

Governance & Constitution Committee

Agenda

Date: Thursday, 25th March, 2010
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 period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. 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. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide three clear working days' notice, in writing, in order for an informed answer to be given.

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

To approve the minutes of the meeting held on 19th February 2010.

5. **Appointments to Outside Organisations** (Pages 5 - 36)

To consider a report outlining the work undertaken on appointments to outside organisations during the current Municipal Year.

6. **Independent Remuneration Panel: Mid Year Review of Members' Allowances Scheme** (Pages 37 - 66)

To consider the recommendations of the Independent Remuneration Panel in respect of the Cheshire East Council Scheme of Members' Allowances 2009/10 following a mid-year review held on 8th January 2010.

7. **Implementation of International Financial Reporting Standards (IFRS)** (Pages 67 - 72)

To update members on the project plan for implementing International Financial Reporting Standards (IFRS).

8. **Update on Comprehensive Area Assessment (Use of Resources)** (Pages 73 - 80)

To consider a report summarising the findings of the area assessment and organisational assessments published by the Audit Commission in December 2009 and to provide an update on the current work being undertaken on the "Use of Resources" assessment.

9. **Update report - Annual Governance Statement and Plan for 2010/11** (Pages 81 - 88)

To update the Committee on the work being undertaken to produce the Annual Governance Statement (AGS) and to outline the audit planning process for 2010/11.

(There are no Part 2 items)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Friday, 19th February, 2010 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor H Davenport (Chairman)
Councillor A Kolker (Vice-Chairman)

Councillors M Asquith, D Cannon, R Cartlidge, S Jones, W Livesley, G Merry,
A Moran, R Parker, D Topping, R West, P Whiteley and J Wray (for Cllr
Menlove)

Apologies

Councillor R Menlove

Officers

Brian Reed, Democratic Services Manager
Kate Khan, Solicitor
Paul Mountford, Legal and Democratic Services

168 **DECLARATIONS OF INTEREST**

Councillor Roger West declared a personal and prejudicial interest in Item
6 (Election of Mayor and Deputy Mayor) as a potential candidate for
Deputy Mayor and announced his intention to leave the meeting during the
consideration of that item.

169 **PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

170 **MINUTES OF PREVIOUS MEETING****RESOLVED**

That the minutes of the meeting held on 21st January 2010 be approved as
a correct record.

171 **DELEGATION OF LICENSING FUNCTIONS (MINOR
VARIATIONS)**

The Committee considered a report on a delegation of functions in relation
to 'minor variations' under the Licensing Act 2003 by the Licensing
Committee to the Head of Safer and Stronger Communities.

The scheme of delegation as set out within the Council's Constitution currently delegated licensing functions under the Licensing Act 2003 to the Head of Safer and Stronger Communities, subject to certain exceptions, including circumstances where relevant representations had been received and not withdrawn. In accordance with the Secretary of State's Guidance to licensing authorities, the Licensing Committee on 18th January 2010 had resolved to delegate decisions in relation to 'minor variations' to licensing officers.

A number of changes to the Constitution were required to reflect the Licensing Committee's decision, details of which were set out in Appendix 2 to the report.

The Committee noted the delegation of functions in relation to minor variations under sections 41A-C and 86A-C of the Licensing Act 2003 by the Licensing Committee to the Head of Safer and Stronger Communities and recommended to Council as follows.

RESOLVED

That Council be recommended to authorise the Borough Solicitor to make such changes to the Constitution as he considers necessary in order to give effect to the wishes of the Council in this regard, including those changes set out within Appendix 2 to the report.

172 ELECTION OF MAYOR AND DEPUTY MAYOR

The Committee considered the recommendations of the Civic Sub-Committee in relation to the election of the Mayor and appointment of the Deputy Mayor.

Members had before them the report considered by the Civic Sub-Committee on 9th February 2010, which detailed a number of alternative approaches to the selection process and gave examples of practice among other North-Western and the former Cheshire Districts.

In the case of many local authorities, the current year's Deputy Mayor automatically became the Mayor for the following year. This was often regarded as an ideal way in which the incoming Deputy Mayor could gain experience of the office of Mayor prior to election.

Members concurred with the view of the Sub-Committee that seniority was not the best approach but that any candidate for the post should have a minimum of one full term's experience as a councillor. They also agreed on the need for all political groups to have an opportunity to be involved in the selection process.

Members also considered a draft Mayoral Code of Practice which could be adopted by the Council. This had been updated to take on board the comments of the Sub-Committee. Further amendments to the Code were agreed by the Committee.

RESOLVED

That Council be recommended to agree that

- (1) each year, the Deputy Mayor will normally succeed to the Mayoralty in the following year;
- (2) each year, the Deputy Mayor will be chosen by full Council at the recommendation of the political group which has the majority of Council Members, provided that in making such choice, another political group or groups may be invited to put forward a nomination for consideration by the majority group;
- (3) this approach be adopted in respect of the election of Mayor and appointment of Deputy Mayor for the 2010/2011 Civic Year and beyond; and
- (4) the draft Mayoralty Code of (Mayor and Deputy Mayor) Practice, as amended, be adopted by the Council and incorporated into the Council's Constitution with such consequential amendments as the Borough Solicitor considers necessary to give effect to the wishes of Council.

173 SUPPLEMENTARY QUESTIONS AT COUNCIL MEETINGS

The Chairman was of the opinion that this matter constituted urgent business and could be dealt with at the Governance and Constitution Committee's meeting in accordance with Committee Procedure Rule 37 and Section 100B(4)(b) of the Local Government Act 1972. The reason for urgency was as follows:

"In order to implement the result of discussions between the Leader of the Council and group leaders in time for the next full Council meeting."

On 17th December 2009, after a recommendation from the Committee, Council resolved to remove from the Constitution the provision giving the right to Members to ask supplementary questions. At the time, the Leader had indicated that he would give the issue further thought, which he had now done. During the last few days, discussions had taken place with other group leaders which had resulted in agreement on the inclusion in the Constitution of a supplementary questions provision, in an appropriately modified form. As a consequence, the Chairman wished to move a recommendation to Council the following Thursday.

RESOLVED

That Council be recommended to agree that

- (1) the following provision, enabling Members to ask supplementary questions at Council meetings, be added to the Constitution, at Rule 11.6 of the Council Procedure Rules:

“11.6 Following the answer to each question, the questioner may ask a concise and focussed supplementary question, which relates to the subject matter of the initial question and answer. The Mayor may choose to disallow a supplementary question if, in his opinion, it is inappropriate or unduly lengthy. The Member answering the supplementary question will decide whether or not to reply.”

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

The meeting commenced at 2.00 pm and concluded at 3.30 pm

Councillor H Davenport (Chairman)

CHESHIRE EAST COUNCIL

GOVERNANCE AND CONSTITUTION COMMITTEE

Date of Meeting:	25 th March 2010
Report of:	Democratic Services Manager
Subject/Title:	Appointments to Outside Organisations

1.0 Report Summary

- 1.1 The report outlines the work undertaken on appointments to outside organisations during the current Municipal Year. The Committee is asked to (a) consider three specific appointments (b) approve the monitoring forms which are intended to establish the appropriateness and effectiveness of representation; and (c) note further work to progress the Guide for Members Appointed to Outside Organisations.

2.0 Recommendations

2.1 That

- (a) Sandbach Park Steering Group be added to the list of approved outside organisations and that Councillor Gillian Merry be appointed as the local Ward Member;
- (b) Transport Futures be added to the list of approved outside organisations and that Councillor H Davenport be appointed;
- (c) Councillor D J Cannon be appointed to the Mid-Cheshire NHS Foundation Trust (Leighton Hospital) to fill the casual vacancy caused by Councillor E Howell's resignation from the organisation;
- (d) the forms attached to the report (Appendices A and B) be adopted as a means of monitoring the effectiveness and appropriateness of representation;
- (e) the progress on the draft Guidance for Members Appointed to Outside Organisations (Appendix C) be noted; and
- (f) the activities of the Task Group during 2009-2010 be noted.

3.0 Reasons for Recommendations

- 3.1 It is important for the Council to participate as a partner in the network of outside organisations within Cheshire East, and more widely if appropriate.
- 3.2 The proposals in the report are in accordance with the procedure approved by the Governance and Constitution Committee.

4.0 Wards Affected

- 4.1 All Wards are affected.

5.0 Local Ward Members

- 5.1 All Councillors are affected.

6.0 Policy Implications

- 6.1 None identified.

7.0 Financial Implications for Transition Costs

- 7.1 None identified.

8.0 Financial Implications 2009/10 and beyond

- 8.1 None identified.

9.0 Legal Implications

- 9.1 As noted at 11.6 of this report, Councillors appointed to outside organisations can incur personal liability. The proposed guidance outlined below is intended to assist Members in understanding their roles and avoiding any potential difficulties arising from them.

10.0 Risk Management

- 10.1 The Task Group routinely considers the risk of not being represented on any particular outside organisation and whether that would have a detrimental effect on the Council were it not to be represented. No other risk assessment has been carried out.

11.0 Background

- 11.1 At its meeting held on 21st May 2009, the Governance and Constitution Committee re-appointed the Task Group (Outside Organisations) on the following basis to serve for the remainder of the Municipal Year -

- to meet on an *ad hoc* basis;
- to comprise five Members on a cross-party basis (3 Conservative, 1 Liberal Democrat and 1 Labour) to be nominated at the meeting;
- to address the issues emerging in respect of appointments to outside organisations;
- to give initial consideration to the development of a method for individual Members to report back on the effectiveness, or otherwise, of representation; and
- to report back to the Governance and Constitution Committee as and when it considers appropriate within the Municipal Year.

11.2 Task Group Membership

The Task Group comprises 3 Conservatives (Councillors H Davenport, A Kolker and P Whiteley); 1 Liberal Democrat (Councillor Shirley Jones); and 1 Labour (Councillor R Cartlidge). It has met on six occasions (30th June 2009, 18th September, 28th October, 9th January 2010, 3rd February and 8th March) since its re-appointment. One further meeting has been arranged (12th April) and any recommendations from that meeting will be submitted to the Committee in the new Municipal Year.

- 11.3 In addition to making recommendations in respect of vacancies and the inclusion of new outside organisations, the Task Group has focused its work on a means of monitoring the effectiveness and appropriateness of representation, and overseeing the preparation of a Guide for Members Appointed to Outside Organisations.

11.4 Sandbach Park Steering Group

Sandbach Park Steering Group is a sub-group of the Sandbach Partnership. Councillor Barry Moran is the Council's representative on the Partnership which has now requested that the Steering Group also be added to the list of approved organisations and that a local Member be appointed to it.

The Task Group considered this issue at its last meeting (8th March) and recommends that it be added to the schedule, with Councillor Gillian Merry being appointed as the local Ward Member.

11.5 Transport Futures

Councillor Harold Davenport has recently been appointed to "Transport Futures" as part of his representation on an outside organisation. The Task Group considered this matter at its meeting held on 8th March 2010 and agreed to recommend its inclusion in the list of outside organisations, with Councillor Davenport being appointed as the Council's representative.

11.6 Mid-Cheshire Hospitals Trust

Councillor Betty Howell has resigned from the Mid-Cheshire Hospitals Trust. In accordance with the approved protocol for filling casual vacancies, the Liberal Democrat Group has nominated Councillor David Cannon as her replacement, and the Committee is asked to approve this change.

11.7 Monitoring Effectiveness

The attached forms (Appendices A and B), subject to any comments the Committee may wish to make, would be provided to each Member appointed to an outside organisation for completion in April/May each year. The feedback received will enable the Task Group to establish if the aims of each organisation are compatible with the aims of the Council. Where possible, the financial implications of representation will also be examined. A report on its findings will be submitted to the Committee in due course.

11.8 Guidance for Members

Some positions carry legal responsibilities, particularly those of trustee or director. It is important that Members are clear about their role within the outside organisation, what is expected of them and their ability to deal with conflicts of interest as and when they arise.

The Committee is asked to note further work to develop a guidance document for the assistance of Members. Following earlier drafts, and input from Legal Services, the Task Group made further comments on the document on 8th March 2010. Further work to deal with the outstanding issues is necessary to ensure that a robust and comprehensive guidance document results. It is expected that a final draft will be presented to the next meeting of this Committee.

11.9 Categorisation of Organisations

The Task Group has also reviewed the categorisation of organisations and is now of the view that whilst the grouping into the various categories served a useful purpose during the transitional year, it is no longer necessary.

In July 2008, the Task Group reviewed the complete list, and, using their own local knowledge, Members made an assessment of the importance of each and whether or not it would be appropriate for the new Council to make appointments to those listed.

An informal part of the process was consultation with the shadow Cabinet Members who selected those organisations they considered should be

reserved to the Cabinet for appointment. The culmination of the process was March 2009 when the Cabinet made appointments to all Category 1 organisations (3rd March 2009), and the Governance and Constitution Committee made all other appointments (9th March 2009 - Categories 2-4).

Members of the Task Group consider that with effect from May 2011, there should be two categories only, namely Category 1 and Category 2. The Cabinet will continue to appoint to Category 1 and as the Governance and Constitution Committee makes all other appointments, there is no purpose in distinguishing between Categories 2, 3 and 4 and these should be grouped together to form the Category 2 list.

The current categories are as follows. Note. Categories 2, 3 and 4 will become the revised Category 2.

Category 1 These are top-level strategic organisations at national, regional and local level; for example, Fire Authority, Primary Care Trust, Police Authority.

The Cabinet has already decided that it will reserve to itself appointments to these organisations.

