

Corporate Scrutiny Committee

Agenda

Date: Monday, 31st March, 2014
Time: 2.00 pm
Venue: Committee Suite 1 & 2, 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. **Minutes of Previous meeting** (Pages 1 - 4)

To approve the minutes of the meeting held on 11 March 2014.

3. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

4. **Declaration of Party Whip**

To provide an opportunity for Members to declare the existence of a party whip in relation to any item on the agenda.

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

For any apologies or requests for further information, or to give notice of a question to be asked by a member of the public

Contact: Mark Nedderman

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E-Mail: mark.nedderman@cheshireeast.gov.uk

A total period of 15 minutes is allocated for members of the public to make a statement(s) on any matter that falls within the remit of the Committee.

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

Note: In order for officers to undertake any background research, it would be helpful if members of the public contacted the Scrutiny officer listed at the foot of the agenda, at least one working day before the meeting to provide brief details of the matter to be covered.

6. **Children's and Adults' Safeguarding Issues** (Pages 5 - 22)

To consider a report of the Head of Integrated Safeguarding.

7. **Scrutiny ASDVs** (Pages 23 - 46)

To consider a report of the Chief Operating Officer.

8. **Green Waste**

To receive an oral update on the green waste collection service.

9. **Work Programme Progress Report** (Pages 47 - 54)

To consider a report of the Head of Governance and Democratic Services.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Corporate Scrutiny Committee**
held on Tuesday, 11th March, 2014 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor S Wilkinson (Chairman)

Councillors S Corcoran, H Davenport, W Fitzgerald, D Newton, R West,
J Wray

Jill Kelly

97 ALSO PRESENT

Ian Rush – Chair LSCB
Councillor Rachel Bailey - Children and Family Services and Rural Affairs
Portfolio Holder
Councillor Rhoda Bailey – Cabinet Support Member
Councillor Phil Hoyland – Chairman Children and Families PDG
Councillor Ken Edwards – Vice Chairman of Children and Families PDG

98 OFFICERS PRESENT

Tony Crane – Director of Children’s Services
Kate Rose - Head of Integrated Safeguarding Unit
Mark Bayley - Principal Manager, Quality Assurance
Anne Gadsden - Monitoring & Intervention Manager
Mark Nedderman – Senior Scrutiny Officer

99 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 3 February 2014 be
confirmed as a correct record.

100 DECLARATIONS OF INTEREST

There were no declarations of interest.

101 DECLARATION OF PARTY WHIP

There were no declarations of the existence of a party whip.

102 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present who wished to speak.

103 **CHILDREN'S AND ADULTS' SAFEGUARDING ISSUES-
CHILDREN'S BOARD PRIORITIES AND ROLE IN IMPROVEMENT**

Councillors Phil Hoyland and Ken Edwards attended the meeting and addressed the Committee in respect of this matter.

Ian Rush, Chairman of the Local Safeguarding Children Board (LSCB) attended the meeting and explained the role of the Board and its links to the Improvement Board which had been set up in response to Ofsted recommendations in connection with the Council's arrangements for the protection of children.

The LSCB was an independent body made up of professionals representing all agencies involved in child protection. The work of the Board was open and transparent and subject to informal scrutiny from the statutory partners and formal scrutiny through this committee.

Although the work of the LSCB was distinct from that of the Improvement Board, there was a considerable amount of collaboration between the two boards.

The LSCB met every two months and its aim was to ensure that the Child and Young people's protection system in Cheshire East was working effectively and improving.

Kate Rose reported that in terms of the local child protection arrangements, approximately 112 families involving about 204 children were currently subject to Child Protection Plans.

Kate then gave a brief overview of the Councils activities in relation to:

Child Sexual Exploitation (CSE);
Neglect;
Child Protection and domestic abuse.

Kate informed the Committee that the Council had not had any serious case reviews for over 3 years.

In relation to priorities, the Council had remodelled its services by putting in place arrangements to pool budgets by 2015 in order to provide a comprehensive service to manage all levels of risk through two community bases in Macclesfield and Crewe. Some of the interim measures already in place included placing Independent Domestic Violence advocates (IDVA) with the CHECs (Cheshire East Consultation Service) and within Accident and Emergency departments in local hospitals.

One area of concern that had been noted through the CHECS service was the high incidence of queries raised by schools on Friday afternoons.

Tony Crane then introduced a report which updated the committee on the Children's Improvement Plan.

As part of the Council's engagement with Ofsted, 3 monitoring visits had been completed focusing on key issues within the improvement plan.

Ofsted had focused on the following themes:

- Identification and management of risk and potential risk at the point of referral to Cheshire East's Consultation Service (ChECS);
- Effectiveness of assessment in ensuring that children receive the right level of help at the right time;
- Implementing effective audit arrangements;
- The quality and consistency of child in need planning

In summary, Tony explained that the Council was making good progress, but the Council was still not in the position it wished to be in i.e. good or outstanding.

One of the main improvements had been in respect of the recruitment and retention of social workers and with the assistance of the Children and Families PDG, a number of changes had been made to the package on offer to social work staff.

RESOLVED

- (a) That the report be received and noted;
- (b) That the matter concerning schools referring queries through the CHECS service on Friday afternoons be referred to the Children and Families Policy Development Group;
- (c) That Ian Rush be thanked for attending the meeting

104 ANNUAL EDUCATION REPORT

Councillors Phil Hoyland and Ken Edwards attended the meeting and addressed the Committee in respect of this matter.

The Committee considered a report of the Director of Children's services providing an overview of educational outcomes for young people across Cheshire East.

Although there had been a significant shift to sector led schools, the report suggested that the role of the Council remained crucial in providing support and challenge for those schools where rates of improvement needed to be accelerated.

Overall, Cheshire East schools were performing well compared to the national average for the majority of key indicators. However, there was one exception in connection with key stage 4. Significant work had been undertaken over the past 6 months to establish a coherent strategy for raising achievement across the Borough and particularly to address the gaps in performance. The highlighted gaps in performance were partly attributed to the slowing of improvement in some schools resulting from more diverse education arrangements.

