee and the Leader.
- 8.4 Appendix B sets out a draft policy which the Committee is asked to recommend to the Cabinet.

For further information:

Portfolio Holder: Councillor Wesley Fitzgerald

Officer: Brian Reed

Tel No: 01270 529670

Email: brian.reed@cheshireeast.gov.uk

Background Documents: None

Documents are available for inspection at:

*Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ*

Appendix A

SCHEDULE OF TYPICAL CONFERENCES ATTENDED BY LOCAL AUTHORITY MEMBERS

TITLE OF CONFERENCE
North of England Education Conference
LGA Delivering Sustainable Communities Act Conference
Public Sector People Management Association (PPMA) Annual Conference
F40 Spring Conference
CIPFA (Chartered Institute of Public Finance and Accountancy) Conference
Trading Standards Conference
LGA Annual Conference
NWRA Annual Conference
RiP/RiPfa Seminar
LGA Annual Rural Conference
Annual Libraries Conference
*DICIDA (Development Initiative for Chemical Dependent Areas)
Standards Board for England Annual Assembly
National Children and Adult Services Conference
CCN Conference
LGA Annual Local Government Finance Conference

North West Employers Organisation	
Chairs of Overview and Scrutiny Network	
Network for Lead Members' of Children's Services	
Summer Planning School	

Appendix B

Proposed policy relating to Member attendance at Conferences and Seminars

Any requests from Members for attendance must first be agreed by the Group Leader of the Member in question. Without such agreement, the request will not be processed. Confirmation of this will be sought from the proposed Member-delegate to this effect.

The Democratic Services Manager is authorised to agree requests for Member attendance at conferences and seminars on the following basis:

- Approval of requests will only be made on the basis of business-need, taking into account the Member's Council responsibilities. The appropriate Council service-area will be required to confirm whether or not there is a business need in respect of each request. Where there is no business-need, the request will not be progressed.
- Proposed attendance must be within budget. Payment will be made from within the budget of the Service Area with responsibilities for the subject-matter of the conference or seminar. Where there is no such budget, the request will not be progressed.
- Consultation with the Leader of the Council (or his Deputy) must take place prior to any request being approved.
- Where the conference or seminar clearly relates to a non-executive function of the Council, consultation with the chairman of the appropriate committee must take place prior to any request being approved.

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Borough Solicitor
Title: Outside Organisations

1.0 Purpose of the Report

- 1.1 To consider the re-appointment of the Task Group (Appointments to Outside Organisations).

2.0 Recommendations

- 2.1 That the Task Group (Appointments to Outside Organisations):
- (1) be re-constituted to serve for the remainder of the Municipal Year;
 - (2) meet on an *ad hoc* basis;
 - (3) comprise five Members on a cross-party basis (3 Conservative, 1 Liberal Democrat and 1 Labour) to be nominated at the meeting;
 - (4) be invited to address the issues emerging in respect of appointments to outside organisations;
 - (5) give initial consideration to the development of a method for individual Members to report back on the effectiveness, or otherwise, of representation; and
 - (6) report back to the Governance and Constitution Committee as and when it considers appropriate within the Municipal Year.

3.0 Financial Implications

- 3.1 None identified.

4.0 Legal Implications

- 4.1 Whilst the appointment of representatives to outside organisations can have implications for appointees, particularly those appointed as Trustees or Company Directors, there are no legal implications associated with this particular decision.

5.0 Risk Assessment

- 5.1 None identified.

6.0 Background

- 6.1 Members will be aware that at the Governance and Constitution Committee meeting held on 14th July 2008, the Committee set up a Task Group *“To devise a work programme and develop recommendations to deal with appointments to outside organisations and implement best practice.”*
- 6.2 Following completion of its work, the Task Group’s recommendations were submitted to the Committee on 9 March 2009. The nominations to outside organisations were accepted, and the Committee also adopted the recommended procedure for making such appointments.
- 6.3 All outside organisations have now been notified of the appointments made. As a consequence of those notifications, a number of matters have emerged which it would be appropriate for the Task Group to consider. For example, one or two outside organisations have been disbanded and there are constitutional issues with others which may require an adjustment to the number of Members appointed.

7.0 Composition of Task Group

- 7.1 The Task Group set up by the Committee in July 2008 was established on a cross-party basis, comprising 3 Conservatives, 1 Liberal Democrat and 1 Labour. It is suggested that it be re-constituted on this basis.

8.0 Reasons for Recommendation

- 8.1 The development of a method for reporting back on representation will enable the Council to monitor the work of outside organisations and to determine their continued appropriateness to the Council’s aims.
- 8.2 The issues which have arisen are more appropriate for the Task Group to undertake than the full Committee.
- 8.3 The retention of the Task Group as a standing body, to meet as and when required, will enable it to address other issues associated with outside organisations which may emerge during the course of the year.

For further information:

Officer: Carol Jones

Tel: 01270 529952

e-mail: carol.jones@cheshireeast.gov.uk

Background documents:

Procedure for Making Appointments to Outside Organisations

Previous reports to Governance and Constitution Committee

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Borough Solicitor
Title: Community Governance Review – Crewe Petition

1.0 Purpose of Report

- 1.1 To consider the receipt of a petition calling for a Community Governance review in respect of the unparished areas of Crewe Town.

2.0 Recommendations

2.1 That

- (1) for the purposes of Section 80 of the Local Government and Public Involvement in Health Act 2007 the petition be confirmed as valid;
- (2) notice of the receipt of a valid petition be given to the petition organisers;
- (3) a Community Governance Review be carried out in respect of the whole of the Electoral Wards of Coppenhall, Delamere, Grosvenor, Maw Green, St Johns, Valley and Waldron; and those parts of the following Electoral Wards which do not already fall into an existing parish: Alexandra, Leighton, St Barnabas, Wistaston Green, the Review to be completed by 30th March 2010; and
- (4) a Working Group be established to oversee the Review and to make appropriate recommendations to the Governance & Constitution Committee.

3.0 Background

- 3.1 On 30 March 2009 Crewe & Nantwich Borough Council received a petition which called for a Community Governance Review and identified three recommendations arising from a Review:
1. That a new parish be constituted under Section 87 of the Local Government and Public Involvement in Health Act 2007.
 2. That the new parish should have a council to be known as Crewe Town Council.

3. That the area to which the review is to relate is the whole of the Electoral Wards of Coppenhall, Delamere, Grosvenor, Maw Green, St Johns, Valley and Waldron; and those parts of the following Electoral Wards which do not already fall into an existing parish: Alexandra, Leighton, St Barnabas, Wistaston Green.

- 3.2 The petition also included a map outlining the area to be reviewed. The petition has been passed to Cheshire East Council for action.

4.0 Validation

- 4.1 In order for a Community Governance Review to be initiated the petition has to be signed by at least 10% of local government electors in the area (3,507). The petition has been checked and verified and found to contain 3,734 valid signatures. Accordingly, Cheshire East Council is required to carry out a Community Governance Review.

5.0 Procedure

- 5.1 Since February 2008, the power to take decisions about matters such as the creation of parishes and their electoral arrangements has been devolved from the Secretary of State and the Electoral Commission to principal Councils such as Cheshire East. Cheshire East Council can, therefore, decide whether to give effect to the recommendations made arising from the Community Governance Review, provided it takes the views of local people into account.
- 5.2 An outline of the process and indicative timescale is attached (Appendix). The Review must be completed within 12 months of receiving the petition (i.e. 30th March 2010). Any electoral arrangements required to give effect to the Review recommendations would be by means of elections in 2011.
- 5.3 A rigorous consultation process is central to the Review and must include:
 - Local government electors in the area under review
 - Local businesses, local public and voluntary organisations, schools, health bodies
 - Residents and community groups
 - Area working arrangements.

The views of the Electoral Commission on any proposed electoral arrangements must also be sought.

Any views received as part of the consultation process must be taken into account.

6.0 Criteria when undertaking a Review

- 6.1 Cheshire East Council is required to ensure that community governance within the area under review will be
- Reflective of the identities and interests of the community in that area
 - Effective and convenient
- 6.2 Key considerations in meeting the criteria include:-
- The impact of community governance arrangements on community cohesion
 - The size, population and boundaries of a local community or parish
 - Parishes should reflect distinctive and recognisable communities of interest with their own sense of identity
 - The degree to which the proposals offer a sense of place and identity for all residents
 - The ability of the proposed authority's ability to deliver quality services economically and efficiently providing users with a democratic voice
 - The degree to which a parish council would be viable in terms of a unit of local government providing at least some local services that are convenient, easy to reach and accessible to local people.

7.0 Recommendations and Decisions on the Review Outcome

- 7.1 Cheshire East Council must make recommendations with respect to the following:
- a) Whether a new parish or parishes should be constituted.
 - b) Whether existing parishes should or should not be abolished or whether the area of existing parishes should be altered.
 - c) What the electoral arrangements for new or existing parishes which are to have parish councils should be.
- 7.2 These recommendations must have regard to:
- The need to ensure that community governance reflects the identities and interests of the community in the area and is effective and convenient
 - Any other arrangements that have already been made for the purposes of community representation or engagement
 - Any representation received and should be supported by evidence which demonstrates that the community governance arrangements would meet the criteria.
- 7.3 The Review may make a recommendation which is different from that which the petitioners sought. The Review may, for example, conclude that the proposals were not in the interests of the wider local community, or may negatively impact on community cohesion either within the proposed parish or in the wider community.