Category 2 These are appointments which were key to the constituent authorities (Cheshire County Council, Congleton, Crewe and Nantwich, and Macclesfield Borough Councils) and were considered to be essential after 31st March 2009.

Category 3 These are organisations which the constituent authorities considered to be worthwhile but were not crucial.

Category 4 Those not falling within categories 1-3 (The Task Group considers that in the longer-term, it should be Town and Parish Councils which make appointments to these organisations).

11.10 Future Work

A review of appointments will be undertaken in the next few months, following evaluation of the monitoring forms received from Members and the outside organisations. This will help to inform the next round of appointments which will be in May 2011.

The Task Group will take into account –

- The purpose of the organisation and whether its aims are in harmony with the Council's Corporate Plan, or if there are other benefits.
- Whether the Council needs to continue with representation on specific outside organisations (this will depend on the results of the evaluation exercise).

- Level of time/commitment required by the appointed Member.
- Officer support requirements for Members.
- Cost and resource implications for the Council set against any benefit.
- Service Level Agreements between the outside organisation and the Council.
- Risk of non-representation.
- The appointment(s) will raise the profile of the Council at a national or regional level.

12.0 Overview of Year One and Term One Issues

12.1 None identified.

13.0 Access to Information

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

Name: Carol Jones
Designation: Democratic Services Officer
Tel No: 01270 686471
E-mail: carol.jones@cheshireeast.gov.uk

Annual Report 2009-2010
(for completion by Councillors)

Name of
Councillor.....

Name of Organisation
Appointed to

(a separate form will be provided for each organisation for Councillors who have been appointed to more than one)

1. How much time approximately each year do you give to the organisation appointed to?
(for example, number of meetings in a year, or total number of hours/days.)

.....
.....

Meetings held in year

Estimated time spent
on other activities for
the organisation

 hours

No. attended

2. Do you think the Council's involvement with the organisation is necessary?
(please outline reasons, taking into account the aims of the Council's Corporate Plan.)

3. If you think that the Council's involvement is unnecessary, please give brief reasons -

.....
.....

4. If you think that the Council's continued involvement is necessary, please indicate why,
by ticking any of the following which apply.

Contributes to the following Corporate Plan objectives -

Significantly

In part

Not at all

Children and Young People

☐☐☐

To enable all children and young people to
fulfil their potential

Comments if appropriate

Significantly

In part

Not at all

"Comments" contd...

Adult Health and Wellbeing

☐
☐
☐

We will improve the wellbeing, health and care of people.

Comments if appropriate

Stronger Communities

☐
☐
☐

To ensure that people in local communities have a greater say about how resources are targeted in their area.

Comments if appropriate

Significantly

In part

Not at all

Safer Communities

☐
☐
☐

To work with others to make all communities safer places to live, work and play.

Comments if appropriate

Tackling Exclusion and Promoting Equality

☐
☐
☐

Enabling people to have a good quality of life irrespective of where they live or their social or economic background.

Comments if appropriate

Local Economy

☐
☐
☐

Shaping and maintaining strong and prosperous neighbourhoods in which our residents are skilled and economically active, where businesses want to invest and where people want to visit.

Comments if appropriate

	Significantly	In part	Not at all
Environmental Sustainability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

To provide an attractive and sustainable environment of which communities can be proud.

Comments if appropriate

Building a New Council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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To support these priorities we will build a council which is responsive to changing needs and delivers value for money.

Comments if appropriate

There are other Borough-wide benefits -	Yes	No
Environmental	<input type="checkbox"/>	<input type="checkbox"/>
Social	<input type="checkbox"/>	<input type="checkbox"/>
Cultural	<input type="checkbox"/>	<input type="checkbox"/>
Sport	<input type="checkbox"/>	<input type="checkbox"/>

Additional information. Please use this space to expand on the Borough-wide benefits of representation.

Please use this space to add any further relevant information.

Please return this form to:

Carol Jones
Democratic Services
Westfields, Middlewich Road, Sandbach, CW11 1HZ

If you would prefer to complete the form by e-mail, please contact Carol Jones on carol.jones@cheshireeast.gov.uk or phone 01270 686471

Name of
Organisation.....

1. What is the status of representation? (eg Trustee, non-voting representation, adviser etc.)

.....

2. Why does your organisation want a Councillor as a representative? For example, is it a requirement of your constitution, or some other reason?

.....

.....

.....

4. How many meetings have been held between 1st April 2009 and 31st March 2010?

.....

5. Are the meetings scheduled regularly or *ad hoc*? (eg. weekly, monthly, etc.)

.....

6. When do you hold your meetings?

Day of the week

Time (eg evenings, afternoons)

7. What is the preferred length of service on your organisation by a Council representative? (eg one year, two years or more?)

.....

8. How many meetings has the Council representative attended? Please indicate how many meetings were scheduled in the year.

(Please note: Non-attendance can be as a result of the timing or the day of the outside bodies' meetings. Cheshire East Council holds its own Committee meetings during the day and this can result in conflict where a Councillor will need to exercise judgement as to which meeting should take priority.) Please use this space to provide additional information, if appropriate.

.....

.....

.....

9. Please use this space to make any comments on representation, which will help us in this survey.

.....

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.....

.....

If you would prefer to complete this survey form electronically, please let me know, and it can be e-mailed to you.

Please return this form to:

Carol Jones
Democratic Services
Cheshire East Council
Westfields, Middlewich Road, Sandbach, CW11 1HZ

Contact details:
Tel: 01270 686471
e-mail: carol.jones@cheshireeast.gov.uk



CHESHIRE EAST COUNCIL

APPOINTMENTS TO OUTSIDE ORGANISATIONS

DRAFT GUIDANCE FOR MEMBERS

March 2010

1. Introduction

Members are routinely appointed or nominated by the Council to represent it on outside organisations, or will be involved in such bodies in their personal capacity. The Council encourages participation in the wider community where an organisation's objectives support delivery of the Council's strategic objectives as identified in the Corporate Plan. The Council also recognises that participation is a two-way process which enables Members to bring back knowledge and experience which is of value to the Council.

As a Member it is important that you appreciate the responsibilities you are taking on and how those responsibilities interact with your existing duties to the Council. It is also important that you are able to recognise and deal with conflicts of interest if and when they arise.

If you are appointed or nominated to an outside organisation by the Council, it is essential that you read and follow this guidance.

2. How and when are appointments made?

From 1 April 2009, the Cabinet made appointments to approximately 45 outside organisations; the Governance and Constitution Committee appointed to the remaining 80 outside organisations.

All appointments have been made for an initial period of two years, until 2011.

In making decisions about whether or not to appoint to a particular outside organisation, the Governance and Constitution Committee has agreed appointment criteria. As a general rule an appointment or nomination should not be made unless the appointment will satisfy one or more of those Appointment Criteria. A copy is attached as Appendix A.

3. What does the Council expect of me?

Appointments to outside organisations can be demanding in terms of time and commitment. You are advised to check with the organisation as to what is expected of you before accepting an appointment or nomination. You should also be clear with the organisation about what you can realistically contribute, at the outset.

In general terms the Council expects you to –

- Act in accordance with the rules or constitution of the outside organisation;
- Regularly attend meetings;
- Take an active and informed role in discussions and decision making;
- Report back to the Council annually – see the section headed “Annual Report”;

- Behave ethically and follow the Council's Code of Conduct for Members as far as applicable;
- Provide a link between the Council and the outside organisation;
- Where the Council provides funding, ensure that it is used effectively and properly;

You should be aware that for some organisations, missing a number of consecutive meetings may lead to a loss of your place on the Committee or Board. Neglect of your duties could also, in some circumstances, lead to personal liability.

4. What does the outside organisation expect of me?

The role and status of outside bodies varies enormously, from national and regional groups involved in strategic issues to those focused on very local issues. Generally, the organisation will expect you to –

- Understand its aims and objectives;
- Regularly attend meetings and be prepared to be involved in discussions and decisions;
- Send apologies if you cannot attend meetings;
- See things from their perspective, not just that of the Council;

At the start of the appointment you should –

- Make contact with the organisation;
- Find out the date and times of meetings and the names of key contacts;
- Find out what training is offered – at the very least a senior member of the organisation should be available to meet with you to explain how the organisation operates;
- Be clear about the capacity in which you are acting.

There may be a Council Officer responsible for working with the outside organisation who can help you – please contact the Democratic Services Manager initially.

5. Checklist

The following checklist will help you to identify the sort of questions to ask of both the Council and the outside organisation on being appointed;

- | |
|--|
| <ul style="list-style-type: none">• What type of organisation is it and what are its main activities?• Is it a company and if so, is it a company limited by shares or by guarantee? Is it also a charity?• In what capacity have I been appointed? Am I a director, trustee or appointed in some other capacity?• Do I have a copy of the organisation's rules?• Have I been supplied with a copy of any code of conduct to which I am subject as a member of the organisation? |
|--|

- Do I know the identity of other directors, trustees or members?
- Who is my contact within the organisation?
- Are written minutes of meetings kept and I have I seen them?
- Do I know what the financial position of the organisation is?
- Am I aware of any contracts or funding arrangements between the Council and the organisation?
- Does the organisation receive regular reports on its financial position?
- Have I seen the last annual report and accounts?
- Am I aware of the main risks which the organisation faces and what steps are being taken to deal with those risks?
- Do I know what indemnities and insurance the organisation has in place?

6. What training is available for me?

There are no formal arrangements for training Members appointed or nominated to outside organisations. However, some organisations, particularly those with a statutory role, will offer their own training. You should check the organisation to see what is available. If Members consider that the outside body has not given adequate training, please contact the Democratic Services Manager.

7. What allowances am I entitled to?

Any allowances payable for duties connected with representation on outside organisations will be in accordance with the Members Scheme of Allowances.

8. What types of outside organisations are there?

Your responsibilities as a member of an outside organisation will depend on the nature of the organisation itself and the capacity in which you have been appointed. This should be identified in the list of current appointments maintained by Legal and Democratic Services.

The organisations will usually fall into one of the following categories:

(a) Statutory corporations

These are bodies which are set up by statute. There are a wide range of statutory corporations such as the police and fire authorities as well as school governing bodies. The composition of statutory corporations and the appointment of members to them are set out in the statute, as are their legal powers and responsibilities.

(b) Companies

A company is a separate legal entity which can own property, enter into contracts, employ staff, sue and be sued in its own name. There are two main types of company –

Company limited by shares

Companies limited by shares are those which have a share capital – for example, 1000 shares at £1 each. Each company member holds a number of shares and receives a proportion of the profits according to the value of their shareholding. Shares can be bought and sold and the shares of public limited companies are traded on the stock exchange. The liability of shareholders is limited to the amount they have paid or agreed to pay for their shares.

Company limited by guarantee

Companies limited by guarantee are those with no shareholding. Instead, each member of the company agrees to pay a certain amount in the event of the company being wound up. This may be as little as £1. This type of company is non-profit making and any surpluses are ploughed back into the company. It is the most common form in the public and voluntary sectors. The company may also have charitable status.

For both types of company, the scope of the company is set out in its Memorandum of Association which sets out the extent of its activities.

Company members

A company is usually managed by a Board of Directors but owned by company members. Company members may be shareholders or guarantors. Company members have the right to vote at general meetings and the company's AGM.

Board of directors

Whether the company is limited by shares or guarantee, the management of the company will be the responsibility of the directors. The powers of the directors are set out in the Articles of Association (company rules which govern its internal management). Sometimes directors may be referred to as members of the Management Committee, governors or trustees. However, this does not change their status as directors.

In some cases, the Council has the right to appoint directors and/or company members; for example, where it was instrumental in setting up a company which delivers key services. In other cases, the Council makes nominations and the company itself makes the appointment.

Director or company member?

It is very important to be clear about the capacity in which you have been appointed or nominated to a company. If your role is that of company director you have certain legal responsibilities, details of which are set out in this guidance. Alternatively (or in addition), the Council itself may be a member of a company and you may have been appointed to exercise the

Council's voting rights in such capacity. This is an entirely different role to that of director.

(c) Charities

Some companies and unincorporated associations are also charities. To be a charity, the organisation must have satisfied the Charity Commission that it operates for a charitable purpose. As a charity it is entitled to relief from corporation tax, VAT and business rates but it is subject to strict regulation by the Charity Commission. The Management Board of a charity is referred to as Trustees.

(d) Unincorporated Associations

Unincorporated associations are informal organisations where members regulate their relationship by contract, such as a membership agreement or the rules of a club or association. The association has no separate legal identity so cannot enter into contracts, employ staff or own property in its own right. The liability of members is not limited and members incur personal liability for their actions, relying on the membership contract to recover costs from other members. Various partnerships set up by local authorities are unincorporated and a local authority Member will often act as the "accountable body", entering into contracts or employing staff etc on behalf of other members.

9. What are my responsibilities as a director?

As a director you are under a legal duty to act in the best interests of the company, notwithstanding the fact that you have been appointed or nominated as the Council's representative. This duty will override your duties to the Council.

There may be circumstances where you wish to provide information about the Council's policy or proposals on a specific issue (provided that information is in the public domain). However, you must not act on the instructions of the Council or your political group to persuade the company to act in a particular way to further the Council's aims, unless it would be in the best interests of the company to do so.

The key responsibilities of company directors have now been codified in the Companies Act 2006, summarised below.

1. To act within their powers

A director must act within the terms of the company's constitution and decisions made by shareholders or members and exercise his powers for the purposes for which they were given.