In response to the concerns raised about the performance and the need to close gaps in performance, the Committee acknowledged the crucial role that school governors played in challenging the performance of schools.

There had been a national push for authorities to give focus to performance of pupil premium students but the Council now acknowledged that further efforts should be made to stretch gifted children to raise overall performance.

RESOLVED That the report be received.

105 **WORK PROGRAMME PROGRESS REPORT**

The committee reviewed the work programme.

RESOLVED - That the following items be included on the agenda for the next meeting:

Green Waste
Scrutiny of ASDVs
Adult Safeguarding quarter 2 report

The meeting commenced at 2.00 pm and concluded at 4.20 pm

Councillor S Wilkinson (Chairman)

CHESHIRE EAST COUNCIL



REPORT TO: Corporate Scrutiny Committee

Date of Meeting: 31st March 2014

Report of: Kate Rose

Subject/Title: ADULT SAFEGUARDING QUARTER 2 PERFORMANCE REPORT

July 2013 – September 2013

Portfolio Holder: Janet Clowes

Introduction:

This report covers the key areas of adult safeguarding in Cheshire East and the measures and performance for effective recognition and intervention and eventual outcomes for our adult population at risk of abuse or neglect. This covers adults who are experiencing or are at risk within their personal relationships (for example domestic abuse), within the community, (for example, from domiciliary care providers, hate crimes), within care provisions (for example, care and nursing homes), and severe risks to well being that may be the result of self neglect.

It is important to recognise that in any intervention an assessment of the risk is always balanced with the respect for the individual to make choices for themselves which others may consider to be unsafe, providing they have the capacity to do so..

The figures provided need to be viewed with some caution. In regional or national comparisons, not all definitions are understood or applied in the same way. The system that workers currently use to input the data from which many of the statistics are drawn is not always able to give us the detail of what is needed and there are also variations in interpretations by workers and some compliance issues. This is being addressed with the commissioning of a new case management system from one of the national leaders.

Key Findings and analysis (refer to data report Appendix One)

- There are fewer safeguarding referrals into the SMART teams in the first two quarters of this year compared to the same period last year, although they form a rising percentage (10%), of the total number of referrals. This is in line with 43% of Councils, which showed a decrease for 2012/3. The introduction of the care concerns model in Cheshire East has shown a steady increase in these, which suggests that concerns are being appropriately diverted away from the frontline teams and managed at a lower level. Congleton, Crewe and Wilmslow SMART have the highest number of referrals

- Most referrals come from hospital and residential staff – which is expected given the degree of contact.
- Physical abuse and neglect form the most common types of abuse, again this is in line with the national picture, with this most likely to occur in the person's own home, with their partner or other family member identified as alleged perpetrators. Adults with a mental health problem are the highest group represented across the categories
- 'No further action' as an outcome from a referral constitutes on average 10% of the those referred, although within this there are significant variations which will be the subject of closer scrutiny
- The number of repeat safeguarding referrals again shows significant variation across teams and this needs to be better understood to ensure that responses are always appropriate. There are some anomalies within the reporting system that may also cause some distortion here.
- Of the completed referrals where a case conclusion was recorded, 33 per cent of cases were either Substantiated or Partly Substantiated, which is lower than the national average (43%), 31 per cent were Not Substantiated (national average 30%), and for 26 per cent of cases a conclusion could not be determined (national average 27), with 10 per cent ceasing at the individual's request. This is an area for further scrutiny.
- When this data is viewed with the outcomes data, it suggests that it may be difficult for the investigation to be certain. The most significant outcome for the victim of a safeguarding investigation is for 'increased monitoring' (35 per cent) or no further action (30 per cent). This is in line with the national return, which suggests that no further action increases as an outcome as the person gets older. The outcomes for the perpetrator are the same with 24 per cent receiving continued monitoring (20% national average), and 25 per cent with no further action (35% national average). Only 3 per cent resulted in criminal prosecution (5% nationally).
- It may be helpful to consider what the continued monitoring involves and how this results in better outcomes for the individual. This will be a factor in the audit of cases in the future.
- There is a significant variation in the time that investigations take from referral to conclusion and to some degree this will depend on the nature of the allegation and the complexity of the case. There has been improvement in this across all teams in the last two quarters compared to last year. However it is important there is no drift in cases. . . An internal review of the internal safeguarding processes including timescales and practice standards has been undertaken in Quarter 3 and revised procedures will be issued for application in 14/15.

Other Safeguarding Unit Activity

- The data on the compliance within Cheshire East care homes had seven homes on formal contract default notice, with voluntary/formal suspensions of placements on all at the end of quarter two. Two domiciliary agencies had been assessed as non compliant by CQC. The application for Deprivation of Liberty Safeguards (DoLS), shows of the twenty two referrals to the Supervisory Body received during the last quarter 50 per cent were granted. As a guide during 2011/12 there were 50 DoLS referrals and during 2012/13

there were 106 referrals demonstrating an increase of 100%. This reflects the national trend in increasing in volume as more organisations become familiar with their statutory responsibilities. It is recognised that there has been an over-reliance on independent Best Interest Assessors, (BIA's) and action is being taken to reduce this. The newly appointed Mental Capacity Act Coordinator will be undertaking a quality assurance function as part of her role to improve standards in line with case law.

- This period also saw a 28 per cent increase in referrals to the Independent Domestic Violence Advocacy service compared to the same period last year and 100 per cent increase from the previous quarter. This is largely due to changes in referral processes by the police and children's services.
- Referrals from adult services to the Domestic Abuse Family Safety Unit remain low. There are plans for the advocates to revisit the frontline teams to raise awareness. ADASS have recently produced a paper re the interface between safeguarding and domestic violence. Guidance will be produced for social work staff.
- In respect of multi-agency safeguarding activity, during April – June 2013 there have been six Self Neglect forums. There have been no serious case reviews and there have been two Reflective Reviews. Changes to the protocols for managing Domestic Homicide Reviews in the future will have implications for Cheshire East when commissioning a review on behalf of the Community Safety Partnerships.