8.0 Electoral Arrangements

8.1 The Review must give consideration to the electoral arrangements that should apply in the event that a parish council is established. In particular the following must be considered:

- a) The ordinary year of election – if a parish council was established the first year of election would be 2011.
- b) Council size – the number of councillors.
- c) Parish warding – whether the parish should be divided into wards; the number and boundaries of such wards; number of councillors per ward and the names of wards.

8.2 The Boundary Committee has recently embarked on a review of electoral arrangements for this council and their proposals should have regard to the proposals for warding any new parish and vice versa.

9.0 Options

The Review must consider a range of options which may differ from the proposals contained in the petition in the light of the representations which are received and the evidence collected. These options may be viewed as alternatives or as stages towards the establishment of a parish council. In considering all options, regard may be had to this council's agenda for local working and community involvement, based on Local Area Partnerships.

Some options include:

Area Committees – formed as part of the structure of principal Councils, often including local councillors. They can be involved in a wide range of service provision and fulfil a number of community governance roles. Their primary role is to contribute to the shaping of Council services and improving local service provision.

Neighbourhood Management – generally aimed at service delivery improvement and implementation at the local level. Often facilitated by a neighbourhood manager rather than advising or making decisions at local level.

Tenant Management Organisations – usually estate-based, largely public/social housing focused.

Area/Community Forums – often established as a mechanism to give communities a say on principal council matters or local issues and to influence decision making. Membership usually consists of people living or working in a specific area.

Residents' & Tenants' Associations – usually focused on issues affecting neighbourhood or estate. They may be established with or without direct support from the principal council.

Community Associations – democratic model for local residents and community organisations to work together to work together for the benefit of the neighbourhood. The principal council may be represented on the management committee.

Multiple Parish Councils – the review may decide that the area/population involved is too large or lacks the community cohesion that are key criteria. The presence of geographic boundaries, for example, may limit the formation of natural communities.

10.0 Implementation

- 10.1 The Council must publish its recommendations and take sufficient steps to ensure that those who may have an interest are informed of the outcome of the Review. The reasons that underpin the recommendations must also be published.
- 10.2 A reorganisation order must be drafted to give effect to the recommendations and should include a map showing the effect in detail. An accompanying document setting out the reasons for the decision must also be prepared. These documents must be placed on deposit at the main offices of the Council and made available for public inspection.
- 10.3 The Review must be completed by 30th March 2010 and the first elections would be in May 2011 as part of the normal cycle of parish council elections.

11.0 Legal Implications

- 11.1 Under the terms of Part IV of the Local Government and Public Involvement In Health Act 2007 the Council is under a duty to carry out a Community Governance Review on receipt of a valid petition.

12.0 Risk Assessment

- 12.1 The Council must ensure that an effective and convenient form of community governance is in place and to meet its legal obligations.

For further information:

Portfolio Holder: Councillor David Brown

Officer: Bill Howie

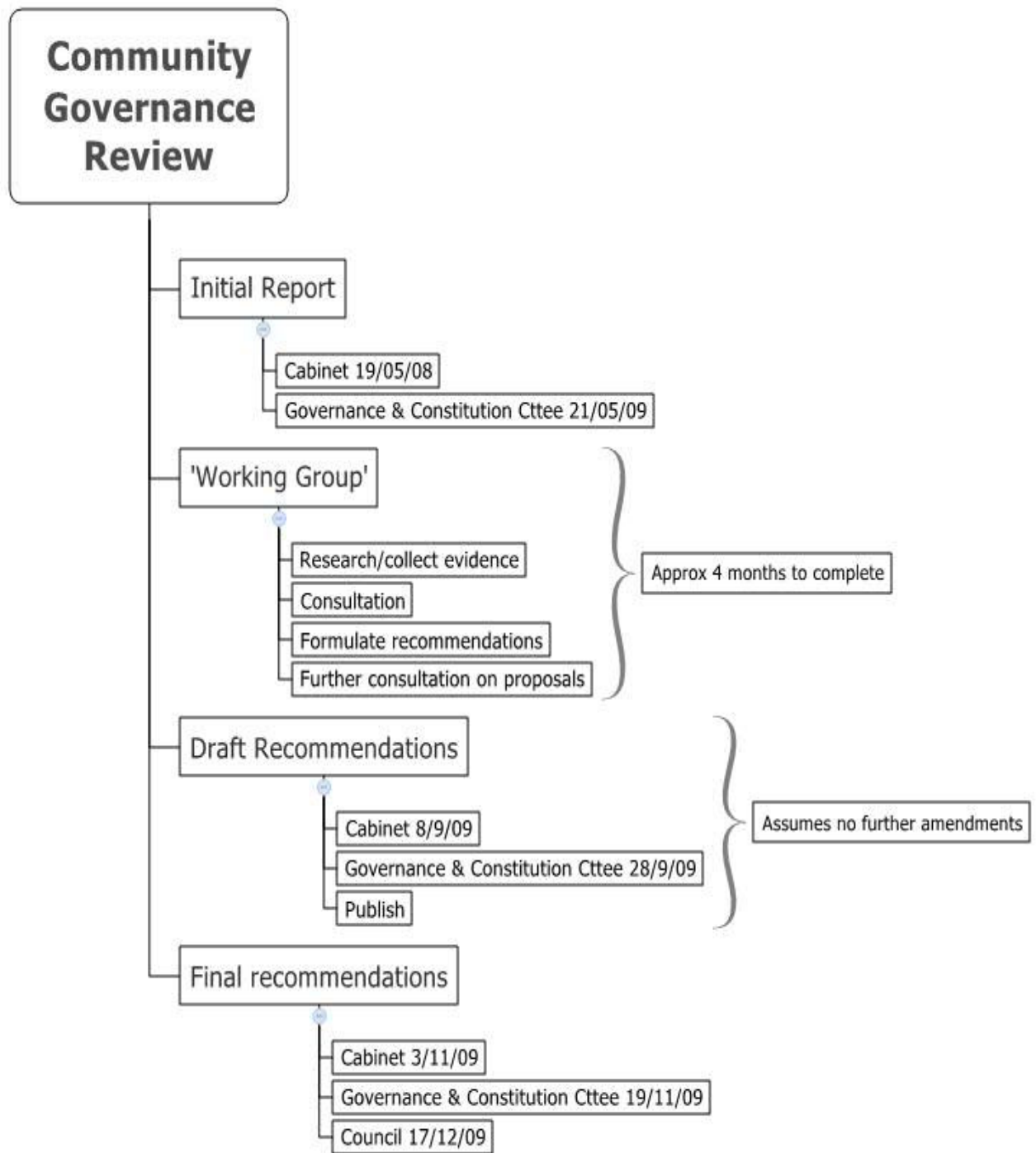
Tel No: 01270 537562

Email: bill.howie@cheshireeast.gov.uk

Background Documents:

Guidance on community governance reviews – Communities & Local Government/Electoral Commission

Documents are available for inspection at: Westfields, Middlewich Road, Sandbach CW11 1HZ

Community Governance Review – procedural timeline

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Borough Solicitor
Title: Member Speaking at Planning Committees

1.0 Purpose of Report

To propose an amendment to the Constitution in order to apply a Planning Public Speaking Protocol to Members' general speaking rights at Planning Board and Committees.

2.0 Recommendations

That Council be recommended that

- (1) Procedure Rule 38 of the Constitution be amended to add a new paragraph 38.4, "At the Planning Board and Planning Committees, Members' Speaking Rights are subject to the Public Speaking Protocol in Part 5 of the Constitution"; and
- (2) the Public Speaking Protocol set out as an Appendix to this report be added to the Constitution.

3.0 Financial Implications for Transition Costs

None

4.0 Financial Implications 2009/10 and beyond

None

5.0 Legal Implications

Member speaking rights are contained in the Constitution. The Council granted power to the Strategic Planning Board to adopt a Public Speaking Protocol for the Board and Planning Committees. The Protocol approved also covers Members' speaking rights. For consistency and clarity, the Constitution and Protocol should be brought into line.

6.0 Risk Assessment

Provided that Members' speaking rights are clearly set out in relation to the

Planning Board and Committees, there are no associated risks.

7.0 Background

Procedure rule 38 in the Constitution provides that any Member may attend Committees to which they have not been appointed. "The Member has no right to vote, but may speak with the consent of the chairman."

The Council delegated power to the Strategic Planning Board to adopt working protocols including a Public Speaking Protocol. On 4th March 2009 the Board adopted the Protocol at Appendix A. It gives enhanced speaking rights to a wide range of speakers who can address the Board and Committees before each application on the agenda.