2. To promote the success of the company

A director must act in the way he considers, in good faith, would most likely promote the success of the company for the benefit of its members as a whole but have regard to a non-exhaustive list of factors which aim to reflect

responsible business behaviour. The listed factors are (in no order of preference) –

- Long-term consequences of decisions;
- The interests of employees;
- The need to foster the company's business relationships with customers, suppliers and others;
- The impact of the company's operations on the community and the environment;
- The desire to maintain a reputation for high standards of business conduct; and
- The need to act fairly between members.

Whilst directors must have regard to these factors they are subject to an overriding duty to act in a way which promotes the success of the company for the benefit of its members.

3. To exercise independent judgement

This should not prevent a director from relying on other people provided that in his judgment it is reasonable to do so in the circumstances; or fettering his discretion pursuant to an agreement entered into by the company or in a way authorised by the company's constitution.

4. To exercise reasonable care, skill and diligence

A director must carry out his duties to the standard expected of someone with both the general knowledge, skill and experience reasonably expected of a person carrying out the functions of that director for the company and the actual knowledge, skill and experience of that director. The more experienced or qualified the director is, the greater the statutory standard required of him.

5. To avoid conflicts of interest

A director must avoid a situation where he has or may have an interest (direct or indirect) that conflicts or may conflict with the interests of the company (other than as a result of a transaction or arrangement with the company itself, as to which see duty 7 below).

6. Not to accept benefits from third parties

A director must not accept any benefits from a third party conferred by reason of his directorship. This duty continues to apply even after a person ceases to be a director. There is an exemption for benefits that could not reasonably be regarded as giving rise to an actual or potential conflict of interest, such as small corporate gifts or routine hospitality. Unlike conflicts of interest, Boards will not be able to authorise the acceptance of benefits.

7. To declare interests in any proposed transaction or arrangement with the company

A director must disclose to the company the nature and extent of any interests (direct or indirect) of which he ought reasonably to be aware in any proposed transaction or arrangement with the company and any changes to such interests. General notice of an interest in another company or a connection with certain people (or bodies) will be permitted. There are exemptions for matters that are not likely to give rise to a conflict of interest, matters of which the other directors are already aware and for service contracts that have been or will be considered by the directors

10. Indemnities for directors

If you are a director, the company cannot indemnify you against liability arising out of negligence, default, or breach of duty or trust. However, the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default etc. You are advised to ensure that such a policy of insurance is maintained at all times by the company.

11. What are my duties as a trustee?

The following are common law duties. Where a charity is incorporated (which is usually the case) these duties will be in addition to the duties of directors set out above.

(a) Duty of compliance

Trustees must ensure that -

- the charity does not breach any of the requirements or rules set out in its governing documents and that it remains true to and fulfils the charitable purpose and objects set out there;
- the charity complies with charity law and the requirements of the charity commission as regulator; in particular the requirements to prepare reports on what it has achieved and annual returns and accounts;
- the charity complies with requirements of other legislation and other regulators (if any) which govern the activities of the charity;
- they act with integrity and avoid any personal conflicts of interest or misuse of charity funds or assets

(b) Duty of prudence

Trustees must -

- Ensure the charity is and remains solvent;
- Use charitable funds and assets reasonably and only in furtherance of the charity's objects;

- Avoid undertaking activities that might place the charity's endowment, funds, assets or reputation at risk;
- Take special care when investing funds of the charity, or borrowing funds for the charity to use.

(c) Duty of care

Trustees must -

- Use reasonable care and skill in their work as trustees, using their personal skills and experience as needed to ensure that the charity is well-run and efficient;
- Consider getting external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of trust.

12. Indemnities for trustees

An indemnity can be given from the trust fund provided a trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds, the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it. You are advised to check the position with the charity to which you have been appointed.

13. What are my duties as a member of an unincorporated association?

Groups which are not charitable trusts or companies are "unincorporated associations" and have no separate legal identity. The rules governing the Members' duties and liability will be set out in a constitution which is simply an agreement between the Members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

Property and contracts will have to be held/let by individuals as the association has no legal existence of its own.

Broadly, Management Committee Members must act within the constitution, and must take reasonable care in exercising their powers. The Management Committee Members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee Members are personally liable for the shortfall.

If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the Members, who have joint liability for the agent's actions.

Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment over of employees' tax deductions etc.

14. Indemnities for members of unincorporated associations

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium this must be permitted by the constitution.

15. Conflicts of interest

The role of Members on outside organisations may occasionally give rise to conflicts of interest. The Council's Code of Conduct for Members sets out the rules for dealing with such conflicts of interest.

If any matter relating to the outside organisation comes up in the course of your work as a Member, it is likely that you will have an interest which you will have to disclose. Where the conflict is such that it might be considered likely to affect the way that you would vote or act as a Member, you may have not only to disclose the outside interest but take no part in any decision on the matter, although you may still be able to speak on the item.

Further guidance on conflicts of interest can be found in Part 5 of the Council's Constitution - The Member Code of Conduct May 2007 - a copy of which has been issued to all Members.

In a very few cases, if there is a major dispute between the Council and the outside organisation, you could be placed in a difficult situation. It is possible that you may find you are unable to carry out your responsibilities properly. In such cases, resignation from the outside organisation might be appropriate. Such circumstances would be rare and should not deflect you from being prepared to participate in the management and running of outside organisations.

As there is always a potential for conflict between the interests of the Council and the outside organisation, if you who are thinking of taking on such an outside interest, you should consider how that interest will impact on your responsibilities as a Member. If there are issues arising from a particular situation at any time, please contact the Monitoring Officer for advice.

Registration and disclosure of outside interests

The registration and disclosure of outside interests are dealt with in the Council's Code of Conduct for Members. You should register all interests falling within section 13 of Part 3 of the Code within 28 days of becoming aware of a new personal interest or a change, by written notice to the Monitoring Officer.

Personal interests which require registration

For the purposes of this guidance, you will have a personal interest if any business of the Council relates to or is likely to affect a registerable interest, which includes -

- Your membership or position of control or management in an outside organisation
- to which the Council has nominated or appointed you; or
- which exercises functions of a public nature (such as parish council); or
- which is directed to a charitable purpose; or
- one of whose principal purposes includes influencing public opinion or policy (including any political party or trade union).

Declaring personal interests

If you attend a meeting of the Council at which a matter in which you have a personal interest is considered you must declare that you have a personal interest and the nature of it at the start of the meeting or as soon as it becomes apparent to you. This applies even where your interest is on the Register of Interests.

Exemption to declaration of personal interests

However, if your interest arises solely out of -

- your nomination or appointment to an outside organisation by the Council; or
- the body exercises functions of a public nature,

you do not need to disclose it unless you choose to speak on the matter, provided you do not also have a prejudicial interest.

Prejudicial interests

Your personal interest will be prejudicial if all of the following conditions are met -

- the matter does not fall within one of the exempt categories for decisions; and
- that matter affects your financial interests or relates to a licensing or regulatory matter; and
- a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

If you have a prejudicial interest, you must declare it and the nature of the interest as soon as it becomes apparent to you. You should then leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If so, then you can attend the meeting for that purpose.

16. How do I deal with conflicts in my role on the outside organisation?

Your role as a member of an outside organisation may give rise to a conflict of interest when you are carrying out your duties for the organisation - for example, where the organisation is discussing grant funding from the Council, or the standard of services it performs for the Council under contract. The action required depends on the rules of

the organisation. On being appointed you should ensure that the organisation informs you about its rules on conflicts of interest. There are also some general guidelines below.

From the 1 October 2008, directors are under a statutory duty to avoid conflicts of interest. The action required where a conflict of interest arises will depend on the company's Articles of Association (company rules). Where a company has adopted standard rules (known as Table A) a director with a conflict of interests must declare the interest to the company, and neither vote nor count in the quorum on the resolution concerning the matter. There is no legal requirement to withdraw from the meeting, unless specified in the company rules. You may nevertheless consider it prudent to do so. The above covers both contractual and non-contractual interests.

Even where an interest is declared, as a director you are still bound by other duties, to act in good faith and in a way likely to promote the success of the company.

If you are a trustee, the Charity Commission has produced guidance specifically aimed at trustees nominated by local authorities, a copy of which is attached as Appendix B.

The guidance provides that where a Member is a trustee and a conflict of interest arises, s/he should consider withdrawing from any meeting at which the matter is discussed. According to the guidance, where there is a conflict of interest and a trustee fails to take such action, there is the risk of a transaction being set aside if it is not in the interests of the charity.

Annual Report

The task of reviewing appointments to outside organisations in the light of LGR has been time-consuming. The number of Members covering the former districts and County Council area has reduced from 215 to 81. With fewer Members, it is essential that the Council operates a focused approach to outside appointments. With this in mind, the Governance and Constitution Committee has agreed that all Members be required to complete an annual report detailing meeting attendance, updating key contact information and ensuring that involvement meets the Council's strategic objectives as identified in the Corporate Plan.

This report will be issued to all Members appointed to outside bodies.

Where to get help

If you need further help or advice please contact

Brian Reed, Democratic Services Manager (Tel: 01270 686670 – e-mail: brian.reed@cheshireeast.gov.uk)

APPENDIX A

CHESHIRE EAST COUNCIL

Appointments to Outside Organisations

Appointment Criteria

The Authority has agreed to adopt appointment criteria which will form the basis of an objective, rational and open appointment process.

1. Criteria for making appointments

(a) The Appointment is a Statutory Requirement

There will be a limited number of bodies to which the authority is required to appoint but statutory requirement should be included as a criterion. Examples include the Police Authority and Fire Authority.

(b) Appointment Allows the Authority to Influence Policy at National or Regional Level

This will apply to those organisations which give the authority a voice at national or regional level and enables it to influence high-level policy decisions. Examples will include the Local Government Association, 4NW and the North-West Employers Organisation.

(c) Appointment Assists the Authority to Deliver its Strategic Objectives and Priorities

This is a key part of any appointment system, where it can be demonstrated that the appointment will make a direct or significant contribution to the authority's strategic objectives, in particular the Corporate Plan.

(d) Appointment is to an Organisation which Receives Major Funding from the Authority or Provides Key Public Services

Representation will ensure that the organisation uses its funding properly and develops in a way which the authority considers appropriate.

Those organisations which provide key public services, for example Housing Trusts, are often created by a local authority which reserves the right to place Members on its Board.

- (e) **Where an approved organisation is ward-specific, the Member appointed should be the appropriate Ward Member.**

2. Criteria for Declining to make Appointment

In rare cases, it may not be appropriate to appoint to an outside organisation; for example, where there are significant cost or resource implications for the Authority when balanced against the benefits. These will be determined as and when the situation arises.

3. Issues for Consideration in Making Appointments

In addition to adopting the approved criteria, the following should be taken into account -

○ Political Proportionality

When making appointments to outside organisations, there is no requirement to adopt the rules of proportionality, but there are some organisations where it is appropriate for the leading political group to take the places. These will, for the most part, be those organisations identified as Category 1.

○ Continuity/Members' Interests

Continuity of representation can be important to outside organisations. Even where the term of office is 12 months only, the representative can build up expertise and experience which can be a loss to that organisation if a new representative is appointed after expiry of the term of office. For this reason, where possible, and provided the representative is willing to continue to serve, consideration be given to re-appointing the same Member, if appropriate. This could depend on, for example, where elections may change the political balance or it may be appropriate to provide opportunities for newly-elected councillors to serve on organisations which reflect their interests.

○ Term of Office

The term of office for each Councillor should, in general, be commensurate with the requirements of the organisation. The first tranche of appointments will terminate in 2011 at the next elections.

○ Appointments Made in Accordance with Criterion 1 (d) Above

Members will need to consider, when being appointed, that in taking up a formal position within an incorporated body - as director or trustee – the Member will be under a legal duty to act in the best interests of that outside body, notwithstanding the fact that s/he is there as a representative of the

Authority. That duty will override a Member's duties to the Authority or the Council-tax payers it serves. It is also worth noting that where a matter is raised by the outside organisation relating to its relationship with the Authority, it is likely to give rise to a conflict of interest for the Member representative who will usually be required to absent him/herself from the meeting during the discussion. A dual-mandated role may therefore be problematic and out-weigh any perceived benefits for either the organisation or the authority.

APPENDIX B

GUIDANCE ON TRUSTEESHIPS – PROVIDED BY CHARITY COMMISSION (CC3a)

Who are charity trustees?

Charity trustees are the people who form the governing body of a charity. They may be known as trustees, directors, board members, governors or committee members. Trustees are responsible for controlling the management and administration of a charity. The great majority of trustees serve as volunteers, and receive no payment (other than to repay necessary out-of-pocket expenses incurred). Trustees should work together as a team, and have collective responsibility for their charity.

Being a trustee can be hard work, but by contributing you should also gain. Trusteeship should be rewarding, providing opportunities for personal development. As you give your skills to the running of your charity, you will at the same time gather new skills and experience.

What are the duties of trustees?

Trustees have, and must accept, ultimate responsibility for directing the affairs of their charity, ensuring that it is solvent and well-run, and delivering the charitable outcomes for the benefit of the public for which it was set up. You need to keep in mind the following areas of responsibility.

Ensuring compliance – Trustees must ensure that their charity complies with:

- Charity law, and the requirements of the Charity Commission as regulator; in particular you must ensure that the charity prepares reports on its work, and submits Annual Returns and accounts as required by law. You can find more information in our publication [The Hallmarks of an Effective Charity \(CC10\)](#).
- The requirements or rules, and the charitable purpose and objects, set out in the charity's own governing document. All trustees should have a copy of this document, and be familiar with it.
- The requirements of other legislation and other regulators (if any) which govern the activities of the charity; these will vary according to the type of work the charity carries out, and whether it employs staff or volunteers.
- The requirement for trustees to act with integrity, and avoid any personal conflicts of interest or misuse of charity funds or assets. You should check the charity's governing document for provisions relating to conflicts of interest and you can find [more information](#) in our website guidance on conflicts of interest and in our publication [Trustee expenses and payments\(CC11\)](#).