Recommendations to take forward from Quarters 1 and 2 performance analysis

Recommendations	Lead Officer/Service	Timescale	Status
Quarter 1:			
Record keeping policy to be completed	Safeguarding/Individual Commissioning/Workforce	January 2014	Green
Themes from Conference to be collated	Safeguarding Unit/Board	March 2014	Amber
Winterbourne Action Plan CEC and HR to consider whistle-blowing policies	All	March 2014	Amber
Integration / co ordination of QA functions / Consider resource implications of QA function/care concern data	Across Adult Social Care through light touch review	April 2014	Amber
Commence adult LADO policy	Safeguarding Unit	March 2014	Amber
Joint protocols re children and adult policies	Children and adult services	March 2014	Amber
Quarter Two;			
Review the best approach to managing safeguarding allegation against staff on a multi-agency basis.	Safeguarding Unit / Individual Commissioning	June 2014	Amber
The Quality Assurance Team	Quality Assurance Team	March 2014	Green

to monitor usage of the observational check list. (This is a tool for frontline staff to ensure they capture wider quality of care issues in care settings when conducting reviews)			Green
Record Keeping Policy and Key Standards to be incorporated into staff training.	Workforce Development	November 2013	Green
The pool of in-house BIA's needs to be increased, supported and best practice promoted and scrutinised including the quality of reports.	Workforce Development / Individual Commissioning	June 2014	Amber
Adult Social Care and Health need to consider the impact of CQC's new Inspection Regime and current workload /capacity issue.	Adult Safeguarding Manager and Health Nurse lead	April 2014	Amber
Discuss with police the process for investigation of allegations to ensure the response is robust and appropriate	Head of Safeguarding and Adult Safeguarding Manager	February 2014	Green
Audit process for Adult social Care to be introduced and to include: <ul style="list-style-type: none"> • Application of threshold for safeguarding referrals • Evidence for allegations not being substantiated to ensure investigation process is robust • The impact of continued monitoring as an outcome of a safeguarding investigation on the wellbeing of the victim • How robust and Assessment and Care Management plans for continued monitoring are for victims and perpetrators 	Audit Officer	June 2014	Amber

<ul style="list-style-type: none"> Managers to dip sample the repeat referrals and offer assurance that the initial decision was appropriate Managers to review timescales for completion of investigations and ensure that are timely and without unnecessary delay 	<p>Team managers</p>	<p>June 2014</p>	<p>Amber</p>
<p>Improve adult frontline Adult Social care team awareness of the safeguarding risks inherent in domestic abuse.</p>	<p>Domestic Abuse Coordinator/ Workforce development</p>	<p>March 2014</p>	<p>Amber</p>

Appendix One:

Adult Safeguarding Activity Report April 2013 to September 2013



Adults Safeguarding
Activity Report 2013

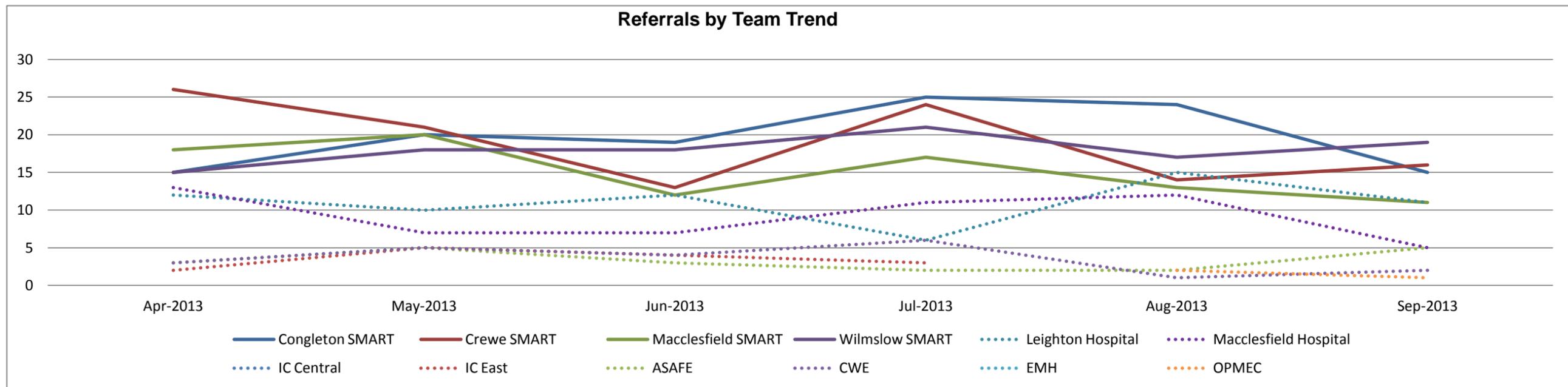
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Adult's Safeguarding Activity Report

April 2013 - September 2013

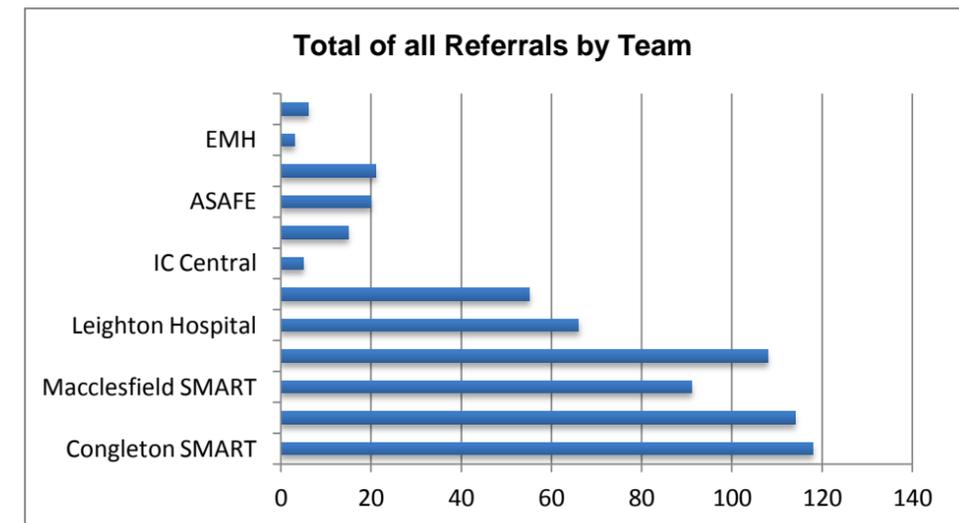
Performance, Standards & Information
Children, Families and Adults
Supporting Excellence in Performance