The Protocol sets out rules to facilitate the smooth running of the meeting. It asks all speakers, including Members, to give the Democratic Services Section 24 hours written notice, to register with them 10-15 minutes before the meeting begins and to keep their speech to 3 minutes (5 minutes for ward councillors).

In exceptional circumstances and with the Board/Committee's approval, the Chairman may extend the speaking period for some or all speakers or to allow more speakers if appropriate.

These rules have worked at the former Macclesfield BC for many years and help the Chairman prepare for and regulate the length of meetings, which can be substantially extended by the exercise of the rights.

8.0 Conclusion

The Protocol differs from the general rule in the Constitution in two respects. First, it gives Members a right to speak, instead of relying solely on the Chairman's discretion. Secondly, it asks Members to abide by the same rules as the general public eg: 24 hours notice and a time limit for speaking, with flexibility to extend if appropriate. These changes are appropriate, given the volume of business transacted by the Planning Board and Committees. For consistency and clarity the general rule in the Constitution should be amended to take account of them and the Protocol should be appended to the Constitution for ease of reference.

For further information:

Portfolio Holder: Councillor Jamie Macrae

Officer: Sheila Dillon

Tel No: 01270 529725

Email: sheila.dillon@congleton.gov.uk

Background Documents:

Cheshire East Borough Council Constitution: available on the Council's website or at Westfields, Sandbach



PUBLIC SPEAKING RIGHTS AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- a) The Strategic Planning Board and Planning Committees have to make decisions on the merits of each individual application, upon the basis of what is in the Development Plan and other material considerations. All written representations made to the Council will be taken into account in the Officers written report to Committee, but this procedure allows members of the public and Councillors who are not members of the Strategic Planning Board or Committees to attend a Strategic Planning Board or Planning Committee meeting and speak for or against an application prior to the Strategic Planning Board or Planning Committees making a decision about a planning application.
- b) The Strategic Planning Board normally meets at Westfield at 2.00 every 3 weeks
- c) The Planning Committees meet at the Crewe Municipal Buildings, Earle Street, Crewe, CW1 2BJ and at the Macclesfield Town Hall, Market Place, Macclesfield, SK10 1DX every 3 weeks
- d) The agenda for each Strategic Planning Board or Planning Committee meeting is available five working days before the meeting and is available via the Council's website. Interested groups and individuals should keep themselves informed about when a planning application will come to the Strategic Planning Board or Planning Committees. A list of meetings can be obtained from the Council Offices and officers will be able to advise on the progress of applications.

PROCEDURE:

1. WHO CAN SPEAK AND FOR HOW LONG

- 1.1 The following individuals/groups are eligible to speak
 - Objectors
 - Applicants or their agents
 - Supporters
 - The relevant Parish or Town Council
 - Local representative groups/Civic Society (where not covered by any of the above categories)
 - The Ward Member if they are not on the Board/Committee
 - Members who are not on the Board/Committee and are not the Ward Member

- 1.2 Each group identified shall be entitled to speak for a period of up to three minutes. If there is more than one person wishing to speak, from a particular group e.g. objectors, people are encouraged to consult each other and agree how to share their 3 minutes. The time limit will not be extended unless a specific extension of time is agreed by the Chairman. Where a listed building application is involved no extra time will be provided.
- 1.3 In order to be fair to all parties, no presentation aids will be permitted. Similarly the circulation of information, photographs and/or plans at the meeting will not be allowed.

2 HOW TO SPEAK AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- 2.1 It is necessary to inform, in writing (email, fax or letter), the Democratic Services Section of an intention to speak at a Strategic Planning Board or Planning Committee meeting no later than 12.00 noon the day before.
- 2.2 Speakers should arrive for meetings approximately 10-15 minutes prior to the start of the meeting in order to register with the Democratic Services Officer.
- 2.3 A statement to the Strategic Planning Board or Planning Committee should only refer to planning issues, for example:
 - exterior design, size, appearance, layout, etc
 - residential amenity
 - highway safety
 - character of the area
 - trees and historic buildings
 - planning policy (Local Plan/Structure Plan)
 - Government guidance
- 2.4 The Strategic Planning Board or Planning Committee cannot take into account non-planning issues for example:
 - boundary disputes/property rights
 - personal comments about any individual
 - loss of property value or loss of view
 - matters covered in other laws
- 2.5 Speakers are reminded of the law relating to slander. If, at the meeting, they say something which is not true about another person, they could be at risk of legal action. Further, Race Relations and Human Rights legislation will not allow any discriminatory comments for example race, religious beliefs or disability.

2.6 The order of speaking at the meetings of the Strategic Planning Board and Planning Committees is as follows -

- Announcement of the item by the Chairman
- Introduction and description of the application by the Planning Officer, including an update of the Committee report and highlighting of the key issues
- Ward Councillor(s) if application 'called in' or if not Committee Member (5 mins in total)
- Members who are not on the Board/Committee and are not the Ward Member (3 mins)
- Parish/Town Council representations (3 mins)
- Civic Society/Local Representative Groups (3 mins)
- Objectors' representations (3 mins)
- Applicants/supporters' representations (3 mins)
- Further comments by Planning Officer
- Ward Councillor if a Member of the Board/Committee
- Board/Committee Members debate and decision taken

2.7 At the Chairman's discretion, members of the Strategic Planning Board or Planning Committee may ask, through the Chairman, a visiting speaker (not Council Member) to clarify an issue after a statement is made. The Chairman may also ask that questions of fact are answered by any speakers during the Members discussion to clarify matters. Speakers will not be permitted to ask questions of the Strategic Planning Board or Planning Committee or other speakers or to interrupt the Members discussion on an individual planning application.

2.8 In exceptional circumstances, the Chairman may (with the approval of the Board or Committee) extend the speaking period for some or all speakers or allow more speakers if appropriate. This power will be treated with caution for controversial or complex schemes and if additional time is granted to objectors, a similar allowance will be given to supporters and/or the applicant.

3 AFTER THE DECISION

3.1 Speakers are asked to respect the decision made by the Strategic Planning Board or Planning Committee during the course of the meeting. The Strategic Planning Board or Planning Committees decision is final but the applicants do have the right to appeal to the First Secretary of State if their application is refused or if conditions are attached which they do not like. Objectors do not have the right to appeal a decision to the First Secretary of State but they can seek to have a decision quashed by an application to the High Court by way of judicial Review.

3.2 If an application is deferred to a future meeting for consideration, speakers will be required to register to speak for that meeting in accordance with this procedure note.

3.3 This scheme comes into effect on 1 April 2009 and will be monitored and reviewed by the Strategic Planning Board initially after 6 months.

Cheshire East Borough Council

Public Participation at Strategic Planning Board and Planning Committees

Who can speak?

The following individuals/groups are eligible to speak

- Objectors
- Applicants
- Supporters
- The relevant Parish or Town Council
- Local representative groups/Civic Society (where not covered by any of the above categories)
- Members who are not on the Committee and are not the Ward Member.

How much time is allocated to each group?

A period limited to a total of 3 minutes. If there is more than one person wishing to speak, people are encouraged to consult each other and agree how to share their 3 minutes. This may be the most effective way of presenting views. Where a listed building application is involved no extra time will be provided.

How do you arrange to speak at the Planning Committee?

Please inform, in writing, Democratic Services, by 12.00 noon on the Tuesday (the day before the meeting).

When should you arrive for the meeting?

Speakers are *normally requested to arrive by: 1.45pm, prior to the start of the meeting at 2.00pm so that they can register with the Democratic Services Officer.

**Please note: These times may vary as the agenda dictates. Please contact the Democratic Services Section to confirm times/agenda order.*

What is the order of speaking at the meeting?

The order is as follows:

- Announcement of the item by the Chairman
- Introduction by the Planning Officer, who will update the Committee report and highlight the key issues
- Ward Councillors, if application 'called in' (call-in applies to Planning Committee only) or if not a Committee Member (5 minutes in total).
- Parish/Town Council representations (3 minutes)
- Civic Society/Local Representative Groups (3 minutes)
- Objectors' representations (3 minutes)
- Applicants/supporters' representations (3 minutes)
- Further comments by Planning Officer

What are the possible outcomes of the meeting?

The decision may be:

- to approve the application
- to refuse the application
- to defer for information/negotiations
- to defer for a site visit by the Committee.
- to refer the application from the Committee to the Strategic Planning Board.

What may the statement to the Committee include?

Only refer to relevant planning issues, e.g.:

- exterior design, size, appearance, layout, etc
- residential amenity
- highway safety
- character of the area
- trees and historic buildings
- planning policy (Local Plan/Structure Plan)
- Government guidance
- The Committee cannot take into account non - planning issues e.g.:
- boundary disputes/property rights
- personal comments about any individual
- loss of property value or loss of view
- matters covered in other laws

Will the use of presentation aids be allowed?

In order to be fair to all parties, no presentation aids will be permitted. Similarly, the circulation of late information, photographs and/or plans at the meeting will not be allowed.

Will there be an opportunity for questions?