Duty of prudence – Trustees must:

- Ensure that the charity is and will remain solvent; this means that you need to keep yourself informed of the charity's activities and financial position.
- Use charitable funds and assets wisely, and only to further the purposes and interests of the charity.
- Avoid undertaking activities that might place the charity's property, funds, assets or reputation at undue risk.
- Take special care when investing the funds of the charity, or borrowing funds for the charity to use.

Duty of care – Trustees must:

- Exercise reasonable care and skill as trustees, using personal knowledge and experience to ensure that the charity is well-run and efficient.
- Consider getting external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of their duties.

To fulfil these responsibilities properly, trustees should make sure that they keep up to date with what the charity is doing. You should give enough time and energy to the business of the charity, and meet regularly enough to make the decisions needed. How this is done will vary between different types and sizes of charity.

What is the Charity Commission?

We are the independent charity regulator for England and Wales. Our job is to work with charities to ensure that they are accountable, well run and meet their legal obligations. We also aim to promote public trust and confidence in charities. Most charities must register with us, although some types of charity do not have to register. We provide a wide range of advice and guidance to charities. We produce a [twice yearly newsletter](#) which is sent to all registered charities in England and Wales and offer a number of online services via our website. You can also read and download any of our [publications](#) and [guidance](#) from our website.

What happens if things go wrong?

We offer information and advice to charities on both legal requirements and best practice to help them operate as effectively as possible and to prevent problems arising. In the very few cases where serious problems occur, we have wide powers to look into them and put things right. Depending on the circumstances and the charity's governing document, trustees may be personally liable for any debts or losses that the charity faces. However, personal liability of this kind is rare, and trustees who have followed the requirements summarised in this guidance will generally be protected.

Where can I find out more?

This is only a summary of the responsibilities and duties of trustees and you can find out more in [The Essential Trustee: What you need to know \(CC3\)](#), which contains more detailed information. To get a copy of this or any of our other publications you can :

- view and print them from our website;
- order during opening hours – Monday to Friday 0800-2000 and 0900-1300 Saturdays - by phoning us on 0845 300 0218;
- write to Charity Commission Direct, PO Box 1227, Liverpool, L69 3UG.

For a full list see the Publications section of the Charity Commission's website or [Charity Commission Publications \(CC1\)](#).

As well as the guidance produced, there are many other resources that trustees can use to help them carry out their duties. We encourage you to make use of the wide range of organisations that can help you run your charity as effectively as possible. Details of some of these organisations are listed in [The Essential Trustee: What you need to know](#). You can also find details of other sources of information in '[Useful links](#)' on the homepage of our website.

This guidance is available in audio format and in Welsh. It is also available in Braille and large print on request.

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting: 25 March 2010
Report of: Democratic Services Manager
Subject/Title: Independent Remuneration Panel: Mid-Year Review of Members' Allowances Scheme

1.0 Report Summary

- 1.1 The report contains the recommendations of the Independent Remuneration Panel in respect of the Cheshire East Council Scheme of Members' Allowances 2009/10 following a mid-year review held on 8th January 2010.
- 1.2 The recommendations of the Panel seek amendments to be made to the current Scheme and propose the adoption of a draft Guide to Members' Allowances.

2.0 Recommendation

- 2.1 Governance and Constitution Committee is invited to recommend to Council that
- (1) (a) save as below, no increase be applied to the 2009/2010 rates fixed by the Cheshire East Council Scheme of Members' Allowances for 2010/2011 with effect from 1 April 2010;
- (b) the position be reviewed following agreement of the Local Government Employers pay award to Local Government employees for 2010/2011;
- (c) the following statements be incorporated into the Scheme:
- (i) the rate applicable to Subsistence claims made in respect of attendance at the Local Government Association (LGA) Annual Conference to be the rate applied to London and abroad, irrespective of where in the UK the event is held;
- (ii) where a dedicated Broadband/telephone line is provided by the Council for the carrying out of Council duties, the associated line rental cost to be reclaimable from the Members' Allowances Scheme by elected Members billed directly for this service;

- (iii) the right to Basic Allowance, Special Responsibility Allowance and Travel and Subsistence Allowance may be withdrawn by the Council while a Councillor is suspended or partially suspended from his/her responsibilities or duties as a member of the Council as a result of a breach of the Members' Code of Conduct in accordance with Part III of the Local Government Act 2000 or Regulations made under that Part; and

(2) subject to (1) above, the Guide to Members' Allowances 2010/2011 be approved and adopted with effect from 1 April 2010.

3.0 Reasons for Recommendations

- 3.1 While the Scheme is working well, the Independent Remuneration Panel considers that additional clarification and guidance is required to achieve a consistent approach, assist Members in making claims for reimbursement in accordance with the Scheme, and meet the requirements of the Internal Auditor.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications

- 6.1 The Guide to Members' Allowances is not a formal policy, but will enhance understanding of the Scheme's operation and assist with its administration.

7.0 Financial Implications

- 7.1 The Independent Remuneration Panel had previously recommended that the Scheme should rise in line with the Retail Price Index (RPI). In light of changing economic conditions, the Panel has reconsidered this position and is recommending that no increase be applied to the Scheme at this time pending the outcome of the Local Government Employers Pay Award for 2010/2011.
- 7.2 The changes proposed to the Scheme would not incur any additional cost to the budget.

8.0 Legal Implications

- 8.1 The Council is empowered to pay a range of Allowances to its Members in respect of their roles and responsibilities but must, in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, appoint an Independent Remuneration Panel to offer advice and make recommendations on the Members' Allowances Scheme to Council. The report contains the advice from the Panel.

9.0 Risk Management

- 9.1 Consideration of the report enables the Council to comply with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003. The Guide to Members' Allowances will ensure consistency of approach in dealing with claims made under the Scheme thereby protecting the interests of individual Members and the Council.

10.0 Background

- 10.1 On 14 July 2008, the Governance and Constitution Committee considered a report which set out recommendations with regard to the adoption of a Scheme of Members' Allowances for Cheshire East Council during its shadow year, based on the advice of Cheshire County Council's Independent Remuneration Panel. The Committee recommended the Scheme to Council on 30 July 2008; the scheme was subsequently adopted.
- 10.2 A new Independent Remuneration Panel was constituted later that year to make recommendations in respect of the Scheme of Members' Allowances which would apply to Cheshire East Council from Vesting Day (1 April 2009). Having met on a number of occasions, the Panel submitted its report initially to the Governance and Constitution Committee on 9 March 2009. The Panel's recommendations, together with an addendum (which included a requirement to review the Scheme's operation in late autumn), were approved by Council on 2 April 2009.
- 10.3 On 30 September 2009 the Governance and Constitution Committee resolved to reconvene the Independent Remuneration Panel for the purpose of -
- (i) Reviewing the Members' Allowances Scheme; and
 - (ii) Considering an additional paper relating to associated allowances.

11.0 Mid-Year Review of Members' Allowances Scheme

11.1 The Independent Remuneration Panel (hereafter referred to as 'the Panel') met on 8 January 2010 to carry out the mid-year review. To inform the Panel's discussions, the Political Group Leaders had been invited to submit comments on the operation of the Members' Allowances Scheme (hereafter referred to as 'the Scheme'). In the absence of any representations, the Panel was satisfied that a fundamental review was not required at this time.

11.2 The mid-year review focused on four areas:

- (i) consideration of the Index which should be applied to the Scheme for 2010/2011;
- (ii) proposed additions to the Scheme;
- (iii) matters of interpretation pertaining to Members' Claims, and
- (iv) a draft Guide to Members' Allowances.

12.0 Index

12.1 In its report to Council on 1 April 2009, the Panel had recommended that the Retail Price Index (RPI) should be applied to the 2008/2009 Scheme to uplift allowances for 2009/2010. Whilst Council had approved the recommendation, no reference had been included in the Scheme to identify the uplift mechanism, a position which needed to be addressed.

12.2 The Panel was not required to recommend the same index year on year and having considered a number of alternative indices concluded that, given the general uncertainty which existed in relation to public sector pay awards, no increase should be applied to the Scheme of Members Allowances for 2010/2011 but that the position be reviewed following agreement of the Local Government Employers (LGE) pay award for Local Government employees 2010.2011.

13.0 Proposed Additions/Changes

13.1 Including the above, four additions/changes were proposed to the Scheme with effect from 1 April 2010 -

- (i) Identification of the mechanism by which the Members' Allowances Scheme would be uplifted for 2010/2011 (as per paragraphs 12.1 and 12.2 above);
- (ii) In recognition of the costs associated with the event, the rate of subsistence applicable to the Local Government Association (LGA) Annual Conference to be that applied to London and abroad, irrespective of where in the UK the event was held;

- (iii) A paragraph to be added to the effect that where a dedicated Broadband/telephone line is provided by the Council for the carrying out of Council duties, the associated line rental cost to be reclaimable from the Members' Allowances Scheme by elected Members billed directly for this service on submission of a bill; and
- (iv) In accordance with Part III of the Local Government Act 2000 or Regulations made under that Part, the insertion of the following paragraph relating to the suspension of allowances -

"The right to Basic Allowance, Special Responsibility Allowance and Travel and Subsistence Allowance may be withdrawn by the Council while a Councillor is suspended or partially suspended from his/her responsibilities or duties as a member of the Council as a result of a breach of the Members' Code of Conduct in accordance with Part III of the Local Government Act 2000 or Regulations made under that Part."

- 13.2 A draft Scheme of Members Allowances for 2010/2011, based on the above recommendations, is attached at **Appendix 1**.

14.0 Matters of Interpretation

- 14.1 To ensure consistency of approach, a number of questions were put to the Panel in order to reach agreement on how claims would be administered and the Panel's responses are reported in paragraph 15.1.

15.0 Draft Guide to Members' Allowances

- 15.1 A draft Guide to Members' Allowances was submitted to the Panel, which had been drawn up to assist Members in making claims for reimbursement and assist Officers in its administration. To satisfy internal audit requirements and make the claiming of allowances more consistent, the following operational changes were proposed which would be included in the Guide.

- (i) Claims for Allowance reimbursement would be required to be submitted to Democratic Services for processing no later than three months after the performance of the duty. Members requiring reimbursement of expenses which had not been submitted within this time would have the right of appeal to the Borough Solicitor in order to seek reimbursement of late submissions.
- (ii) Where a Member was acting in an official capacity i.e. on behalf of or at the request of the Council, Travel Allowance would be paid i.e. where a Member was required to attend a meeting to give evidence or had registered an intention to speak. Where attendance was voluntary, no allowance would be claimable.

(iii) Co-opted (Independent/Parish) members of the Standards Committee would be entitled to claim an allowance of £30 for any meeting they were required to attend by the Chairman of the Standards Committee, whereas only claims for subsistence would be paid where the cost of attendance at an event had been met by the Council.

(iv) Members to supply a business case supported by the Group Leader to justify the cost of travel over and above standard rail fare, irrespective of the mode of transport used.

(v) Where IT consumables were replaced for urgent use, the cost to be reclaimed on submission of a receipt.

15.2 The draft Guide is attached at **Appendix 2**.

16.0 Conclusion

16.1 The Panel was satisfied that the changes recommended above together with the adoption of the Guide to Members' Allowances from 1 April 2010 would satisfy the requirements of the Internal Auditor and provide a consistency of approach for the claiming of Members' Allowances.

17.0 Access to Information

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

Name: Diane Moulson
Designation: Senior Member Development Officer
Tel No: 01270 686476
Email: diane.moulson@cheshireeast.gov.uk



SCHEME OF MEMBERS' ALLOWANCES

2010/2011

(as adopted by Council on #)

SCHEME OF MEMBERS' ALLOWANCES 2010/2011

The following Scheme has been adopted by Cheshire East Council in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003. The effective date of operation of the Scheme is 1 April 2010.

In making the Scheme the Council has accepted the recommendations of the Independent Remuneration Panel contained in its report to Council on #.

No increase has been proposed to the 2010/2011 Scheme until such time as the Local Government Employees pay award is known, at which time the previous Index applied to the Scheme (Retail Price Index) will be reviewed.

Special Responsibility Allowances are paid at a percentage of Basic Allowance.

SCHEME OF MEMBERS' ALLOWANCES 2010/2011

1. Basic Allowance

- 1.1 The amount to be disbursed as Basic Allowance annually is **£907,200**.
- 1.2 Each Member of the Borough Council shall receive a sum of **£11,200** per annum (**£933** monthly).
- 1.3 Payment of Basic Allowance shall be monthly in arrears. If during this period, the term of office of a Member begins or ends, the entitlement to payment shall be based on calendar days per month.

2. Special Responsibility Allowances (SRA's)

- 2.1 Special Responsibility Allowances are paid as a percentage of the basic allowance.
- 2.2 The amount to be disbursed as Special Responsibility Allowances in 2010/2011 is **£348,610**.
- 2.3 Special Responsibility Allowances shall be paid in accordance with Schedule 1 attached to this Scheme.
- 2.4 Only one Special Responsibility Allowance shall be payable to any individual Member. Where a Member holds two or more positions which attract an SRA payment the higher of the amounts shall be paid.
- 2.5 Payment of Special Responsibility Allowances shall be monthly in arrears. If during this period a Member takes up or relinquishes such responsibilities as entitle him/her to a Special Responsibility Allowance the entitlement to payment shall be based on calendar days per month.