Referrals by Team



All Safeguarding Referrals by Team

Team	Apr-2013	May-2013	Jun-2013	Jul-2013	Aug-2013	Sep-2013	Total
Congleton SMART	15	20	19	25	24	15	118
Crewe SMART	26	21	13	24	14	16	114
Macclesfield SMART	18	20	12	17	13	11	91
Wilmslow SMART	15	18	18	21	17	19	108
Macclesfield Hospital	13	7	7	11	12	5	55
Leighton Hospital	12	10	12	6	15	11	66
IC Central	2	0	1	0	0	2	5
IC East	2	5	4	3	0	1	15
ASAFE	3	5	3	2	2	5	20
CWE	3	5	4	6	1	2	21
EMH	1	0	2	0	0	0	3
OPMEC	0	0	3	0	2	1	6
Total	110	111	98	115	100	88	622



Safeguarding referral distribution (rate per 10,000 population)

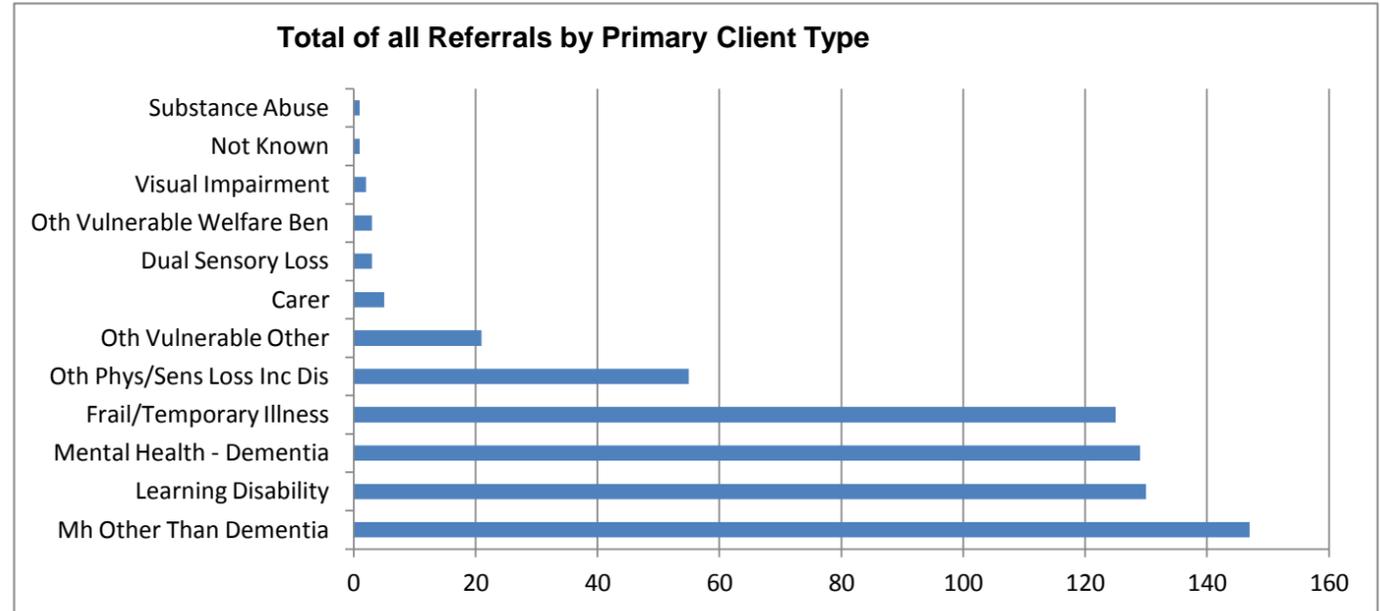
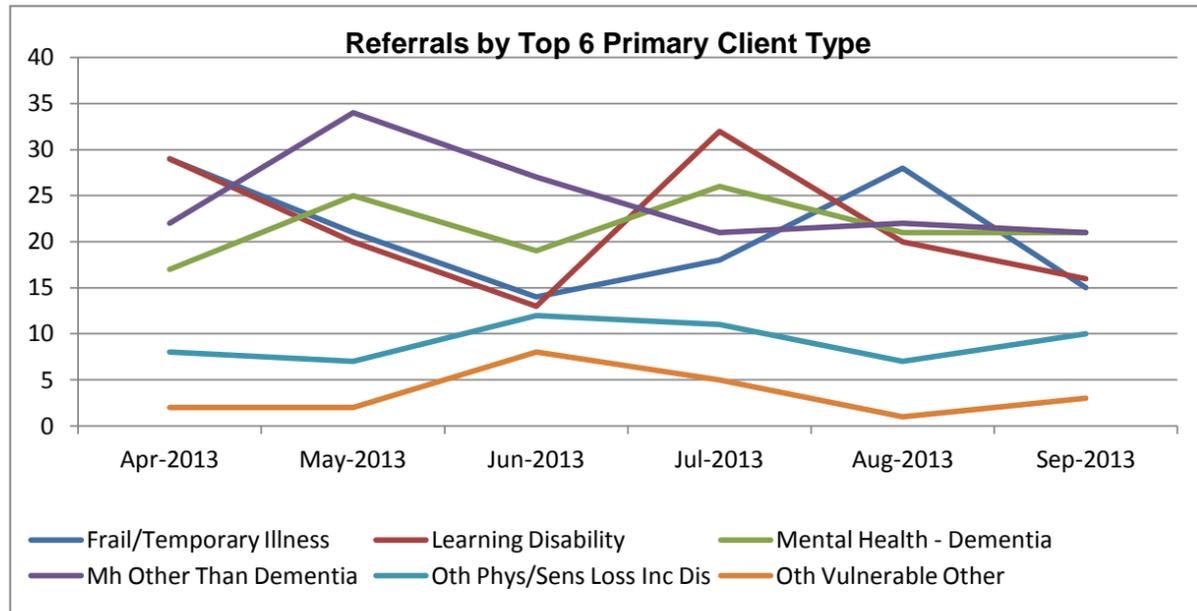
Updated October 2013