At the Chairman's discretion, members of the Committee may ask a visiting speaker to clarify an issue after a statement is made. However, speakers will not be permitted to ask questions or interrupt the Members' discussion on an individual planning application.

Where are meetings held

Strategic Planning Board – Westfields, Sandbach
Northern Planning Committee – Macclesfield Town Hall.
Southern Planning Committee – Municipal Buildings, Crewe.

Agenda

Agendas for the Committee are available on-line, or from the Democratic Services Officer one week before the meetings

Contact

Julie Zientek, Democratic Services, Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire. CW11 1HZ

Tel: 01270 529641

Email: Julie.Zientek@cheshireeast.gov.uk

Also see the Council's website: www.cheshireeast.gov.uk

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Internal Audit Manager
Title: Anti-fraud and Corruption Strategy

1.0 Purpose of Report

- 1.1 The purpose of this report is to present a draft Anti-fraud and Corruption Strategy (Appendix A) for the Committee to consider.

2.0 Background

- 2.1 The aim of the Anti-fraud and Corruption Strategy is to respond to national and local concerns about fraud, particularly public sector fraud, by the introduction of clear guidelines for the detection, prevention and reporting of fraud.
- 2.2 The attached Policy describes the comprehensive framework of policies and procedures that are intended to deal with acts of fraud or corruption. The strategy is of relevance to all Members and employees of the Council and all organisations with which it is associated.

3.0 Recommendations

- 3.1 That the Committee:
- (1) endorse the draft of the Anti-fraud and Corruption Strategy; and
 - (2) nominate Internal Audit as the main body dealing with and coordinating any enquiries in response to allegations of fraud and corruption.

4.0 Financial Implications for Transition Costs

- 4.1 None.

5.0 Financial Implications 2009/10 and beyond

- 5.1 There will be a package of training on safeguarding resources that will cover a number of inter related topics including Anti-fraud and Corruption related matters.
- 5.2 The potential actions of those perpetrating frauds, the investigation and disciplinary processes will result in the loss of (financial, human and logistic) resources to the Council.

6.0 Legal Implications

- 6.1 Fraud related offences are sanctioned with a) summary conviction through imprisonment not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both) or b) conviction on indictment to prison not exceeding 10 years or to a fine (or both).
- 6.2 There could also be legal consequences for the Council if it could not demonstrate adequate performance in fraud prevention in the Use of Resources element of the Comprehensive Area Assessment. This is assessed by the External Auditor.

7.0 Risk Assessment

- 7.1 This is an important area as the risks to the reputation of the Council are high if inadequate controls permitted major fraud to occur.
- 7.2 The risk of the Council being involved in attempted frauds and corruption is relatively at present but could escalate as a result of
- The effects of significant structural and management changes as a result of the Local Government Review;
 - Greater delegation or changes in delegation for chief officers and managers;
 - Cash limits for service managers;
 - Potential dilution of traditional supervision and control measures during the period of transition;
 - Increasing levels of organised fraud particularly in the grants and benefits area;
 - Expansion of electronic ways of working and "E-Governance";
 - Increased activity by organised criminals who see public sector organisations as an easy target;
 - The economic situation and financial pressures on individuals (including employees).
- 7.3 Risk assessments will be conducted on a service by service basis. This Policy will be regularly amended in order to correspond the Council's needs to reduce the risk of fraud, corruption and other irregularities.

8.0 Training

- 8.1 Officers investigating allegations of fraud and corruption must possess good knowledge of relevant legislation such as the Fraud Act 2006, Theft Act 1968, Theft Act 1978, PACE 1984, Employment Law, DPA 1998, RIPA 2000, the Council's investigation procedure etc.

9.0 Reasons for Recommendations

- 9.1 To ensure that the Council establishes sound and responsible anti-fraud and corruption controls and reporting arrangements designed to detect and prevent

irregularities as described in the domestic legislation governing this area of offences.

For further information:

Portfolio Holder: Councillor David Brown

Officer: Vivienne Quayle, Head of Internal Audit

Tel No: 01270-529684

Email: vivienne.quayle@cheshireeast.gov.uk

Background Documents:

None

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Anti Fraud and Corruption Strategy

1.0 INTRODUCTION

- 1.1 Cheshire East Council is a large employer within the Borough, employing more than 14,000 people and managing a gross budget in excess of £700 million. The Council fully recognises its responsibilities for spending public money and is committed to the fullest support for members and employees in upholding the reputation of Cheshire East and maintaining the public's confidence in the integrity of the Council.
- 1.2 In carrying out its functions and responsibilities, the authority has adopted a culture of openness and fairness and expects that members and employees at all levels will adopt the highest standards of propriety and accountability. This is achieved by leading by example and by an understanding of and adherence to rules, procedures and agreed practices. These standards are also expected from organisations that have a relationship with the authority (e.g. partners/suppliers/contractors).
- 1.3 Cheshire East Council is committed to the prevention, detection and investigation of all forms of fraud and corruption and will deal equally with perpetrators from inside (members and employees) and outside the authority. In addition, there will be no distinction made in investigation and action between cases that generate financial benefits and those that do not.
- 1.4 This strategy does not override any obligations as an employer under the Officer or Member Codes of Conduct. In addition, it runs alongside any equality and diversity strategies adopted.
- 1.5 This strategy document embodies a series of measures designed to prevent any attempted fraudulent or corrupt act and the steps to be taken if such an act occurs. For ease of understanding it is separated into the following seven areas:

• Definition	Section 2
• Culture	Section 3
• Prevention	Section 4
• Deterrence	Section 5
• Detection and Investigation	Section 6
• Awareness and Training	Section 7
• Measuring Success and Learning	Section 8
- 1.6 The authority is also aware of the high degree of external scrutiny of its affairs by a variety of bodies such as the Audit Commission, several inspection bodies, the Local Government Ombudsman, the Information Commissioner and HM Revenues and Customs. These bodies are important in highlighting any areas where improvements can be made.

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2.0 DEFINITIONS

2.1 The fraud Act 2006 established new criminal laws to assist in the fight against fraud by creating a new general offence of fraud. It is defined as:

- Fraud by false representation
- Fraud by failing to disclose information, and
- Fraud by abuse of position

2.2 Fraud and corruption are defined by the Audit Commission as:-

Fraud – “the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain”.

Corruption – “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

2.3 In addition, this strategy also covers “the failure to disclose an interest in order to gain financial or other pecuniary gain.” Such a failure will also be included for the purposes of this strategy.

3.0 CULTURE

3.1 The culture of Cheshire East Council is one of openness and integrity. This culture therefore supports the opposition to fraud and corruption.

3.2 The prevention/detection of fraud/corruption and the protection of the public purse are responsibilities of everyone. With this in mind, the Council's expectation is that individuals and organisations associated with the Council will act with integrity and that members and employees will lead by example in these matters.

3.3 Cheshire East Council's members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will be taken seriously and wherever possible, treated in confidence and properly investigated.

3.4 Concerns must be raised when members or employees reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:

- a criminal offence
- a failure to comply with a statutory or legal obligation
- improper and/or unauthorised use of public or other funds
- a miscarriage of justice
- maladministration, misconduct or malpractice

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- endangering of an individual's health and safety
- damage to the environment
- deliberate concealment of any of the above.

3.5 Concerns must be raised firstly with the supervisor/line manager or, where a person feels unable to do this, via other routes, for example:-

- Heads of Service, Directors, or the Chief Executive, who will report such concerns to the Internal Audit Manager or their authorised representative.
- Directly to the Internal Audit Manager or a senior member of the internal audit team
- The External Auditor, who depending upon the nature of the concern will liaise with the Internal Audit Manager or Borough Treasurer (as Section 151 officer) .
- The Monitoring Officer as outlined in the Confidential Reporting (or Whistleblowing) Protocol)
- The Customer, compliments, Comments & Complaints procedure for use by the general public.

3.6 Partners, contractors, consultants, suppliers, service users, employees and committee members of organisations which the Borough Council funds and the general public are also encouraged to report concerns through any of the above routes.

3.7 The Council will ensure that any allegations received in any way, including by anonymous letters or telephone calls will be taken seriously and investigated in an appropriate manner.

3.8 The Council will deal firmly with those who defraud the authority or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees or members raising malicious allegations) or misuse by external organisations or persons may be dealt with as a disciplinary matter or referred to the Chief Executive for further consideration.

3.9 When fraud and corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

4.0 PREVENTION

4.1 It is the responsibility of management to ensure that appropriate, robust controls are in place and working correctly. In addition to this managerial responsibility there are a number of specific preventative measures which are critical to deter fraud.

4.2 Employees

4.2.1 The Council recognises that a key preventative measure in dealing with fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for

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permanent, temporary or casual posts.