3. Civic Allowances

- 3.1 An allowance of **£14,000** per annum shall be paid to the Worshipful the Mayor of Cheshire East and an allowance of **£5,600** per annum shall be paid to the Deputy Mayor of Cheshire East to cover the expenses of the officer holder.
- 3.2 Although included in the Scheme for completeness, the allowances are not considered to be Special Responsibility Allowances in accordance with Sections 3 and 5 of the Local Government Act 1972.

4. Travel and Subsistence Allowance – Elected Members

- 4.1 Travel and Subsistence Allowances may be claimed on the submission of receipts for the performance of any duty specified in the 2003 Regulations and as set out in Schedule 2 attached to this Scheme.

5. Travel and Subsistence Allowance – Co-opted Members

- 5.1 Co-opted members serving on the Council's Committees are entitled to claim travel and subsistence reimbursement.
- 5.2 Parent Governor Co-opted members and School Appeal Panellists may claim reasonable travel expenses for attendance at the Cheshire Association of Governing Bodies meetings and School Appeals meetings respectively.
- 5.3 Co-opted (Independent/Parish) members of the Standards Committee are entitled to claim an allowance of £30 for any meeting they are required to attend by the Chairman of the Standards Committee, whereas only claims for subsistence will be paid where the cost of attendance at an event has been met by the Council.
- 5.4 Members of the Independent Remuneration Panel are entitled to claim travel and subsistence reimbursement and a meeting allowance of £30.

6. Approved Duties

- 6.1 The list of approved duties for which Allowances can be claimed is set out in Schedule 3 attached to this Scheme.

7. Childcare and Dependants Carers' Allowance

- 7.1 A Dependent Carers' Allowance will be paid to Members where actual costs are incurred for the care of dependants whether children, elderly people or people with disabilities whilst undertaking the duties specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 and set out in Schedule 3 attached to this Scheme.
- 7.2 The amount payable in respect of a Carers' Allowance shall be up to a maximum of **£6,100** per calendar year on the production of receipts. A carer's (reasonable) expenses will also be paid.
- 7.3 The allowance or expenses is claimable only if the elected Member is the carer. The allowance will not be payable in respect of a member of the elected Member's own household.

8. Suspension of Allowances

- 8.1 The right to Basic Allowance, Special Responsibility Allowance and Travel and Subsistence Allowance may be withdrawn by the Council whilst a Councillor is suspended or partially suspended from his/her responsibilities or duties as a member of the Council as a result of a breach of the Members' Code of Conduct in accordance with Part III of the Local Government Act 2000 or Regulations made under that Part.

9. Telephone/Broadband Line Rental

- 9.1. An Allowance to cover the cost of telephone calls made in the course of Council business has been included in the basic allowance payable Members. Where a dedicated Broadband/telephone line is provided by the Council for the carrying out of Council duties, the associated line rental cost can be reclaimed from the Members' Allowances Scheme by elected Members billed directly for this service on submission of a bill.

10. Other Provisions

- 10.1 Claims for Allowance reimbursement are required to be submitted to Democratic Services no later than three months after the performance of the duty. Members requiring reimbursement of expenses which have not been submitted within this time have the right of appeal to the Borough Solicitor to seek reimbursement of late submissions.
- 10.2 A Member may request in writing to the Chief Executive (or an officer appointed by him in writing) that payment of Special Responsibility Allowance and Basic Allowance be paid at such intervals, in arrears, as the Member may specify but in any event within 1 month of the end of the financial year.
- 10.3 A Member may, by notice in writing to the Chief Executive (or an officer appointed by him in writing), elect to forgo all or any part of the entitlement to an allowance under this scheme.
- 10.4 The previous Scheme of Members' Allowances for 2009/2010 is hereby revoked.

SPECIAL RESPONSIBILITY ALLOWANCES 2010/2011

	No.	Gear	SRA £
Basic Allowance	81		11200
The Worshipful the Mayor			14000
Deputy Mayor			5600
Council Leader	1	2.5	28000
Deputy Council Leader	1	1.5	16800
Cabinet Portfolio	8	1.25	14000
Licensing Committee – Chair	1	0.65	7280
Vice Chair	1	0.325	3640
Scrutiny Committee Chairman	5	0.65	7280
Vice Chairman	5	0.22	2460
Appeals Committee Chairman	1	0.65	7280
Vice Chairman	1	0.22	2460
Strategic Planning Board Chairman	1	0.65	7280
Vice Chairman	1	0.22	2460
Southern/Northern Planning Committee Chairman	2	0.65	7280
Vice Chairman	2	0.22	2460
Governance & Constitution Committee Chairman	1	0.65	7280
Vice Chairman	1	0.22	2460
Staffing Committee Chairman	1	0.65	7280
Vice Chairman	1	0.22	2460
Standards Committee Chairman	1	0.65	7280
Vice Chairman	1	0.22	2460
Public Rights of Way Committee Chairman	1	0.5	5600
Vice Chairman	1	0.165	1850
Opposition Spokesperson		0	0
Main Opposition Leader	1	0.65	7280
Main Opposition Deputy Leader	1	0.325	3640
Opposition Leaders	2	0.5	5600
Cabinet Support Members	5	0.4	4480
Administration Whip	1	0.325	3640
Deputy Administration Whips	2	0.15	1680
Opposition Whips	3	0.15	1680
Carers Allowance (max)		0.55	6100

TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES/ REIMBURSEMENTS

1. Dependants' Carers' Allowance

A Dependents Carers' Allowance is payable in respect of approved duties on the basis of actual costs accrued only if the elected Member is the carer. The maximum total amount payable to an individual Member each year is £6,100 and claims should be supported by a receipt.

2. Travelling Reimbursement

2.1 Car Rate per Mile

Miles per Annum	451 – 999 cc	1000 – 1199 cc	1200 cc+
per mile first 8,500	42.9p	47.7p	60.1p
per mile after 8,500	32.3p	13.6p	15.8p

2.2 Rail Travel

Ordinarily train travel reimbursement is paid up to the open standard class fare unless exceptional circumstances apply as expenses should be at the minimum cost to achieve the purpose of the journey. Any case for first class rail travel greater than the open standard fare will require the submission of a business case supported by the Members' Group Leader.

2.3 Motorcycle or Moped Allowance

	Rate per mile	Rate per mile
Motorcycle		
For the first 1,500 miles per annum	126 - 250cc	251 - 500cc
Moped		
For the first 1,500 miles per annum	27p	35 .5 p
	500cc+	Up to 125 cc Up to 50cc
	39.2p	18.8p 12.4p
Non motorised transport e.g. bicycle		11 pence
Additional rate for each passenger, not exceeding 4 to whom a Travelling Allowance would otherwise be payable		1.0 pence per mile
Expenditure on tolls, ferry or car parking		Actual Amount
Overnight garaging supplement, where the Member is absent overnight		Actual Amount

3. Subsistence Reimbursements

Breakfast Allowance for a duty of more than 4 hours concluding before 12 noon	£8.29
Lunch Allowance for a duty of more than 4 hours concluding after 12 noon	£10.64
Dinner Allowance for a duty of more than 4 hours concluding after 6 p.m.	£16.69
Dinner Allowance (London and abroad) for a duty of more than 4 hours concluding after 6 p.m.	£34.57
Overnight accommodation outside London (to include breakfast)	£118.60
Overnight accommodation in London (to include breakfast)	£142.31

Note: The rate applicable to subsistence claims made in respect of attendance at the Local Government Association (LGA) Annual Conference will be the Dinner Allowance (London and abroad) irrespective of where in the UK the event is held.

The cost limitations on reimbursement are:

- | | | |
|-------|---|--------------|
| (i) | Absence of more than 4 but less than 8 hours | 1 main meal. |
| (ii) | Absence of 8 hours or more but less than 12 hours | 2 main meals |
| (iii) | Absence of 12 hours or more | 3 main meals |

4. Member's Surgeries

Up to a maximum of £32 for room hire in connection with the conduct of a Member's Surgery, subject to a maximum of twelve such claims per annum and the submission of necessary receipts.

CHESHIRE EAST COUNCIL: LIST OF APPROVED DUTIES

- Attendance at meetings of Council, Committees, Sub-Committees, Cabinet meetings (including by invitation), Special Committees, Panels, Boards, Forums and Working/Task Groups
- Attendance at visits of inspection of sites and buildings arranged by any of the bodies listed above
- Attendance at meetings of bodies on which the Borough Council is invited to be represented and Outside Organisation meetings to which the Governance and Constitution Committee make appointments (excluding School Governing Bodies)
- The duties associated with the Chairman or Vice-Chairman of an Outside Organisation on which the Member is representing the Borough Council
- Conferences/Seminars
- Authorised briefings for Committees/Sub-Committees/Cabinet meetings including all meetings which are called by officers of the Council e.g. pre agenda meetings
- Duties undertaken by a Chairman/Cabinet Member
- Courtesy Visits e.g.
 - i) Civic duties of the Mayor and Deputy Mayor of the Council
 - ii) Service duties and visits undertaken by the Chairman/Vice Chairman of Committees and Sub-Committees and by Cabinet Members
 - iii) for individual Members, attendance at official openings, open days, presentations, meetings with VIPs, receptions (in line with associated guidance document), all of which take place outside the Electoral Ward
- Governors of FE/HE Colleges, Residential Special Schools and Independent Schools
- 'Nominated Member' Duties – Members covered by this element of the scheme are
 - Leaders
 - Deputy Leaders
 - Group Whips
 - Mayor and Deputy Mayor

and includes travel to the authority's administrative buildings for essential business arising from the office which they hold
- Attendance at Parish Council Meetings within the Electoral Ward
- Member Learning and Development Events

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GUIDE TO MEMBERS' ALLOWANCES

**WITH EFFECT FROM
1 APRIL 2010**

FORWARD

These notes are designed to assist you as a Member of Cheshire East Council in making your claim for Allowances and to guide officers in administering the Scheme. They are by no means comprehensive or definitive and you should consult Democratic Services as indicated below if you have any problems or queries not covered in this Guide.

For enquiries concerning the Scheme:

Paul Jones Democratic Services Team Manager
Telephone: 01270 686458
Email: paul.jones4@cheshireeast.gov.uk

For enquiries concerning Claims:

Karen Bedford Members' Secretary
Telephone: 01270 686474
Email: Karen.bedford@cheshireeast.gov.uk

INTRODUCTION

The Guide, which is divided into four sections, reflects the decision of Council when it approved the Scheme of Members' Allowances for 2010/2011 following advice from the Independent Remuneration Panel.

The Council's Governance and Constitution Committee is responsible for overseeing the Scheme and for monitoring its operation.

Periodically a revised paper version will be issued but for the most recent information please refer to the Intranet or the officers listed on page two.

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SECTION ONE: GENERAL MATTERS

1. Audit/Legal Requirements

- 1.1 Whilst Officers are happy to support and assist Members, Councillors remain personally responsible in law and under the Members' Model Code of Conduct for the accuracy of their claims. In order to satisfy Audit requirements all claims must be certified for payment by Democratic Services. You may therefore be asked from time to time to provide additional information if it is not clear whether a claim is eligible for payment.
- 1.2 Details of Members' Claims have to be available for public inspection. Each year the Council is required by law to publish details of its Members' Allowances Scheme and the amounts paid to each Member under the Scheme. A Notice to this effect is published in the local press as soon as is reasonably practical after the end of the financial year to which the Scheme relates and a summarised and cumulative record is produced annually and posted on the Council's website.
- 1.3 The Notice is open to inspection by any local government elector for the Council's area at any reasonable time. The elector is also entitled to make a copy of any part of the Notice and Members should note that the availability of this information could lead to coverage in the Press.

2. Submission of Claims

- 2.1 Regular monitoring of expenditure by Members is essential for the efficient administration of the Scheme and for budget monitoring purposes. To assist in this, all claims for Allowance reimbursement are required to be submitted to Democratic Services for processing no later than three months after the performance of the duty. Members requiring reimbursement of expenses which have not been submitted within this time will have the right of appeal to the Borough Solicitor in order to seek reimbursement of late submissions.
- 2.2 You cannot take expenditure on travelling into account for the purposes of more than one claim, neither can you take any period of absence from your usual place of residence into account for the purposes of more than one claim, i.e. you cannot claim from more than one body for the same expense. The maximum overnight subsistence claimable within a 24 hour period is for bed and breakfast, lunch and dinner.

3. Pension Scheme

- 3.1 The Council has introduced a Pension Scheme for Members as provided under Section 7 of the Superannuation Act 1972 and in accordance with the statutory regulations and guidance issued by the Local Government Pensions Committee and the Local Government Pension Scheme (LGPS). Under the Council's Scheme, elected Members of Council are entitled to join the LGPS, providing they meet the eligibility criteria.

- 3.2 The rate of contributions is 6% payable by each Member accepted into the scheme, to be calculated on the Basic Allowance payable and any Special Responsibility Allowance whilst the Member is in receipt of such Allowances.
- 3.3 Separate guidance can be made available on the Pension Scheme provisions on request.

4. Taxation/Benefits

- 4.1 Detailed advice on taxation/benefits should be sought from the appropriate Government office but a brief summary is provided in the Guide (see Section 4) for information.