Team	Population			Rate per 10,000 Against Population		
	18-64	65+	18 and Over	18-64	65+	18 and Over
Wilmslow	49,500	18,500	68,000	7.88	37.30	15.88
Macclesfield	41,600	12,300	53,900	8.41	45.53	16.88
Congleton	55,100	18,400	73,500	7.26	41.85	15.92
Crewe	72,600	21,000	93,600	6.89	30.48	12.18
Total	218,800	70,200	289,000	7.50	37.89	14.88

KEY

ARE - Intermediate Care East Cheshire PCT **ASAFE** - Adults Safeguarding Unit
CICE - Intermediate Care Central Cheshire PCT **CWE** - Cheshire and Wirral MH Partnership Trust East
LHTE - Leighton Hospital Social Care Team **SCRE1** - Wilmslow SMART
SCRE3 - Macclesfield SMART **SCRE5** - Congleton SMART

Referrals by Primary Client Type



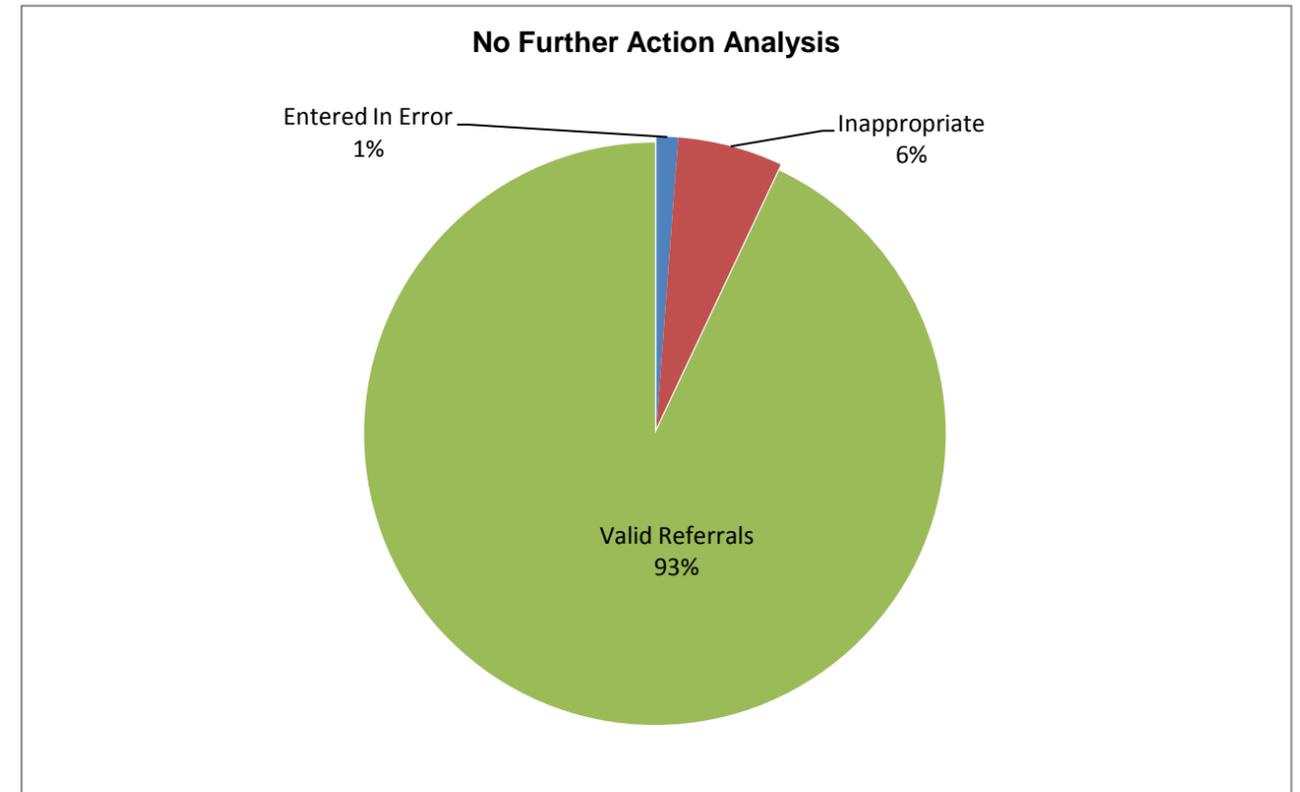
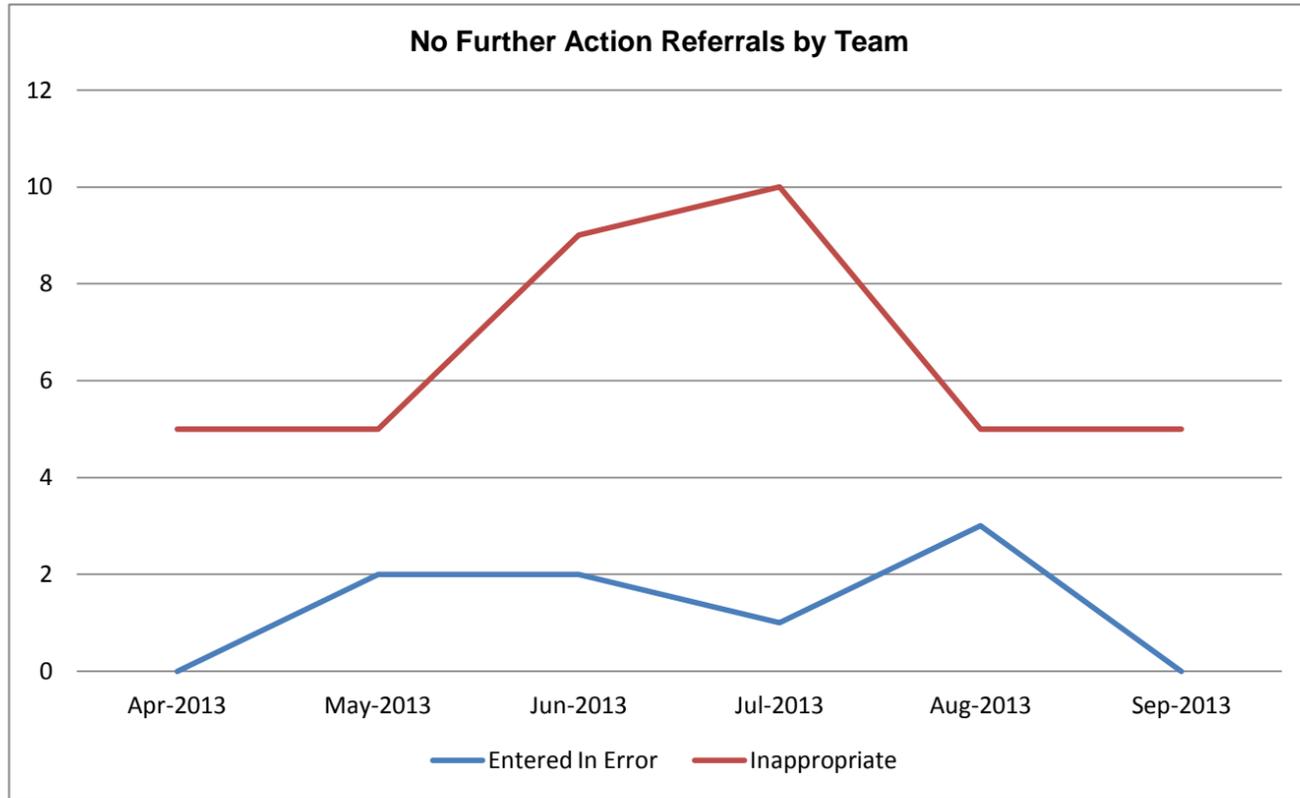
Referrals by Primary Client Type