- 4.2.2 The Council has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held. Criminal records will only be taken into account for recruitment purposes where the conviction is relevant.
- 4.2.3 To ensure compliance with the Asylum and Immigration Legislation, the recruitment process contains safeguards to ensure that appropriate documentation is provided as evidence of entitlement to work in the United Kingdom.
- 4.2.4 All employees are governed by the Council's Financial and Contract Procedure Rules. They are required to follow the standards set out in the Code of Conduct, which is issued to all staff along with their Contract of Employment. Employees are further governed by the Council's Disciplinary Procedure, which is issued to all staff containing, reference to disciplinary rules giving, examples of misconducts/gross misconduct and how such situations will be managed.
- 4.2.5 The role that employees are expected to play in the Council's framework of internal control will be included in staff induction procedures. Immediately by their line manager and then subsequently through corporate induction training, as appropriate.
- 4.2.6 Cheshire East Council expects its employees to comply with codes of practice or other relevant professional obligations issued by professional bodies of which they may be members.
- 4.2.7 Employees are reminded that they must comply with Section 117 of the Local Government Act 1972 which requires any interests in contracts that have been proposed to be entered into by the Council to be declared. The Legislation also prohibits the acceptance of fees or rewards other than by means of proper remuneration.
- 4.2.8 Employees must register any interests they may have in the departmental register recording Declarations of Interests.
- 4.2.9 All offers of gifts and hospitality, regardless of whether the offer was accepted or declined, must be recorded in the departmental register. Such registers will be reviewed by the appropriate departmental management team on a regular basis and a record kept of such review.

4.3 Members

- 4.3.1 Members are required to operate within:
 - Members Code of Conduct
 - Cheshire East's Financial and Contract Procedure Rules
 - Sections 94-97 of the Local Government Act 1972

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- Local Authorities (Members' Interest) Regulations 1992
- Section 81 of the Local Government Act 2000

4.3.2 These matters are specifically brought to the attention of members in the introduction pack and include the declaration and registration of potential areas of conflict. The Borough Solicitor advises members of new legislative or procedural requirements.

4.4 Systems

4.4.1 Cheshire East Council's Financial and Contract Procedure Rules require employees to act in accordance with best practice. In addition to Financial and Contract Procedure Rules Directorates/Sections may have their own procedures to prevent and detect fraud. There may also be audit reports that recommend methods to minimise losses to the authority. Managers and employees must be made aware of these various sources of guidance and alter their working practices accordingly.

4.4.2 The Borough Treasurer has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure regulations and accounting instructions are in place governing the procedures and responsibilities of employees in relation to the key financial systems.

4.4.3 The Council has developed and is committed to systems and procedures, which incorporate efficient and effective internal controls of duties. Managers are responsible for ensuring that such controls (including those relating to electronic transmission and recording) are properly maintained and documented. Their existence and appropriateness is independently monitored by Internal Audit through the annual internal audit plan.

4.5 Information Technology and the use of IT systems

4.5.1 The Council has an overarching Information Governance Policy, supported by detailed policies, standards and procedures as necessary, compliance with which is mandatory for anyone with access to any Cheshire East Council information or facilities. Full compliance with the policy will help the Cheshire East Council to manage the risk from information security threats, be these internal or external, deliberate or accidental.

4.4.2 The Council acknowledges that access to the internet is an integral part of many jobs and staff are provided with internet access at work to enable them to do their job. Although the internet is recognised as a world-wide electronic library of information and services, the council has a policy that generally staff should only use and get information from the internet for their official duties and responsibilities. Internet services on Cheshire East IT equipment are covered by the councils policy on abuse, misuse, or unofficial use of resources by staff.

4.6 Confidential Reporting Procedure (known as Whistleblowing)

4.6.1 If employees do not feel that they can raise concerns directly with their line manager or other officer, there is an alternative route which the Cheshire East Council has established; the Confidential reporting or Whistleblowing protocol.

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The protocol explains how concerns raised by employees will be dealt with. If these concerns involve issues relating to fraud and corruption, they will be considered by the Monitoring Officer and may be passed directly to the Internal Audit Manager for investigation and possible referral to the Police.

- 4.6.2 The whistle blowing hotline provides a confidential route to report concerns to the Monitoring Officer.

4.7 External Organisations

- 4.7.1 The Council is committed to delivering outcomes in collaboration with partner organisations from the private, public, voluntary and community sector as well as procuring goods and services from these sectors.
- 4.7.2 Cheshire East Council recognises that a key preventative measure in dealing with fraud and corruption is to take effective steps to establish the integrity of the external organisations with whom it engages.
- 4.7.3 Services are commissioned with the advice of the Corporate Procurement Team who ensure that external organisations are aware of the Authority's anti fraud culture. In addition, the governance arrangements or external organisations are also considered through partnership governance boards and voluntary sector compacts.

4.8 Internal Audit Department

- 4.8.1 Internal Audit plays a vital preventative role in reviewing and assessing to ensure that systems and procedures that management put in place to prevent and detect fraud and corruption are adhered to. Internal Audit investigate all cases of suspected irregularity, in accordance within the requirements of the Human Rights Act 1998. They liaise with management to recommend changes in procedures to prevent further losses to the authority.
- 4.8.2 Internal Audit regularly assess the levels of risk within the Council with a view to preventing fraud and corruption, and these assessments are incorporated into work plans. The outcome of this work is used to inform their opinion on the internal control environment, future internal audit and fraud plans and ultimately the annual governance statement.
- 4.8.3 In addition to the above, Internal Audit maintain a fraud risk register, which is updated on an annual basis. The register identifies the fraud risks to which the authority is most susceptible. This is used to determine specific fraud detection work which is included in the annual work plan.

4.9 Benefit Investigation Team

- 4.9.1 The Benefit Investigation Team is responsible for all benefit fraud investigations, in accordance with the requirements of the Human Rights Act 1998, Police and Criminal Evidence Act 1994, Criminal Procedures Investigation Act 1996 and other relevant legislation. In cases where employees are involved, they will work

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with Internal Audit, Human Resources and appropriate senior management to ensure that correct procedures are followed and this strategy is adhered to. In addition, there is a protocol for the disclosure of information about employees found guilty of benefit fraud, so that this information is held on their employee file.

- 4.9.2 The Benefits Counter Fraud Strategy deals specifically with housing benefits issues and is complimentary to this main Anti Fraud strategy. The benefits services strategy is supplemented by the benefits service prosecution policy. This policy outlines the criteria used to determine any sanctions that may be applicable if a case is proven by the Investigation Team.
- 4.9.3 In addition to the confidential reporting procedure outlined above (4.5) the benefit investigation team also operate a separate hotline, for use by members of the public. These are publicised in relevant literature.

4.10 Co-operation with Others

- 4.10.1 Arrangements are in place and continue to be developed to encourage the exchange of information on national and local fraud and corruption activity and its impact on Local Authorities, with external agencies such as:-

- The Police
- Inter Authority Audit Groups
- The Audit Commission
- Her Majesty's Revenues and Customs
- The Department for Work and Pensions
- Borders & Immigration

4.11 Data Matching

- 4.11.1 The Council participates in several data matching exercises for the purpose of reducing fraud and corruption. It may use any of the data it holds in the course of these initiatives. In every instance where data is provided, the Council will comply with the Data Protection Act appropriately notifying all data subjects. The two major initiatives the Council currently participates in are:

- The Audit Commission's National Fraud Initiative
- The Department for Work and Pensions' Housing Benefit Matching Service

4.12 National Fraud Initiative (NFI)

- 4.12.1 The NFI is the Audit Commission's national data matching exercise and is designed to help participating bodies detect fraudulent and erroneous payments from the public purse. The Council takes an active role in pursuing data provided through this means and continues to seek improvements in all systems in order to minimise losses.
- 4.12.2 Cheshire East Council's approach to NFI is based upon the guidelines issued by the Audit Commission, which recognises a number of key elements that participating organisations must have in place to ensure that the resources

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invested into the NFI are used as efficiently and effectively as possible. These are:

- Key contact role
- Co-ordination of data submissions
- Overseeing data subject notification
- Follow up approach
- Initial review
- Equipping staff with the NFI application and appropriate knowledge
- Allocating work appropriately
- Tracking progress

4.12.3 The resultant data matches received from the NFI are prioritized. This prioritization is utilized in allocating resources in accordance with the potential risk that matches are indicative of potential fraud.

4.13 Housing Benefit Matching Service (HBMS)

4.13.1 The HBMS, which is part of the Department for Work and Pensions (DWP), undertakes monthly matching for all councils, comparing Housing Benefit data against Pension, HMRC and DWP records. The Benefits Interventions Team receives the monthly matches and look at all of these within 2 to 5 days. Any matches that are highlighted as potential fraud are raised as fraud referrals and passed to the Benefit Investigation Team straight away. This fast turnaround increases the potential to act on frauds quickly, reduce the levels of overpayments and take any further sanction action within prescribed timescales.

5.0 DETERRENCE

5.1 Prosecution

5.1.1 The authority has adopted a Benefits Prosecution Policy and will review the need for a Corporate Policy. It is designed to clarify the authority's action in specific cases and to deter others from committing offences against the authority. However, it also recognises that it may not always be in the public interest to refer cases for criminal proceedings.

5.2 Disciplinary Action

5.2.1 Theft, fraud and corruption are serious offences against the authority and employees will face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner. Consultation will take place with the Chief Executive and/or Head of Human Resources, Borough Treasurer and Borough Solicitor. (The police will pass valid cases to the Crown Prosecution Service for advice or review of the charge).