SECTION TWO: PRESENT ALLOWANCES

2.1 Basic Allowance

The Basic Allowance is paid to each Councillor on or around the 18th of each month and is intended to recognise the time devoted by Members to attending formal meetings, learning and development events, meetings with constituents, political group meetings and the use of their home and other incidental costs for which no other provision is made e.g. telephone calls made in respect of council business. If during this period your term of office begins (i.e. the date on which the Declaration of Acceptance of Office is signed) or ends (i.e. the date on which you resign as a Member or otherwise cease to be a Member), the entitlement to payment shall be based on calendar days per month. The Annual Basic Allowance for 2010/11 is **£11,200**.

2.2 Special Responsibility Allowance (SRA)

Some Councillors may be eligible for an additional Allowance in recognition of specific special responsibilities. Those individuals who are entitled to claim more than one Special Responsibility Allowance (SRA) in accordance with the office they hold; will only be paid the higher amount. SRA's are paid to Members appointed to the office stated in the Scheme automatically without the need for further approvals.

The remuneration level of an SRA for any post can only be changed following advice from the Independent Remuneration Panel and the approval of full Council. Payment of SRA is on or around the 18th of each month. If during this period a Member takes up/relinquishes such responsibilities as entitle him/her to an SRA, the entitlement to payment shall be based on calendar days per month.

Note: During any period a Member is absent and unable to perform his/her Council duties due to sickness or holidays, the payment of Basic Allowance and Special Responsibility Allowance (where applicable) will continue automatically.

2.3 Suspension of Allowances

The right to Basic Allowance, Special Responsibility Allowance and Travel and Subsistence Allowance may be withdrawn by the Council whilst a Councillor is suspended or partially suspended from his/her responsibilities or duties as a member of the Council as a result of a breach of the Members' Code of Conduct in accordance with Part III of the Local Government Act 2000 or Regulations made under that Part.

2.4 Travel and Subsistence – Elected Members

The Local Authorities (Members' Allowances) (England) Regulations 2003 allows local authorities to approve their own Travel and Subsistence Allowance arrangements as part of an overall Scheme, following advice from the Independent Remuneration Panel.

A description of what constitutes an approved duty for the payment of Travel and Subsistence reimbursements is included in the Scheme. A meeting/duty not included in the list needs the support of a formal resolution of the Governance and Constitution Committee. A meeting/duty has to be approved before it takes place – i.e. it cannot be approved retrospectively.

Where a Member is acting in an official capacity i.e. on behalf of or at the request of the Council, Travel Allowance will be paid i.e. where a Member is required to attend a meeting to give evidence or has registered an intention to speak. Where attendance is voluntary, no allowance will be claimable.

Where a Member uses his/her car for Council business the mileage rates to be applied are based per mile on that of the casual user rate under the NJC Occasional Allowance Scheme for officers. The setting of the officer rates is based on a well established approach nationally.

A Subsistence payment cannot be claimed for any period where the performance of an approved duty is less than four hours duration. Generally claims should relate to the cost of food and other refreshments, including when travelling abroad. The period of four hours includes travelling time. Members should provide receipts to support their claims.

You may, by notice in writing to the Borough Solicitor, elect to forgo any part of the above allowances. You are also entitled to claim less than the maximum rates.

2.5 Travel and Subsistence - Co-opted Members

Co-opted members are entitled to claim travel and subsistence reimbursement.

Parent Governor Co-opted members and School Appeal Panellists may claim reasonable travel expenses for attendance at the Cheshire Association of Governing Bodies meetings and School Appeals meetings respectively.

Co-opted (Independent/Parish) members of the Standards Committee are entitled to claim an allowance of £30 for any meeting they are required to attend by the Chairman of the Standards Committee, whereas only claims for subsistence will be paid where the cost of attendance at an event has been met by the Council.

Members of the Independent Remuneration Panel are entitled to claim travel and subsistence reimbursement and a meeting allowance of £30.

2.6 **Claiming Travel Reimbursement**

You will normally be aware of meetings well in advance and so will, in most cases, be claiming for travel from your home or place of work. There may however be occasions particularly during the August Recess, when meetings are called at short notice for emergency purposes. The question of eligibility for allowances from other points of departure or where two journeys are completed for the same event (i.e. to avoid waiting time) requires careful consideration and, for this reason, you are advised to seek guidance from the officers indicated in the Guide well in advance of making the journey.

a) Car Travel

It should be noted that, in deciding whether to travel by car or public transport for long journeys, car travel for return trips of up to 250 miles is acceptable. Beyond this limit the view is taken that public transport is likely to be more economical. Any journeys by car over the 250 mile threshold should be based on a business case supported by your Group Leader, taking into account sharing arrangements, health reasons, avoiding an overnight stop, or other exceptional grounds.

The Allowance for travel by your own vehicle is claimed at a maximum rate per mile. An additional rate of 1.0 pence per mile may be claimed for each passenger (up to a maximum of four) to whom Travel Allowance would otherwise be payable.

If you travel from your place of work to attend meetings held at a point between the place of work and home, no Travel Allowance will ordinarily be payable. If, on the other hand, the meeting is held at a point which requires that a detour is made from the normal route, the Travel Allowance will be restricted to additional mileage. In cases of doubt please seek guidance.

For regular travel routes where there is only a small expenditure (i.e. less than £5 for a return journey) then proof of purchase by way of receipts/tickets will only be required once. There will be no need to submit bundles of tickets for these journeys. Please contact a member of staff if in doubt.

The Council requires that your private car insurance has comprehensive cover and includes the use of the vehicle for Council business.

b) Train Travel

Ordinarily train travel reimbursement is paid up to the open standard class fare unless exceptional circumstances apply as expenses should be at the minimum cost to achieve the purpose of the journey. Any case for first class rail travel greater than the open standard fare will require the submission of a business case supported by your Group Leader. Factors which a Member needs to take into account in making such a decision are whether other Members/officers of the party are travelling at the higher class, the need to undertake Council business on the train, length of journey, availability of accommodation and public perception.

Members undertaking train journeys on official business on behalf of the Council are asked to contact Democratic Services in advance of travel so that tickets can be arranged. Where the Member makes his/her own arrangements a ticket receipt should be submitted with your claim form.

On those occasions where Councillors purchase their own tickets, Members are expected to take advantage of special fare offers where appropriate. For those Members who are eligible; attention is drawn to the potential financial savings to the Council through use of a Senior Citizens Rail Card which enables the cost of all train journeys to be reduced by one third of the original price.

c) Air Travel

For journeys within the UK, air travel may be used if the cost is lower than the equivalent rail fare. If you wish to travel by this mode of transport, the request should be accompanied by a business case supported by your Group Leader.

d) Taxi/Hire Car

An Allowance may be claimed for travel by taxi but the amount of the actual fare on production of a receipt and any reasonable gratuity would only be payable in cases of urgency, in order to address disability issues or on health and safety grounds where no public transport is readily available. In any other case, only the fare for travel by appropriate public transport may be claimed.

Travel by hired car would not normally be claimable but if in exceptional circumstances a hire car is required you are asked to discuss your requirements with the Democratic Services Team Leader.

2.7 **Claiming Subsistence Reimbursement**

Subsistence is claimable to reimburse monies actually spent up to prescribed limits. There should be no perceived profit element in Subsistence claims which would leave Members open to possible criticism.

Subsistence may be payable for the approved duties listed in the Scheme based on the time of day the meal is taken and time away from home. Claims for meals and other expenses will be paid on the basis of expenditure and on production of a receipt except when the expenditure incurred is less than £5. Meals on trains, and abroad will only be reimbursed at the rates set out in Scheme and upon production of receipts as detailed above.

For overnight accommodation in London, reimbursement of actual costs up to £142.31 per night for bed and breakfast only will be made on production of a receipt. Similarly a maximum rate of £118.60 for Bed and Breakfast only can be claimed for stays outside London. In these circumstances a separate breakfast Allowance cannot be claimed unless breakfast is not included in the accommodation charge (although the maximum for bed and breakfast will continue to apply). Therefore by way of example, for a 24 hour absence in London only lunch and dinner can be claimed in addition to the bed/breakfast amount.

Note: Members who attend the Local Government Association Annual Conference, irrespective of the location within the UK where it is held, may claim expenses up to the maximum of the London and abroad Subsistence rates set out in the Scheme.

When attending an approved Conference you should discuss any queries relating to Subsistence Allowance with the person listed in the front of this Guide prior to attending. Where a block booking is made by the Council, the Council will pay directly for the hotel accommodation through the sponsoring Service.

2.8 Dependents Carers' Allowance

This element of the Scheme is seen as an important factor in enabling Members to fulfill their duties whilst continuing to care for dependents.

A Dependent Carers' Allowance will be paid to Members where actual costs are incurred for the care of dependants whether children, elderly people or people with disabilities.

The amount payable in respect of a Carers' Allowance shall be up to a maximum of **£6,100** per calendar year on the production of receipts. A carer's (reasonable) expenses will also be paid.

The allowance or expenses is claimable only if the elected Member is the carer. The allowance will not be payable in respect of a member of the elected Member's own household.

2.9 Information Technology (IT) Allowance

On election to the Council, all Members will be provided with IT equipment appropriate to their Council role/personal circumstances; which may include the installation of a dedicated telephone and/or Broadband line the cost of which will be paid directly by the Council. For Members whose lines were installed by the legacy authorities of Cheshire County, Congleton, Crewe and Nantwich and Macclesfield, and who are billed directly for this service the cost of Broadband/telephone line rental can be reclaimed from the Members' Allowances Scheme on submission of a bill.

IT consumables [cartridges, paper, toners etc] can be ordered from Karen Bedford having given advance notice. If you need to replace items which are not held in stock for your urgent use, the cost may be claimed back on submission of a receipt.

2.10 Members' Surgeries

You may claim up to a maximum of £32 for room hire in connection with the conduct of a Surgery, subject to a maximum of twelve such claims per annum and the submission of necessary receipts.

SECTION THREE: CLAIMS/PAYMENTS PROCEDURE

3.1 Making a Claim

A supply of Members Claim Forms is held by Karen Bedford in Democratic Services. Each month, on and around the 18th, a blank Claim Form will be emailed to you for completion and return in respect of the previous month's activities.

3.2 Submission Deadlines

You may find it helpful to fill in the Claim Form after each approved duty is carried out. The completed form should then be submitted to Karen Bedford as soon as possible; the deadline for submission being the 1st of each month to prevent delays in processing your claim. You are reminded that all claims for Allowance reimbursement are required to be submitted to Democratic Services for processing no later than three months after the performance of the duty. Members requiring reimbursement of expenses which have not been submitted within this time will have the right of appeal to the Borough Solicitor in order to seek reimbursement of late submissions.

3.3 Completing a Form

The following provides some general advice on how the Form should be used to claim the appropriate Allowances.

To begin with, enter your car details in the top section of the form. This will enable the correct mileage rates to be applied to your claim. Then complete the remainder of the form as follows -

Column 1	Insert the date on which the approved duty was carried out.
-------------	---

Column 2	Description of approved duty. The name of the body will suffice but otherwise a fuller description is needed. Where more than one approved duty is carried out on that date, please ensure that all duties are listed.
-------------	--

[Please note that you cannot claim for Political Group business].

Column 3	Identify the location of the meeting [the venue]. This information is particularly important when you are claiming for more than one activity during the course of a single day.
-------------	--

Column 4	Calculate the number of miles travelled i.e. from where you departed for the meeting to where you returned
-------------	--

Column 5	Any claims for car parking charges should be entered in Column 5. Relevant receipts should be attached to the form.
Column 6	Insert the cost of bus, rail or taxi fare incurred
Column 7	Enter your journey start time and end time. This information will be used to verify any claims for Subsistence Allowance.
Column 8	Include details of any Subsistence which is being claimed. Where the cost is above £5.00 a receipt must be attached.
Column 9	Claims made in accordance with the Scheme as set out in paragraph 2.9 must be supported by telephone bills
Bottom Row	If you have incurred additional out of pocket expenditures in line with the Scheme, enter the details in this column

You are reminded that you are personally responsible for completing the claim form and for the correctness of your claims, including the calculations.

3.4 **Payment of Allowances**

After you have completed and signed the form it can be posted, emailed or passed to Karen Bedford in Democratic Services.

Travel and subsistence claims for the preceding month will be paid on the 18th of each month (or first banking day thereafter) together with Basic and SRA payments for the month in question providing that they are received by Democratic Services **on or before** the 1st of each month.

Each calendar month's claim will be processed and paid into a bank or building society of your choice. An advisory statement is issued at the same time the payment is being credited to your account giving a detailed breakdown of the payment.

An Income Tax Form P60 will be sent to you at the end of the financial year summarising all taxable payments and deductions made during the previous 12 months. You should keep this safe as replacement copies will not be issued.

SECTION FOUR: STATUTORY DEDUCTIONS AND BENEFITS

4.1 **General Guidance**

This section provides general guidance on the liability for income tax and national insurance contributions on payments made in respect of Allowances. Further detailed advice, taking into account individual personal circumstances, can be obtained from –

- **Income Tax** - HM Revenue & Customs, Sefton Area, Taxpayer Service Office, The Triad, Stanley Road, Bootle, Merseyside L75 1HW (quoting reference 083/CCC) Tel 0845 300 3939

- **National Insurance contributions** - HM Revenue & Customs, NI Contributions Office, Longbenton, Newcastle upon Tyne NE98 1ZZ Tel 0845 302 1479

- **State Benefits enquiries** - local office of the Department for Work and Pensions (DWP)

Alternatively, Members may wish to seek independent financial advice to discuss their personal circumstances.