MONTH	Carer	Dual Sensory Loss	Frail/Temporary Illness	Learning Disability	Mental Health - Dementia	Mh Other Than Dementia	Oth Phys/Sens Loss Inc Dis	Oth Vulnerable Other	Oth Vulnerable Welfare Ben	Substance Abuse	Visual Impairment	Not Known	Total
Apr-2013	0	1	29	29	17	22	8	2	1	0	1	0	110
May-2013	0	0	21	20	25	34	7	2	2	0	0	0	111
Jun-2013	4	0	14	13	19	27	12	8	0	0	1	0	98
Jul-2013	0	1	18	32	26	21	11	5	0	0	0	1	115
Aug-2013	0	0	28	20	21	22	7	1	0	1	0	0	100
Sep-2013	1	1	15	16	21	21	10	3	0	0	0	0	88
Total	5	3	125	130	129	147	55	21	3	1	2	1	622

Referrals by Primary Client Type and team

	Carer	Dual Sensory Loss	Frail/Temporary Illness	Learning Disability	Mental Health - Dementia	Mh Other Than Dementia	Oth Phys/Sens Loss Inc Dis	Oth Vulnerable Other	Oth Vulnerable Welfare Ben	Substance Abuse	Visual Impairment	Not Known	Total
C&W Trust East	3	1	14	10	18	35	5	14	0	0	0	0	100
Opacm Leighton Hospital East	0	0	0	2	0	10	0	0	0	1	0	0	13
Opacm Macclesfield Hospital	0	0	20	1	8	13	5	3	1	0	1	1	53
Smart Congleton	0	0	12	5	6	14	0	0	0	0	0	0	37
Smart Crewe And Nantwich	0	0	19	22	29	21	8	0	2	0	1	0	102
Smart Knutsford Wilm & Poynt	2	0	23	37	22	20	15	1	0	0	0	0	120
Smart Macclesfield	0	0	17	20	20	16	10	2	0	0	0	0	85
Intermediate Care East	0	2	13	33	23	12	5	1	0	0	0	0	89
Intermediate Care East Centra	0	0	6	0	2	3	6	0	0	0	0	0	17
Opcmht Older People East	0	0	0	0	0	0	1	0	0	0	0	0	1
Opcmht Op East Central	0	0	0	0	1	2	0	0	0	0	0	0	4
Total	5	3	125	130	129	147	55	21	3	1	2	1	622