5.2.2 Members will face appropriate action under this strategy if they are found to have been involved in theft, fraud or corruption against the authority. Action

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will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner. Such action may include the making of a reference to the Standards Board for England, and/or the appropriate political group leader, as appropriate.

5.3 Publicity

- 5.3.1 The authority's corporate communications team will optimise the publicity opportunities associated with anti-fraud and corruption activity within the authority. They will also aim to ensure the results of any action taken, including prosecutions, are reported to the media.
- 5.3.2 In all cases where financial loss to the authority has occurred the authority will seek to recover the loss.
- 5.3.3 All anti fraud and corruption activities, including the update of this strategy, will be publicised in order to make employees and the public aware of the authority's commitment to taking action on fraud and corruption when it occurs.

6.0 DETECTION AND INVESTIGATION

- 6.1 Internal Audit plays an important role in the detection of fraud and corruption. Included in their plans are reviews of systems, financial controls, specific fraud and corruption tests, spot checks and unannounced visits. The Council's preventative systems, particularly internal control systems, are designed to deter any fraudulent activity.
- 6.2 It is often the vigilance of members, employees and members of the public that enables detection to occur and appropriate action to take place.
- 6.3 Despite the best efforts of financial managers and auditors, frauds are often discovered by chance and the Council has in place arrangements to enable such information to be properly and promptly dealt with.
- 6.4 Directors and Heads of Service are required to report all suspected instances of fraud and corruption to the Internal Audit Manager, or his authorised representative. Reporting is essential to the success of this strategy and ensures consistent treatment of information regarding fraud and corruption and facilitates the proper investigation by the appropriate officers.
- 6.5 Depending on the nature of an allegation, the Internal Audit Manager will normally work closely with the Director or Head of Service concerned to ensure that all allegations are thoroughly investigated and reported upon.
- 6.6 The Council's Disciplinary procedures will be used to facilitate a thorough investigation of any allegation of improper conduct as well as the holding of disciplinary hearings and dealing with any recommendations and proceedings thereafter.
- 6.7 Following discussion between the statutory officers, the Borough Solicitor (as monitoring officer) and the Chief Executive will decide, based upon advice from

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the Internal Audit Manager, whether there are sufficient grounds for the matter to be reported to the police.

- 6.8 The Council's External Auditor will examine the Council's arrangements for the prevention, detection and investigation of fraud and corruption and will report accordingly.

7.0 AWARENESS AND TRAINING

- 7.1 The Council recognises that the continuing success of this strategy and its general credibility will depend largely on the effectiveness of training and responsiveness of employees throughout the organisation.
- 7.2 To facilitate this, appropriate provision will be made through induction and refresher training and for employees via the Council's employee training and development scheme.
- 7.3 The possibility of disciplinary action against employees who ignore such training and guidance is, therefore, quite clear.
- 7.4 The investigation of fraud and corruption is managed through the work of the Internal Audit Manager. Staff in internal audit will be appropriately and regularly trained.

8.0. MEASURING SUCCESS AND LEARNING

- 8.1 To monitor the success of the Anti Fraud & Corruption Strategy, the following indicators will be used and reported to the Head of Policy and Performance on a quarterly basis:-
- Number of cases referred or identified to Internal Audit & Housing Benefit Investigation Teams
 - Number of cases in which fraud/corruption was proved
 - Value (£) of misappropriation
 - Number and type of benefit fraud sanctions
 - Number of employees disciplined for offences of fraud and corruption
- 8.2 The results of the proactive work undertaken will be reported to the Governance and Constitution Committee on an annual basis within the Internal Audit Manager's report.
- 8.3 Reporting will include a summary of changes made to systems as a result of any fraudulent or corruption activity perpetrated.
- 8.4 The Internal Audit Section will keep abreast of fraudulent activity reported in other local authorities and similar organisations in order to learn from the

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experience of others. Equally the Council will share summary details of cases of fraud with other authorities.

9.0. CONCLUSION

- 9.1 Cheshire East Council has in place a clear network of systems and procedures to assist it in dealing with fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 9.2 The Council prides itself on setting and maintaining high standards and a culture of openness, with core values of fairness, trust and value. This strategy fully supports Cheshire East's desire to maintain an honest authority, free from fraud and corruption.
- 9.3 The Internal Audit Manager and Borough Treasurer will maintain a continuous review of such arrangements.

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Internal Audit Manager
Title: Anti Money Laundering Policy

1.0 Purpose of Report

- 1.1 The purpose of this report is to present a draft Anti-Money Laundering Policy (Appendix A) for the Committee to consider.

2.0 Background

- 2.1 Money laundering is the term for a number of offences involving the processing of the proceeds of illegal activity through the economy so that the possession of such monies can be legitimised.
- 2.2 The following pieces of legislation require organisations to be vigilant and to have procedures in place for the detection and disclosure of incidents of suspected money laundering and terrorism financing.
- The Proceeds of Crime Act 2002
 - The Terrorism Acts 2000 and 2006
 - The Money Laundering Regulations 2003 and 2007

3.0 Recommendations

- 3.1 That the Committee
- (1) adopt the Anti-Money Laundering Policy set out as an Appendix to this report;
 - (2) nominate the Borough Treasurer and Head of Assets as Money Laundering Reporting Officer;
 - (3) prohibit the receipt of payments in cash for the purchase of land and property;
 - (4) set a maximum amount (suggested £5,000) above which cash will not be accepted for other transactions; and
 - (5) require the Money Laundering Reporting Officer to arrange for appropriate briefing material and training to be provided.

4.0 Financial Implications for Transition Costs

- 4.1 None

5.0 Financial Implications 2009/10 and beyond

- 5.1 There will be some costs associated with the provision of training and briefings for employees on the Anti Money Laundering Policy and the risks of money laundering. The training will be proportionate and will be provided to those employees who are most likely to encounter situations where money laundering is suspected and the costs will be contained within existing budgets.

6.0 Legal Implications

- 6.1 Money laundering offences can attract fines of up to £5000 and/or up to six months in prison if tried in a magistrates Court or unlimited fines and a sentence of two to 14 years if tried in a Crown Court.
- 6.2 Employees who are members of professional accountancy or legal bodies have a responsibility to follow the guidance given by the Consultative Committee of Accountancy Bodies (CCAB) and the Law Society.

7.0 Risk Assessment

- 7.1 The risk of the Council being involved in attempted money laundering is considered to be low. This is because;
- the majority of the Council's income is received from government bodies or other public sector organisations;
 - the Council does not carry out trading activity which would generate significant amounts of cash income;
 - the Council's treasury management arrangements comply with the CIPFA Treasury Management Code.
- 7.2 The risks could be reduced further if the Council prohibited the receipt of payments in cash for the purchase of land and property and if it set a maximum amount of say £5000 for the receipt of other payments in cash.

8.0 Training

- 8.1 The Money Laundering Regulations 2007 require the Money Laundering Reporting Officer to ensure that all relevant employees are made aware of the law in respect of money laundering and understand how to recognise and act upon potential instances of money laundering or terrorist financing.

9.0 Reasons for Recommendations

- 9.1 To ensure that the Council establishes prudent and responsible anti-money laundering controls and reporting arrangements designed to detect and avoid involvement in the offences described in the Regulations..

For further information:

Portfolio Holder: Councillor David Brown or Councillor Frank Keegan

Officer: Vivienne Quayle

Tel No: 01270 529684

Email: Vivienne.Quayle@cheshireeast.gov.uk

Background Documents:

None

CHESHIRE EAST COUNCIL

ANTI-MONEY LAUNDERING POLICY

1 Introduction

- 1.1 The Proceeds of Crime Act 2002, the Terrorism Acts 2000 and 2006 and the Money Laundering Regulations 2007 place obligations upon organisations and individuals with respect to suspected money laundering.
- 1.2 The legislation was intended to apply to those undertaking “relevant business” and carrying out “regulated activities” and therefore was focussed primarily upon financial services in the private sector.
- 1.3 Although local authorities are not obliged to implement the full requirements of the Money Laundering Regulations, because of the size and scope of their activities they and their employees may be subject to the risks around money laundering and therefore it is prudent for local authorities to embrace the underlying principles of the legislation.
- 1.4 Cheshire East Council has therefore adopted this policy and it will through the publication of more detailed guidance and the provision of appropriate training ensure that the Council and its employees comply with the principles of the legislation and avoid the risks around money laundering.

2 Scope of the Policy

- 2.1 This policy applies to all employees of the Council and aims to prevent criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Council to comply with the legislation and forms part of the Council’s anti fraud and corruption framework.

The Council will:

- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity;
- implement a procedure to enable the reporting of suspicions of money laundering;
- ensure that appropriate employees are aware of the regulations;
- perform an identity check of a customer/client (Customer Due Diligence) if the relationship is a regulated activity; and
- maintain records for a minimum of 5 years after events are reported.