Members are deemed to be 'office holders' under PAYE legislation and as such are liable to tax under Schedule E. The Allowances you receive from the Council will count as taxable income and should be added to all other income (including state and occupational pensions). To ensure that you are paying the correct level of tax, please contact HM Revenue & Customs. This will avoid tax arrears accumulating and potentially, demands from HM Revenue & Customs at a later date.

4.2 **Taxable Allowances**

All entitlements to Basic and Special Responsibility Allowance are subject to deductions for income tax and national insurance. Reimbursements made in respect of Travel Allowance over certain thresholds and Telephone Allowances not reimbursed by the Council have recently been determined as having a liability for income tax and national insurance. The income tax and national insurance due is deducted from pay each month as and when payment is made.

All other reimbursements of expenses actually and necessarily incurred including those in respect of fares, accommodation and Subsistence have no liability for either tax or national insurance.

4.3 **Car Mileage Expenses**

Tax is only payable on the profit element (as determined by HM Revenue & Customs) of car allowances. For example at the 60.1p mileage rate (15.8p after 8,500 miles) the HM Revenue & Customs tax-free threshold is currently 40.04 p per mile travelled but can change from time to time (up or down) when motoring costs are reviewed. Any amount paid above this rate is liable for tax and NI deductions. After 10,000 miles per annum the tax-free threshold reduces to 25p per mile travelled. Any tax payable on Mileage Allowances is deductible at source.

4.4 **Tax Relief**

Items which you may wish HM Revenue & Customs to consider as allowable for tax relief may be costs of postage, business telephone calls, stationery and office equipment and business accommodation provided that these are borne wholly and exclusively in the performance of duties associated with the Council. In these cases a written statement of expenses which have not been claimed and reimbursed by the Council should be submitted at the same time as completing your annual return to HM Inspector of Taxes.

4.5 **National Insurance**

If you are self employed or have full time employment with another employer, you may separately pay more national insurance than is needed. If so you will need to contact HM Revenues and Customs, NI Contributions Office, Refunds Group to claim any refund after the year-end and when the total overpayment can be accurately assessed.

If you are over retirement age (65 years for a man, 60 years for a woman) you need pay no contributions, regardless of whether you are receiving a pension. However you must obtain a certificate of non-liability or a certificate of age exception from NI Contributions Office, Newcastle upon Tyne.

4.6 **Benefits**

If you are in receipt of Benefits you should contact the DWP/Jobcentreplus to inform them of the Allowances you are in receipt of from the Council. The DWP /Jobcentreplus Office will be able to advise you on how this affects your entitlement to unemployment benefit.

If you or your spouse is in receipt of Incapacity Benefit you should note that all Allowances count as earnings whether or not they are actually being claimed and paid. Consequently, it is left to you to declare your 'earnings' to HM Revenue & Customs in cases where a state benefit is also being received.

CHESHIRE EAST COUNCIL

GOVERNANCE & CONSTITUTION COMMITTEE

Date of Meeting: 25th March 2010
Report of: Borough Treasurer & Head of Assets
Subject/Title: Implementation of International Financial Reporting Standards (IFRS)

1.0 Report Summary

- 1.1 The purpose of this report is to update members on the project plan for implementing International Financial Reporting Standards (IFRS).

2.0 Decision Requested

- 2.1 To approve the updated project plan, set out in Appendix A.

3.0 Reasons for Recommendations

- 3.1 Local Authorities are required to adopt International Financial Reporting Standards (IFRS) by 2010-11. This will require a transition from current financial reporting standards and have a significant impact on the Authority.

4.0 Wards Affected

- 4.1 Not applicable.

5.0 Local Ward Members

- 5.1 Not applicable.

6.0 Policy Implications including - Climate change - Health

- 6.1 None.

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

- 7.1 Not applicable.

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

- 8.1 As covered in the report.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 Any legal implications relating to the transition to International Financial Reporting Standards will be reviewed by finance and legal staff on an ongoing basis.

10.0 Risk Management

- 10.1 A revised project plan is attached as Appendix A to this report. Regular updates will be provided to members on progress against the project plan and the project team will be holding regular review sessions with External Audit.

11.0 Background and Options

- 11.1 A report on the transition to International Financial Reporting Standards was considered by members at the Governance & Constitution Committee held on 19th November 2009. The timetable as previously reported to this Committee is as follows.
- 11.2 The first set of IFRS accounts will be the 2010-11 Statement of Accounts, which will be produced in June 2011. However, as part of these accounts the Council will need to include comparative information for 2009-10 meaning that the effective date of transition is at 1 April 2009 and the 2009-10 accounts will need to be restated in IFRS format.
- 11.3 Stage 1 - Restate April 2009 balance sheet to IFRS
Stage 2 - Restate 2009/10 UK GAAP accounts to IFRS – by 31 Dec 2010
Stage 3 – Closedown 2010/11 on IFRS basis – 30 June 2011.
- 11.4 The Audit Commission have recently completed a survey on the readiness of local authorities for the transition to IFRS. Their report 'Countdown to IFRS – Implementation in local government' has stated that local authorities need to make urgent progress now to ensure that the 2010/11 accounts will be reported on time and will meet the required standards.
- 11.5 The project timetable has been particularly challenging for Cheshire East Council, due to the additional work required on the opening balance sheet for 2009-10. The former Cheshire County Council balance sheet has now been disaggregated and merged with the former Districts balance sheets and this exercise will be completed by 31st March 2010. Further work is now required to restate the opening balance sheet on an IFRS basis.
- 11.6 The finance department have recently employed an external consultant to assist with the IFRS transition. The consultant has previous experience working with the NHS and other Councils and will be working with finance staff on a part-time basis to help with technical input,

planning and training. A close working arrangement is in place to ensure that there is an effective transfer of knowledge.

- 11.7 An update on the Project Plan is provided in Appendix A and further updates will be reported on a regular basis. The updated Project Plan recognises that deadlines have slipped, however the transition work is now gathering pace and the Council is on target to meet the ultimate deadline of June 2011 to produce the 2010/11 accounts on an IFRS basis.

12.0 Access to Information

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

Name: Joanne Wilcox
Designation: Corporate Finance Lead
Tel No: (01270) 685869
Email: joanne.wilcox@cheshireeast.gov.uk

Step	Description	Original Deadline	Revised Deadline	Progress to date
1	Carry out high level impact assessment using information on CIPFA web site (and other resources where available) PFI Leases Tangible Assets Employee Benefits (e.g. Holiday Pay) Other Areas	30 th November 2009	31 st March 2010	IFRS Toolkit and Action Plan produced during workshop with Baker Tilly – 2 October 2009. Information obtained from CIPFA website. Report to Governance & Constitution Committee Nov 09 and March 10.
2	Identify changes to accounting policies	31 st December 2009	31 st March 2010	In parallel with Step 1
3	Identify key staff from Finance, HR, Asset Management, Legal and Procurement Assess whether resources adequate Allocate responsibilities Develop detailed project plan	30 th November 2009	31 st March 2010	Meetings held with Finance, HR, Asset Management. Further meetings to be arranged with Procurement and other departments as required.
4	Training of Key Staff on IFRS transition	Ongoing	Ongoing	CIPFA Technical Updates and FAN sessions attended. Briefings provided to Project Team and Service Accountants. Further training ongoing throughout project.
5	Identify changes required to systems and procedures (including Chart of Accounts changes) required	31 st December 2009	31 st May 2010	
6	Identify information required to restate 1 April 2009 balance sheet and 2009/10 accounts <ul style="list-style-type: none"> • Leases • Employee Benefits • PFI • PPE 	31 st December 2009	31 st May 2010	Information gathering exercise in progress. Request for employee benefits holiday leave accruals to be circulated mid April for return mid May.

Step	Description	Original Deadline	Revised Deadline	Progress to date
7	Develop skeleton Statement of Accounts under IFRS (including Notes and Policies)	31 st December 2009	30 th April 2010	Code of Practice purchased. Detailed guidance available from CIPFA June 2010.
8	Obtain information required to restate 1 April 2009 balance sheet	31 st December 2009	31 st May 2010	Identified during Step 6.
9	Identify likely impact on budgets (if any)	31 st January 2010		
10	Implement systems and procedural changes	28 th February 2010	Ongoing	
11	Training for all relevant staff and members	Ongoing from November 2009	Ongoing	Finance Staff and Project Team completed. Member training tba
12	Restate 1 April 2009 balance sheet (including reconciliations between UK GAAP and IFRS)	31 January 2010	30 th June 2010	Obtained in Steps 7 and 8. Ongoing discussions with External Auditors for review/audit of opening balance sheet and processes and arrangements.
13	Compile 2010/11 and later budgets on IFRS basis, building on restatement of balance sheet, taking into account changes to the final version of the Code and any regulations proposed by government to mitigate the impact on General Fund/HRA	31 January 2010		
14	Testing of systems and procedural changes	March 2010	Ongoing	
15	Restate 2009/10 accounts in parallel with main 2009/10 accounts process (including reconciliation between UK GAAP and IFRS)	December 2010	December 2010	
16	Produce 2010/11 accounts on IFRS basis	June 2011	June 2011	

Governance and Constitution Committee

Date of meeting: 25th March 2010
Report of: Head of Internal Audit and Compliance
Title: Update on Comprehensive Area Assessment (Use of Resources)

1.1 The purpose of this report is to summarise the findings of the area assessment and organisational assessments published by the Audit Commission in December 2009 and to give the Committee an update on the current work being undertaken on the “Use of Resources” assessment.

2.1 Comprehensive Area Assessment (CAA)

- Comprehensive Area Assessment, or CAA, is a new way of assessing local public services in England. It examines how well councils are working together with other public bodies to meet the needs of the people they serve. It's a joint assessment made by a group of six independent watchdogs. The assessors are:
 - Audit Commission
 - Care Quality Commission
 - HM Inspectorate of Constabulary
 - HM Inspectorate of Prisons
 - HM Inspectorate of Probation
 - Ofsted
- CAA consists of two main elements:
 - Area Assessment
 - Organisational Assessment

2.2 Area Assessment

- Area Assessment is about how well public services are delivering better results for people in the area. Cheshire East was assessed in Summer 2009 with results published in December 2009.

The assessment shows key findings for Cheshire East against each of our local priorities. The report goes into more detail to explain the findings and the headline opinion is shown below :

- Crime and Disorder: Most areas of Cheshire East are safe
- Children and Young People: Prospects for children and young people in Cheshire East are good
- Health and Well Being: Most residents in Cheshire East enjoy good health but life expectancy in some less well-off areas is significantly worse
- Ageing Population: Good progress has been made in developing social care services for adults
- Learning, Skill and Economic Development: Cheshire East has a traditionally stable local economy with low numbers of people out of work and higher qualifications than elsewhere
- Environment and Sustainability: Cheshire East is mostly clean and many people recycle waste but only half of local residents are satisfied with the standard of cleanliness in the area
- Housing: Housing is a significant challenge in Cheshire East. House prices are high, which makes buying homes out of reach for many people and this is unlikely to improve enough in the short-term. Homelessness has not been well managed in the past but is getting better and the condition of private sector rented housing is mixed.
- The Audit Commission issue green or red flags where they think there are examples where significant improvement is required or where there is particularly good practice. Cheshire East received no green or red flags at this first assessment.
- CAA is seen as a continual process and results are issued annually in December.

2.3 Organisational Assessment

- Organisational assessment has two elements :
 - (1) How good services are (the 'managing performance' assessment)
 - (2) How the organisation is using its resources (the 'use of resources' assessment).
- Cheshire East was assessed in Autumn 2009 on the managing performance element only and the following summarises the findings:
 - Since April 2009 the Council has made good progress in developing and carrying out plans.
 - The key challenge facing the Council is to ensure that these plans are carried out and progress against its performance targets is checked and challenged
 - The Council plays a large role in developing and supporting the local economy
 - It also works effectively with health colleagues to safeguard and support vulnerable people
 - The Council has started to carry out improvements to services

- It has started to set up arrangements for consulting with local people to strengthen communities.
- The Council has improved levels of waste and recycling
- Housing is a challenge. There are some significant issues remaining such as affordable housing and the condition of private housing in parts of Crewe and Congleton
- Prospects for children and young people in Cheshire East are good.
- There are inequalities for those children and young people whose circumstances make them vulnerable.
- Good progress is being made with the provision of adults services

2.4 Use of Resources

- This is broken down into 3 areas:

Managing finances

How well does the organisation use and manage its money?

Does it consult with local communities and other bodies in the area over its spending plans?

Is it efficient?

Governing the business

How well does the organisation manage itself in an open and accountable way?

Does it know what people in the area need and arrange services that meet these needs?

Does it make soundly based decisions, take action to prevent fraud or corruption and manage risks properly?

Managing resources

How well does the organisation use its staff, land, buildings and equipment?

Is the organisation making good use of natural resources and minimising its impact on the environment?

- We are currently being assessed and scores will be published in September 2010 with the Statutory accounts. However, indicative scores will be known in May.
- Within each of the three broad areas there are Key Lines of Enquiry (known as KLOEs). Each KLOE is then broken down into sub questions relating to that area in order for an opinion to be formed across the KLOE and the broad area. Appendix A shows the 10 summary KLOEs.

- The Organisational assessment score is a combination of the Score for Managing performance and Use of Resources. There is an individual score for each KLOE, then a summary score for each of the three areas (finance, governing, resources) and then an overall Use of Resources Score.
- The possible scores are:
 - Performs poorly (1)
 - Performs adequately (2)
 - Performs well (3)
 - Performs excellently (4)
- Cheshire East is unlikely to be able to score an overall level 3 for 2009/10 as many of the KLOEs relate to embedding processes and demonstrating measured outcomes from the plans put in place. In many areas we have a good story to tell but are being assessed against a national framework in the same way as established authorities.
- Initial feedback suggests that the areas where we need to focus are on our data quality, performance management systems and on our procurement and asset management plans.