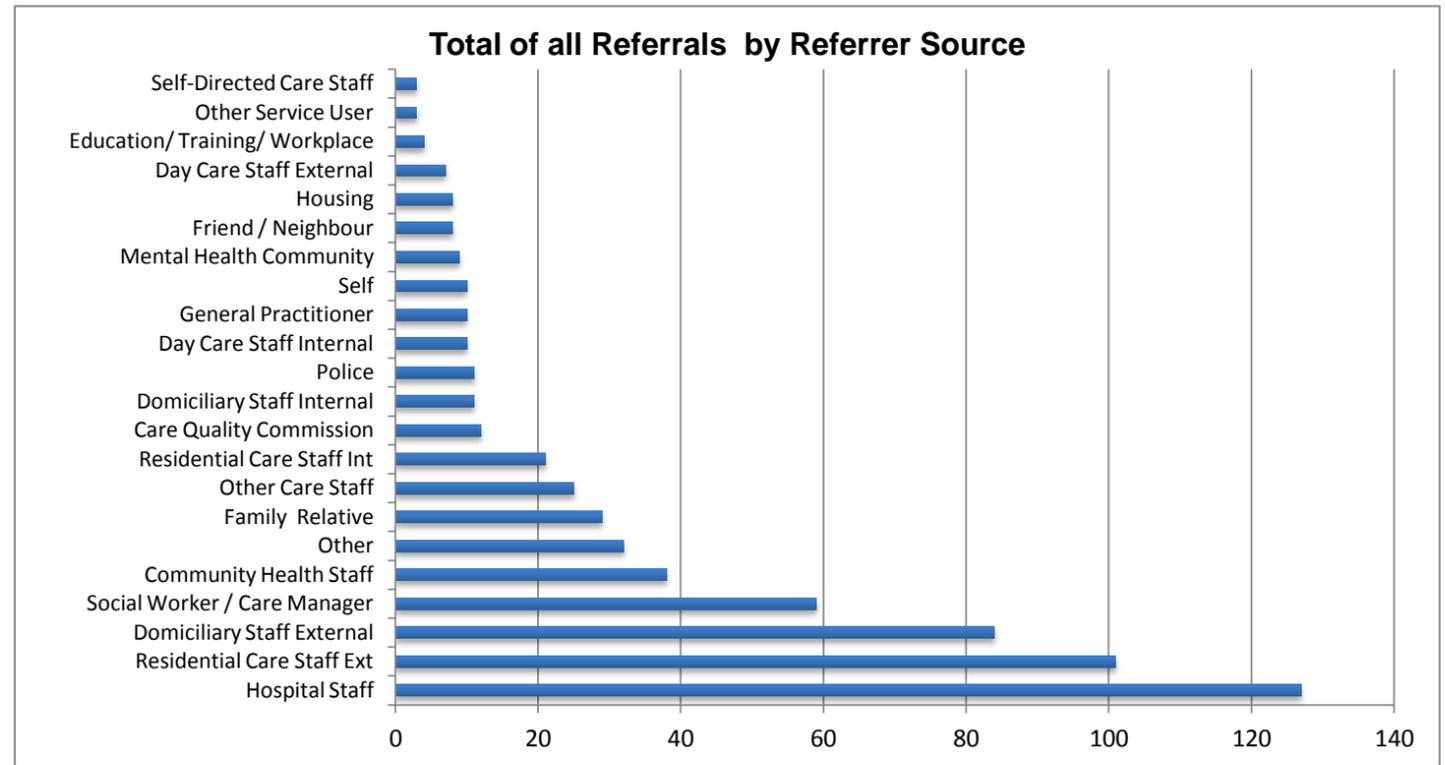
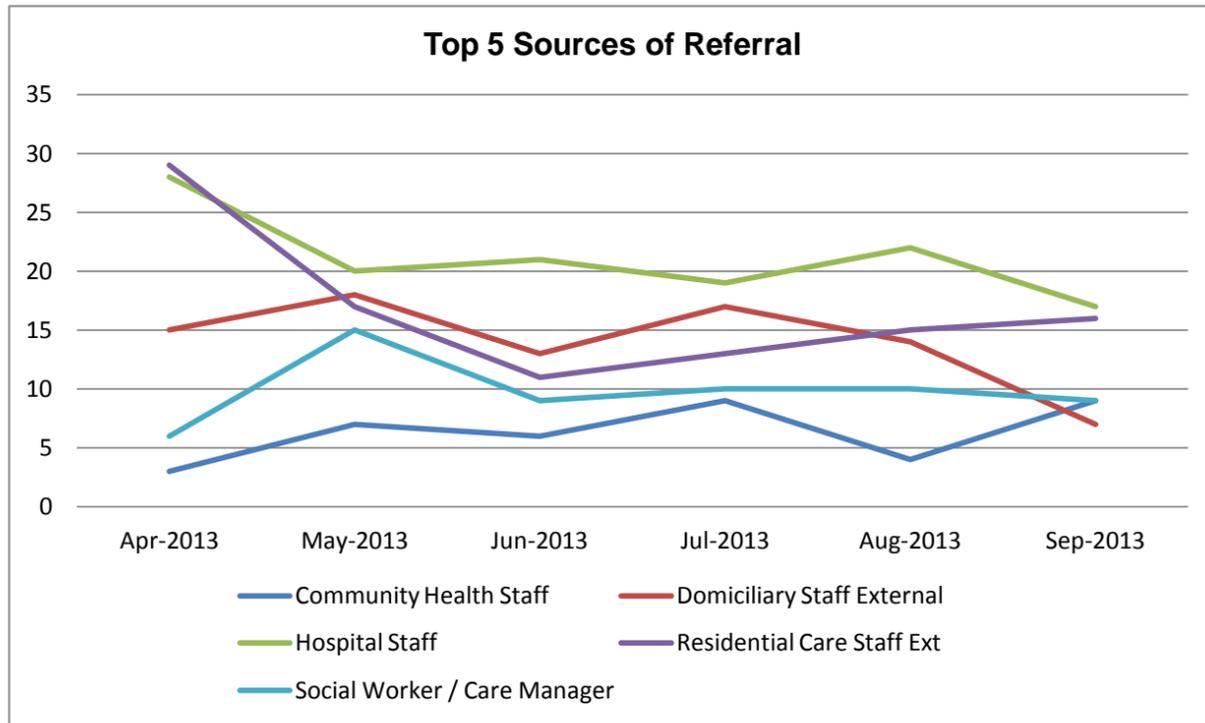
Referrals by Team (No Further Action)



No Further Action Referrals by Team

Team	Entered In Error	Inappropriate	NFA Total	Total Safeguarding Referrals	% Against all Safeguarding Referrals
Congleton SMART	2	4	6	124	5.0%
Crewe SMART	0	7	7	121	5.8%
Macclesfield SMART	2	3	5	96	5.2%
Wilmslow SMART	1	5	6	114	5.3%
Leighton Hospital	0	7	7	73	9.6%
Macclesfield Hospital	0	7	7	62	11.3%
IC East	0	2	2	17	11.8%
OPMEC	0	2	2	8	25.0%
ASAFE	3	2	5	25	20.0%
NFA Total	8	39	47	669	7%