3 Money Laundering

- 3.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. These are;
 - concealing, disguising, converting, transferring criminal property or removing it from the UK; or

- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; or
- acquiring, using or possessing criminal property; or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property.

3.2 In addition to the above primary offences there are also the two following secondary offences;

- Failure to make a money laundering disclosure;
- “Tipping off” an individual suspected to be involved in money laundering which could reduce the likelihood of them being investigated or prejudicing an investigation.

4 The Money Laundering Reporting Officer (MLRO)

4.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Borough Treasurer and Head of Assets, Lisa Quinn. Her contact details are:

Lisa Quinn
Borough Treasurer and Head of Assets
Cheshire East Council
Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ

Telephone: 01270 529628

Email: lisa.quinn@cheshireeast.gov.uk

4.2 In the absence of the MLRO, Christine Mann, Finance Manager, is an authorised deputy. Christine can be contacted at Cheshire East Council, Room 1, County Hall, Chester, Cheshire, CH1 1SF or on telephone number 01244 972001.

5 Disclosure Procedure

- 5.1 Where an employee suspects money laundering activity or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must disclose this as soon as practicable to the MLRO or to the deputy MLRO using the Disclosure Report form.
- 5.2 The employee must follow any subsequent directions from the MLRO or deputy MLRO and must not make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.

- 5.3 The employee must not disclose or otherwise indicate their suspicions to the person suspected of money laundering activity. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case in the person suspected becomes aware of the situation.
- 5.4 The MLRO or deputy MLRO must promptly evaluate any Disclosure Report and determine whether it should be reported to the Serious Organised Crime Agency (SOCA).
- 5.5 The MLRO or deputy MLRO must, if so determined, promptly report the matter to the SOCA using the Suspicious Activities Report (SAR) in the prescribed manner.
- 5.6 If the MLRO or deputy MLRO chooses not to report the matter to the SOCA, then the reason for this decision should be fully documented in the Disclosure Report.

6 Customer Due Diligence (CDD)

- 6.1 Where the Council carries out certain “regulated activities” then extra care will be taken to check the identity of the customer or client, which is termed as carrying out Customer Due Diligence (CDD).
- 6.2 When it is necessary to carry out CDD, evidence of identity will be obtained, for example;
- checking with the customer’s website to confirm their business address;
 - conducting an on-line search via Companies House to confirm the nature and business of the customer and to confirm the identities of any directors;
 - seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.
- 6.3 The requirement for CDD will be applied immediately for new customers and on a risk based approach for existing customers. Ongoing CDD will also be performed on a regular basis during the life of a business relationship based on the officer’s knowledge of the customer and an assessment of the risk of money laundering occurring.
- 6.4 In some circumstances enhanced customer due diligence which involves a more detailed identification and verification process may be necessary. Examples include;
- where the customer has not been present for identification;
 - the customer is a Politically Exposed Person¹ (PEP);
 - There is a beneficial owner who is not the customer - a beneficial owner is
any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

¹ An individual (or known associate of) who is or has, at any time in the preceding year, been entrusted with a prominent public function by in a state other than the United Kingdom.

When enhanced CDD is required, advice should be sought from the MLRO.

- 6.5 If there is any suspicion that a customer for whom the Council is currently providing a regulated activity, or is planning to do so, is carrying out money laundering or terrorist financing, or has provided false information for identification then the agreement should be terminated and reported to the MLRO.

7 Record Keeping

- 7.1 Each business area of the Council conducting regulated activities must maintain records of:

- Customer Due Diligence evidence obtained; and
- details of all relevant business transactions carried out for clients.

This should be retained for at least five years after the end of the business relationship.

8 Guidance and Training

- 8.1 The Council will;

- ensure that those employees most likely to be exposed to or become suspicious of money laundering situations will be made aware of any requirements and obligations placed upon the Council, and them as individuals, by the Proceeds of Crime Act 2002 and the Terrorism Acts 2000 and 2006;
- provide targeted training to those considered to be the most likely to encounter money laundering;
- make arrangements to receive and manage the concerns of employees about money laundering and their suspicions of it, to make internal enquiries, and to make reports, where necessary;
- establish internal procedures to help forestall and prevent money laundering.

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Internal Audit Manager
Title: Internal Audit Update Report

1.0 Purpose of Report

- 1.1 The purpose of this report is to update the Committee on the work of the internal audit section and key findings to date. Appendix A gives a summary of the current position and any issues arising.

2.0 Background

- 2.1 Internal Audit is a function required under Section 151 of the Local Governance Act 1972 and the Accounts and Audit Regulations 2003. It is an integral part of the governance framework of the Council and supports continuous improvement and the maximising of efficiency.
- 2.2 The CIPFA Code of Practice for Internal Audit in Local Government lays down a number of other criteria that are considered good practice. An element of this is the level of independence and the ability of the Internal Audit Manager to have a right of access to information, documentation, staff and members across the organisation. It is important that, where necessary, the Internal Audit Manager has direct access to the Chief Executive and/or leader of the Council in order to fulfil the role as an “independent appraisal function.”

3.0 Recommendations

- 3.1 That the approach to internal audit planning be endorsed and the internal audit findings to date be noted.

4.0 Financial Implications for Transition Costs

- 4.1 None.

5.0 Financial Implications 2009/10 and beyond

- 5.1 The audit team must be appropriately staffed and resourced to comply with statutory and best practice requirements. The budget for the internal audit function currently provides for sufficient staffing levels to fulfil this function. There are, however, a number of budget issues still to be resolved, not least the area of training where the section currently has no budget. There are also a number of skills gaps which need to be addressed during the recruitment and matching process.

6.0 Legal Implications

- 6.1 The existence of internal audit derives from a number of statutes as identified earlier in the report.

7.0 Risk Assessment

- 7.1 Internal Audit is part of the overall risk management of the authority. Lack of appropriate controls could damage the reputation of the Council, lead to inefficiency and increases the risk of fraudulent activity.
- 7.2 A risk-based approach to audit will be taken, linking the audit plan to corporate risks and to the fraud risk register.

8.0 Training

- 8.1 There are a number of areas of training required to assist continuous professional development of qualified staff, professionally qualify existing staff and to upskill staff as audit practices develop. Officers investigating allegations of fraud and corruption must possess good knowledge of relevant legislation such as the Fraud Act 2006, Theft Act 1968, Theft Act 1978, PACE 1984, Employment Law, DPA 1998, RIPA 2000 and the Council's investigation procedure.

9.0 Reasons for Recommendations

- 9.1 To ensure that the Council establishes an effective internal audit function and that the findings and recommendations are given appropriate attention in order to improve and give assurance on the internal controls within the authority.

For further information:

Portfolio Holder: Councillor David Brown
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Background Documents:

Local Government Act 1972
Accounts and Audit Regulations (2003 and updated 2006)
CIPFA Internal Audit Code of Practice

Report to Governance and Constitution Committee – Internal Audit Update

21st May 2009

1.0 Purpose

- 1.1 The purpose of the report is to highlight to Governance and Constitution Committee the audit coverage for the first quarter of the new authority, summarise the planning methodology, outline the approach to fraud and irregularity, confirm relevant policy and procedures required and to raise audit findings to date.
- 1.2 The Internal Audit function is an integral part of the Governance arrangements of the authority and the team is committed to operating in a consultative and proactive style. The requirement to have an effective internal audit function is implied by Section 151 of the Local Government Act 1972 and made clear in the Accounts and Audit Regulations 2003 which require that “a relevant body shall maintain an adequate and effective system of internal audit of its accounting records and its systems of internal control.” Various codes of practice published by CIPFA, SOLACE and the Audit Commission further emphasise the function of Internal Audit and its responsibilities.
- 1.3 The department aims to embed a culture whereby advice is given “up front” wherever possible, audits result in positive and helpful recommendations (where necessary), fraud and irregularities are minimised and staff and members understand their responsibilities. A culture where risk awareness is high but that doesn’t create a barrier to creativity and a widening of the traditional audit role to include efficiency reviews, value for money studies and strategic reviews of policy outcomes/achievements.

2.0 Interim Plan

2.1 Context

In a year of such significant reorganisation, an annual plan, agreed in March and delivered over the 2009/10 year made little sense. Resources available remain uncertain, staff across the organisation are new to posts, little consultation was possible prior to April 1st and the pace of change is high.

An interim plan is, therefore in place, reflecting the work required in the first three to four months of 2009/10. A plan for the remainder of the year will then be in place from August 2009.

The interim plan takes regard of the extent of the changes taking place, the need for a high volume of advice and guidance, policy setting, development of ways of working and the key risk areas. It also incorporates at an early stage the aim of ensuring that the department adds value and influences policy.

2.2 Summary of the Interim Plan

The Plan is divided into four main sections, sub divided as follows:

- Closure/Transition Audits

This consists of a full programme of audits across five headings: Procurement, HR, Income, Assets and ICT. This was developed jointly with Cheshire West to agree coverage of ex-County areas. The work is sub divided into predecessor authority.