2.4 Key Lines of Enquiry relating to this Committee's work

- Whilst the remit of this Committee covers all the authority's activity there are two particular lines of enquiry that have very specific links:
- **Does the organisation promote and demonstrate the principles and values of good governance? (KLOE 2.3)**

KLOE focus

The organisation:

- has adopted, promotes and demonstrates, the principles of good governance;
- maintains focus on its purpose and vision;
- demonstrates a strong ethical framework and culture; and
- applies the principles and values of good governance to its partnership working

Does the organisation manage its risks and maintain a sound system of internal control? (KLOE 2.4)

KLOE focus

The organisation:

- has effective risk management which covers partnership working;
- has a clear strategy and effective arrangements, including allocation of appropriate resources, to manage the risk of fraud and corruption; and

- has a sound system of internal control including internal audit.

3.0 Recommendations

3.1 That the Committee

- (1) note the findings and discusses monitoring mechanisms to ensure timely action in relation to CAA reports by the Audit Commission; and
- (2) note in particular the link between this Committee and the Use of Resources assessment key lines of enquiries (2.3 and 2.4) and links to strategic risk register.

4.0 Financial Implications for Transition Costs

4.1 None.

5.0 Financial Implications 2009/10 and beyond

5.1 No specific financial consequences relating to this report.

6.0 Legal Implications

6.1 None relating to this report

7.0 Risk Assessment

- 7.1 Strategic risks should be inextricably linked to the achievement of corporate priorities. Findings from CAA are likely to impact on the emphasis required for each priority and should be used to inform the strategic risk discussions.
- 7.2 Key Line of Enquiry 2.4 within the Use of Resources assessment specifically reviews the authority's risk management practices and assesses their effectiveness.

8.0 Training

8.1 A programme of awareness raising relating to CAA and other external assessments will form part of the member development programme for 2010/2011.

9.0 Reasons for Recommendations

9.1 To ensure that the Committee fulfils its Terms of Reference in relation to receiving reports on external inspection and to allow the Committee to understand and comment on the Audit Commission findings and assessment processes.

For further information:

Portfolio Holder: Councillor David Brown
Officer: Vivienne Quayle, Head of Internal Audit
Tel No: 01270-585859
Email: vivienne.quayle@cheshireeast.gov.uk

Background Documents:

CAA Inspection report
Organisational Assessment report
Audit Commission guidance documents on CAA and Use of Resources Guidance to Auditors

Use of Resources

Appendix A

List of Key Lines of Enquiry (Summary Level)

Managing Finance

Does the organisation plan its finances effectively to deliver its strategic priorities and secure sound financial health?

Does the organisation have a sound understanding of its costs and performance and achieve efficiencies in its activities?

Is the organisation's financial reporting timely, reliable and does it meet the needs of internal users, stakeholders and local people?

Governing the Business

Does the organisation commission and procure quality services and supplies, tailored to local needs, to deliver sustainable outcomes and value for money?

Does the organisation produce relevant and reliable data and information to support decision making and manage performance?

Does the organisation promote and demonstrate the principles and values of good governance?

Does the organisation manage its risks and maintain a sound system of internal control?

Managing Resources

Is the organisation making effective use of natural resources?

Does the organisation manage its assets effectively to help deliver its strategic priorities and service needs?

Does the organisation plan, organise and develop its workforce effectively to support the achievement of its strategic priorities?

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CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 25th March 2010
Report of: Head of Internal Audit and Compliance
Title: Update report – Annual Governance Statement and Plan for 2010/11

1.0 Purpose of Report

- 1.1 The purpose of this report is to update the Committee on the work being undertaken to produce the Annual Governance Statement (AGS) and to outline the audit planning process for 2010/11.

2.0 Background

- 2.1 At the January meeting of this Committee a report detailing the requirement to produce an Annual Statement and the timetable for that process was endorsed.
- 2.2 The process and analysis required to produce the statement can be summarised as follows:
- Assessment against the Code of Corporate Governance
 - Assessment of governance arrangements for significant partnerships
 - Assessment of the effectiveness of mitigating actions for approved strategic risks
 - Assessment of the effectiveness of the “Audit” Committee (in Cheshire East this is the Governance and Constitution Committee)
 - Head of Internal Audit opinion report (due in June 2010)
 - Disclosure statement by each Head of Service (due in May 2010)
 - Other judgements concluded by the Corporate Governance group based on in-year work and review
- 2.3 The above processes are all on target for completion by the due date as approved at the last meeting. Submissions for the aspects relating to the first three areas have been received from relevant officers and are being collated and will be discussed at the next Corporate Governance officers meeting (late March 2010).
- 2.4 A review of the effectiveness of the Audit Committee has been undertaken by the Chairman, Vice Chairman and the Head of Audit and the draft assessment is attached as Appendix A.
- 2.5 The remaining items are due for completion following the year end. The corporate governance officer’s group will meet to review the submissions at each stage and recommend the Annual Governance statement wording to the Governance and Constitution Committee at its June meeting (in conjunction

with the approval of the draft statutory accounts). Any significant issues arising will be highlighted at the May 2010 meeting.

- 2.6 Based on the findings arising and the content of the Annual Governance Statement an action plan will be drawn up to make improvements during 2010/11 and the emerging findings will also be used to influence the audit planning process and specific assignments undertaken. It is clear that an area for improvement will be the formalising of governance arrangements with some key partners. Internal audit are currently recruiting to the post of Principal Auditor – Partnerships and Shared Services which will be a key support in taking forward the authority's approach.
- 2.7 Internal Audit Planning is a continuous review but a plan for each financial year is produced to encapsulate the key audit focus for the next year. As the plan is risk based it will always be subject to in year change based on the risks arising and the need to reflect significant issues within the authority.
- 2.8 An update report will be submitted to the May meeting which summarises the audit work and findings in 2009/10 and proposes the full audit plan for 2010/11.
- 2.9 The service plan for Internal Audit is a sub set of the business plan for the area of "Policy and Performance " and work has already taken place to formulate the key objectives for that overall business area. Objectives relating to the internal audit function will form part of that plan. These are due for completion by end of April 2010.
- 2.10 In determining the audit plan for 2010/11 the following will be considered and will influence the content of the plan:
 - a thorough consideration of best practice for planning was carried out in 2009/10 to determine the optimal process for Cheshire East. It is proposed that the basic principle of splitting the plan into five key areas is continued. These areas are:
 - Work in support of Corporate Governance
 - Core Systems Audits
 - Key departments and service risk audits
 - Work in support of Anti-Fraud and Corruption
 - Strategic Reviews (or VFM studies)
 - Discussions have taken place during October to January with service heads about risks and concerns that will influence the audit plan for 2010/2011.
 - The Strategic risks and current departmental risks will be used to judge the key risks and audit coverage
 - Learning from findings in 2009/10 will be specifically fed in to the planning process. For example, it has become clear that we need to focus on some "back to basics" type work across key themed areas and establishments to ensure that controls and risk mitigation in place in services that is assumed in any established authority are actually

operating. This relates to specific establishments e.g. Leisure centres, schools, care homes and also specific functions e.g. payroll input, absence reporting, adherence to contract and financial regulations, inventories.

- Learning from fraud and irregularities will be included in the process to formulate the plan
- The agreement with the Audit Commission on coverage to support annual accounts opinion will be sought earlier in the process than last year and be included within the plan specifically.
- Issues arising from the emerging revised community strategy and corporate priorities will influence the plan e.g. the extent of community asset transfer, effective local working and areas where improvement against priorities is deemed to be slow.
- The views of each portfolio holder on the key risks within their areas of responsibility will be sought.
- Members of CMT will have input to and receive the plan prior to submission to the Governance and Constitution Committee.

3.0 Recommendations

3.1 It is recommended that the Committee;

- Notes the progress towards completion of the Annual Governance Statement
- Notes and discusses the approach to the Internal Audit plan being proposed, in principle, and inputs to its formulation as necessary.

4.0 Financial Implications for Transition Costs

4.1 None.

5.0 Financial Implications 2009/10 and beyond

5.1 None specifically relating to this report. Clearly the internal audit section are a resource required under various statutes and there is a budget provided to service this work. The structure of the team was populated by December 2009 and two key vacancies are currently being advertised for recruitment in April. There are two posts subject to maternity leave during 2010/11 and cover for these posts will be considered following the recruitment to the Principal Auditor vacancies.

6.0 Legal Implications

6.1 None specifically related to this report. The requirement to have a internal audit processes is contained within the Local Government Acts 1972 and 1988 and the Accounts and Audit Regulations 2003 and 2006.

7.0 Risk Assessment

- 7.1 The internal audit processes is fundamentally linked to the risk management process. The Audit plan is produced using a risk based approach, input from the risk management process is used to produce the audit plan, internal audit are part of the driving forward of effective risk management and each audit assignment is approached based on the risks the authority is trying to mitigate. Effective risk management and effective internal audit are integral to one another.

8.0 Training

- 8.1 The internal audit team is well qualified with 8 fully professionally qualified accountants/auditors and recruitment in progress for two more. The professional bodies require a programme of continuous professional development (CPD) to remain part of their institutes. This is supported by both cost and time by the Council. In addition, the team receive audit specific training during the year relating to team development and specifically identified training within individual learning and development plans.
- 8.2 In 2009/10 the audit team have received a variety of training including to support professional qualifications and/or development, all auditors being trained in risk based auditing and lean thinking and specific training as required by the audit plan e.g. in IDEA data matching software.

9.0 Reasons for Recommendations

- 9.1 To ensure that the Committee are aware of the comprehensive approach to producing the Annual Governance statement and to outline the approach and allow input to audit planning for 2010/2011 in advance of the audit plan coming to the May Committee.

For further information:

Portfolio Holder: Councillor David Brown
Officer: Vivienne Quayle, Head of Internal Audit
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Self-assessment Checklist – Measuring the Effectiveness of the Audit Committee

CIPFA – Audit Committees practical Guidance for Local Authorities

Issue	Yes	No	Partial	Comment
Terms of Reference				
Have the committee's terms of reference been approved by full council?	Y			Approved as part of Constitution Feb 2009.
Do the terms of reference follow the CIPFA model?			Y	The Terms of Reference are combined with those relating to constitutional issues and, those related to Audit would benefit from refreshing to include all relevant areas. This is in progress
Internal Audit Process				
Does the committee approve the strategic audit approach and the annual programme?	Y			Audit planning reports in May and September
Is the work of internal audit reviewed regularly?	Y			Audit update reports in May, September, Jan
Are summaries of quality questionnaires from managers reviewed?		N		Not yet in place. The use of questionnaires will be instigated in 2010/11 and summaries included in internal audit updates .
Is the annual report, from the head of audit, presented to the committee?	Y			Due at June 2010 meeting
External Audit Process				
Are reports on the work of external audit and other inspection agencies presented to the committee?	Y			Although did not receive CAA report only accounts and audit related reports. This is being rectified
Does the committee input	Y			In so far as this was

Issue	Yes	No	Partial	Comment
into the external audit programme?				possible for 2009/10
Does the committee ensure that officers are acting on and monitoring action taken to implement recommendations?	Y			
Does the committee take a role in overseeing: <ul style="list-style-type: none"> • Risk management strategies • Internal control statements • Anti-fraud arrangements • Whistle-blowing strategies? 	Y			Strategy and update reports on risk, fraud and corruption and whistle blowing all submitted during the 2009/10 year
Membership				
Has the membership of the committee been formally agreed and a quorum set?	Y			
Is the chair free of executive or scrutiny functions?	Y			The chair is on the Licensing Committee but this is not considered to be a conflict of interests
Are members sufficiently independent of the other key committees of the council?	Y			The number of committee members is such that should any conflict of interest arise, this would be declared and there is no risk to the independence nor effective decision making within this Committee
Have all members' skills and experiences been assessed and training given for identified gaps?			Y	This is on going and a series of training sessions was arranged around accounts, AGS, risk, ethics. Further training is planned and will be carried out in

Issue	Yes	No	Partial	Comment
				2010/11
Can the committee access other committees as necessary?	Y			There is a minor point re part 2 reports in all committee and council papers meaning that, in theory, members of the Committee do not have automatic rights of access to part 2 papers. This has not been an issue in the year and this policy is being reviewed by members and the democratic services team.
Does the committee meet regularly?	Y			
Are separate, private meetings held with the external auditor and the internal auditor?			Y	Separate, private meetings are not held with the External auditor but would happen if necessary
Are meetings free and open without political influences being displayed?	Y			On Audit issues the discussions are not subject to political influences. As this is a combined committee, on constitutional matters the issues are sometimes on party political lines but this does not compromise the quality of decisions on the key functions of the Audit Committee
Are decisions reached promptly?	Y			
Are agenda papers circulated in advance of meetings to allow adequate	Y			

Issue	Yes	No	Partial	Comment
preparation by members?				
Does the committee have the benefit of attendance of appropriate officers at its meetings?			Y	The Section 151 officer or her deputy are not always in attendance but a relevant finance officer attends for finance reports.
Training				
Is induction training provided to members?	Y			And continuous programme of training being developed
Is more advanced training available as required?	Y			As above
Administration				
Does the authority's s151 officer or deputy attend all meetings?		N		See above. The Section 151 officer has attended two of the six meetings (with the deputy also attending on one of these occasions). A finance officer representing the Section 151 function has attended two of the other meetings this year.
Are the key officers available to support the committee?	Y			