- Key High Risk Areas – on going services

This consists of a themed review of all high risk cash income services including all Leisure and culture, Tatton Park and Car Parking. The reviews will focus on basic controls and consistency across the new Borough, a challenge to the collection methodology (i.e. why do we collect cash at all, is there a better way of collecting cash; machines rather than people) and an overall review of Charging policy across the Borough including any potential income generation areas not currently being progressed (using the Audit Commission's "Positively Charged" as a base).

- Governance Issues

This consists of reviews of the predecessor authority Annual Governance Statements and Letters of Representation (to the Section 151 officer), setting up the framework for Governance for accounting and Internal Audit, taking an active role in the setting up of shared services and future working and reviewing third party and partnership arrangements from a governance perspective. It also includes a review of plans to implement the International Financial Reporting Standard (IFRS). In addition a review of the financial procedure rules has been completed.

- Advice, guidance and proactive stance

This consists of being a point of contact and expertise on issues relating to systems, procedures and anti fraud and corruption advice. This has included advice on Financial Procedure Rules on both their

development and to individual managers in services, advice on Schemes of Delegation, Members allowances, Freedom of Information, HR procedures and waste management contractual, financial and HR issues.

2.3 Findings to Date

- Early findings are that inevitably there are significant differences in the quality and consistency of controls and ways of working across the Borough. There are a number of issues arising in Leisure that are being tackled and that will improve the effectiveness of operations.
- Having begun the review of charging it is apparent that there are a number of areas where charges are either not consistent across the Borough and/or that the formulation of the charge is not backed by specific methodology. The work is in its early stages and any charging inconsistencies are being brought to the attention of managers immediately rather than awaiting full audit completion. There are examples in land charges and waste collection. These are in the process of being resolved.
- A review of residual fraud and irregularity cases has revealed a number of learning points which are being incorporated into audit programmes and on a case by case basis discussed with relevant managers. Particular examples are the length of time between staff suspension and case resolution (and the monitoring of this factor) and the issue of prevention of employing illegal immigrants.
- Governance arrangements are in the early stages in regard to shared services and also in reviewing partnership arrangements. However, both these areas are being given high priority by service managers. An example of this is in the work on the South and East Cheshire Enterprise partnership (SECE) where there has been a very proactive stance by management and audit have provided advice on this area.
- Overall Governance in relation to audit and accountancy has been the subject of some officer level debate in regard to the role of the Governance and Constitution Committee, the need for a separate Audit Committee and the lines of responsibility. It has now been agreed that audit reports (planning and monitoring) and the statutory accounts will be the responsibility of the Governance and Constitution Committee and that awareness sessions and a briefing will go out to Members of that Committee to assist their effectiveness in this important role.

- The review of the Financial Procedure Rules has highlighted that a number of changes are required and these have been summarised in a report to the Borough Solicitor who has the authority to approve amendments. The changes focus on being clear about responsibility and ensuring that the procedures aid the smooth running of the authority not vice versa.

3.0 Anti Fraud and Corruption Update

3.1 Strategy

A draft strategy is included as a separate report on the agenda for the meeting. This will need to be approved by cabinet having been discussed with the Governance and Constitution Committee. The overall philosophy is that it is management's (and internal audit's) responsibility to minimise the risk of fraud and to protect staff from systems which could lead to fraud or irregularity by implementing effective controls. Once this responsibility is acknowledged and implemented, then the authority will take a strong stance on instances of fraud and irregularity and will investigate any suspicions and pass cases to the police where relevant. Key to the strategy is that we learn from every case and continue to make system improvements to protect staff.

Once the strategy is approved a series of awareness raising actions will be implemented.

3.2 Residual activity

There were a number of potential fraud/irregularity cases inherited from the predecessor authorities as at April 1st. All cases have now been closed with one case being referred to the police on 10th and 24th April 2009. Two new, potential cases have been highlighted since April 1st and are being investigated alongside the relevant managers.

3.3 Whistle blowing

There have been a number of potential whistle blowing reports received informally to the internal audit team. These are currently being investigated and could well be a result of differences of opinions between predecessor ways of working rather than actual allegations of a whistle blowing nature. The investigations are in their early stages.

3.4 National Fraud Initiative

Since 1996 the Audit Commission has run the **National Fraud Initiative** (NFI), an exercise that matches electronic data within and between audited

bodies to prevent and detect fraud. This includes police authorities, local probation boards and fire and rescue authorities as well as local councils.

Results of the latest (2008) data match were received by predecessor authorities in March 2009. The potential issues raised are being investigated by service departments with results being co-ordinated by a Principal Auditor. Across all the headings for this exercise the number of queries runs to several thousand. Many of these will not be irregularities or fraudulent issues but each needs to be investigated. The areas with the highest volume of queries are insurance and trade creditors as well as housing benefits for the ex Districts.

Cheshire East is leading on the ex County Council response on behalf of the East and West. A response will be required for each ex District. It is estimated that we will be able to respond by end September and this is in line with Audit Commission reporting requirements.

Most of this work is still in progress. One issue has already been highlighted to HR which is that a data match between valid visas and employment records has shown that ex County Business Services do not always appear to have been checking work permits and visas prior to employment.. In addition, this has also highlighted an issue with sickness management as one of the potentially illegal immigrants is on long term sick leave without a valid sick note. Both are already being actioned by HR since this was reported to them on 30th April 2009.

There are a number of potentially sensitive findings relating to Concessionary Travel and blue badges whereby passes appear to have been issued to deceased people. The risk of wrong use is low given that the passes contain a photograph and any further investigation of these cases will be handled with this in mind.

4.0 Other Policies and Procedures

4.1 Anti-Money Laundering

A policy is included on this agenda. This will be submitted for approval by the Cabinet having been discussed at the Governance and Constitution Committee. The Internal Audit Manager is the current Money Laundering Reporting Officer (MLRO) of the authority although the attached policy recommends that this becomes the Section 151 officer. There has been a case reported to the MLRO during April and this has been thoroughly investigated. The conclusion is that it is not a reportable case of potential money laundering that should be reported to the Seriously Organised Crime Agency (SOCE).

4.2 Financial Procedure Rules (FPRs) and Schemes of Delegation

The action required on FPRs is covered in 2.6 above. Advice and guidance has been given on schemes of delegation but not all sections have yet agreed their scheme. This was inevitable given that many staff are in interim positions and key decisions are required in some areas before a scheme of delegation is relevant. However, it is recommended that there is a scheme in place as soon as possible across all services for clarity and accountability.

4.3 Third Party Funds

The FPRs require that a register of such funds is maintained and that the policy in each case is documented. Examples of these funds are charity accounts operated by the authority or funds administered by staff in care homes. Work to progress the documentation required for this is in hand.

5.0 Future Planning and Ways of Working

- 5.1 The culture that the team wants to develop is one which focuses on the difference that internal audit can make, an approachable and positive style and one where audit advice is given at the outset rather than retrospectively. There will always be an element of retrospective work, testing and commenting on systems and this has to remain an essential part of the governance regime. Auditors are in a privileged position in that they can step back from service delivery and look at consistency issues across the authority and assist management to improve controls, systems and ways of working being appreciative of the need to work with managers to balance excellent service delivery with appropriate controls and checks and balances. It is this philosophy which we would like to characterise the way of working.
- 5.2 The interim audit plan is already in progress and relevant findings will be highlighted or summarised to management team as necessary. Normally findings will be discussed with relevant management as they arise rather than at the end of the audit, on report completion. Audit reports will always be circulated to the relevant management team member for that service even if their direct intervention is not required.
- 5.3 The full annual plan is in the process of being compiled. This is being approached from four angles; a risk based approach using the corporate risks and priorities; working back from the Annual Governance statement to identify what needs to have been achieved to give a positive statement; looking at previous audit plans, findings and learning points; and focusing on new and changing service areas e.g. integration of LSC funding, PFI initiatives, new methods of delivery. Clearly this needs to be done in conjunction with service leads and we will want to consult with individual management team members

on areas of focus in their service areas to make the plan as effective as possible.

- 5.4 The annual plan will contain a small programme of specific “proactive “ jobs which go further than the assurance role. The first of these is the review of Charging across the authority which will look at the Audit Commission documents “Positively Charged” to look at areas of potential charging and, at the least, highlight our current position on charging and the scope for review of additional areas. A further area is likely to be a focus on debt collection, process for raising debts and a streamlining of procedures to reduce the number of retrospective sales invoices. Further areas will be identified from consultation with service heads and staff.
- 5.5 An additional area will be a focus on benefits realisation and provision of a review of actual outcomes versus projected outcomes at the beginning of a project.

6.0 Recommendations and Next Steps

- 6.1 It is recommended that the Governance and Constitution Committee endorse the approach to interim and full year planning, the approach to Internal Audit and note the specific findings to date.
- 6.2 Key findings will be reported to Management Team on a regular basis and the Internal Audit Manager will have direct access to the Chief Executive (and the Leader of the Council) on any issue where this may be necessary. Responses to issues raised to date indicate that staff within services have a desire to be proactive and work positively with internal audit and, therefore, this culture of cooperation will be the basis for future working.

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