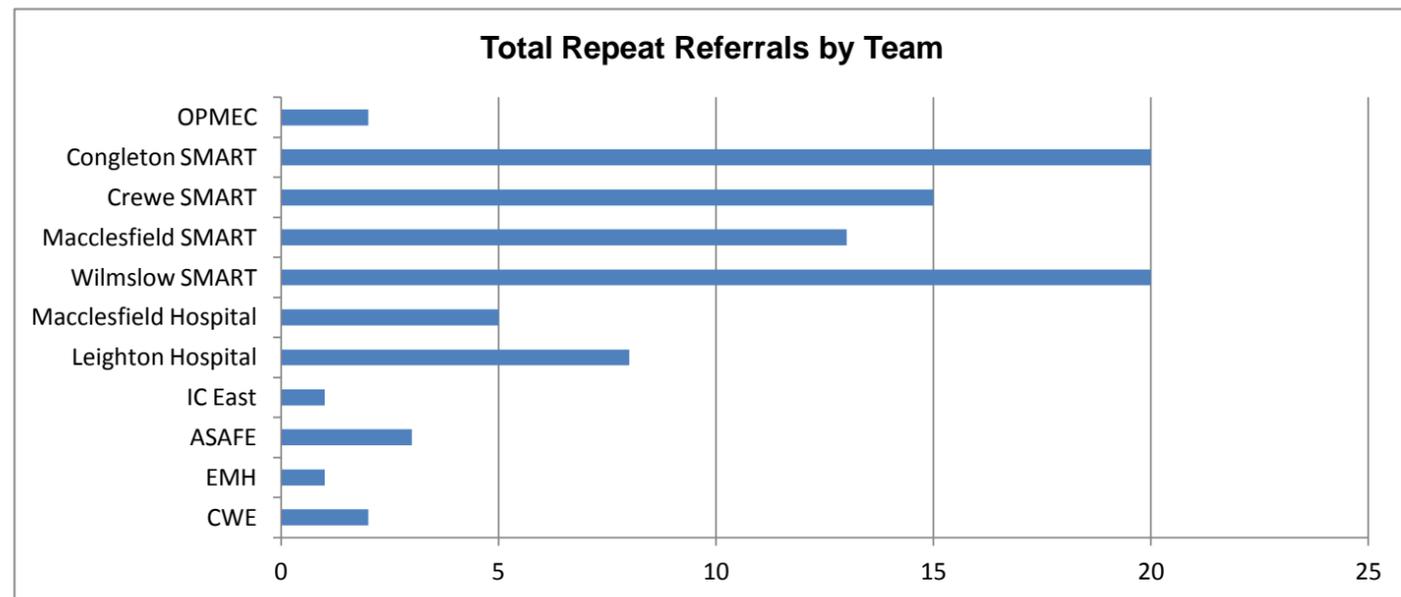
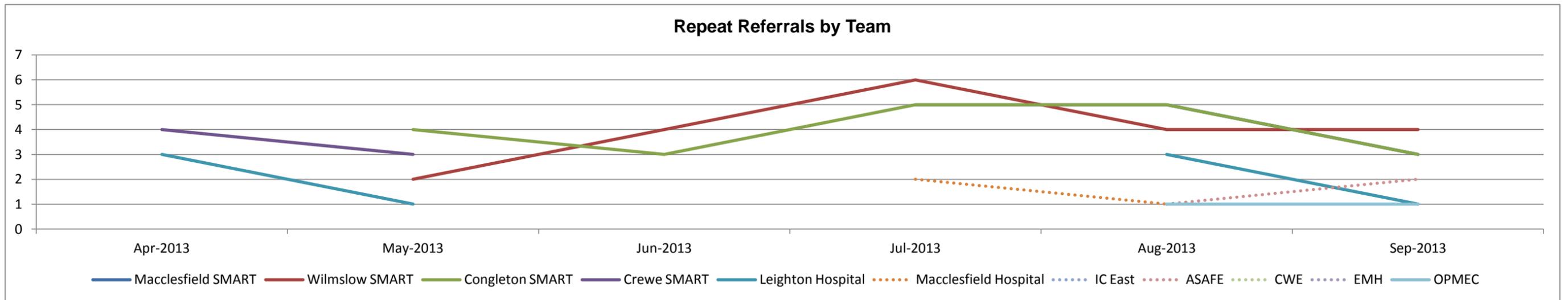
Referrals by Source



Referrals by Source and Team

	Congleton		Macclesfield	Wilmslow	Leighton	Macclesfield	IC Central	IC East	ASAFE	CWE	EMH	OPMEC	Total
	SMART	Crewe SMART	SMART	SMART	Hospital	Hospital							
Care Quality Commission	1	0	1	2	1	0	0	0	7	0	0	0	12
Community Health Staff	1	13	5	9	2	1	1	0	1	3	1	1	38
Day Care Staff External	2	2	1	1	0	1	0	0	0	0	0	0	7
Day Care Staff Internal	1	7	0	1	1	0	0	0	0	0	0	0	10
Domiciliary Staff External	28	18	14	18	0	3	0	0	2	0	0	1	84
Domiciliary Staff Internal	3	1	1	3	0	1	0	1	0	1	0	0	11
Education/ Training/ Workplac	0	2	2	0	0	0	0	0	0	0	0	0	4
Family Relative	9	5	5	4	0	1	0	2	0	1	0	2	29
Friend / Neighbour	2	1	1	2	0	0	0	1	0	0	1	0	8
General Practitioner	3	4	1	2	0	0	0	0	0	0	0	0	10
Hospital Staff	9	1	9	13	44	40	1	6	1	3	0	0	127
Housing	7	1	0	0	0	0	0	0	0	0	0	0	8
Mental Health Community	1	0	4	2	0	0	0	0	0	2	0	0	9
Other	11	6	2	11	0	1	0	0	0	0	0	1	32
Other Care Staff	7	3	7	4	1	0	0	0	0	2	1	0	25
Other Service User	0	0	2	0	1	0	0	0	0	0	0	0	3
Police	5	5	0	0	0	0	1	0	0	0	0	0	11
Residential Care Staff Ext	15	25	20	20	9	4	0	2	5	1	0	0	101
Residential Care Staff Int	2	2	6	3	4	1	1	1	1	0	0	0	21
Self	2	1	0	1	0	1	0	0	0	5	0	0	10
Self-Directed Care Staff	0	1	2	0	0	0	0	0	0	0	0	0	3
Social Worker / Care Manager	9	16	8	12	3	1	1	2	3	3	0	1	59
Total	118	114	91	108	66	55	5	15	20	21	3	6	622

Repeat Referrals

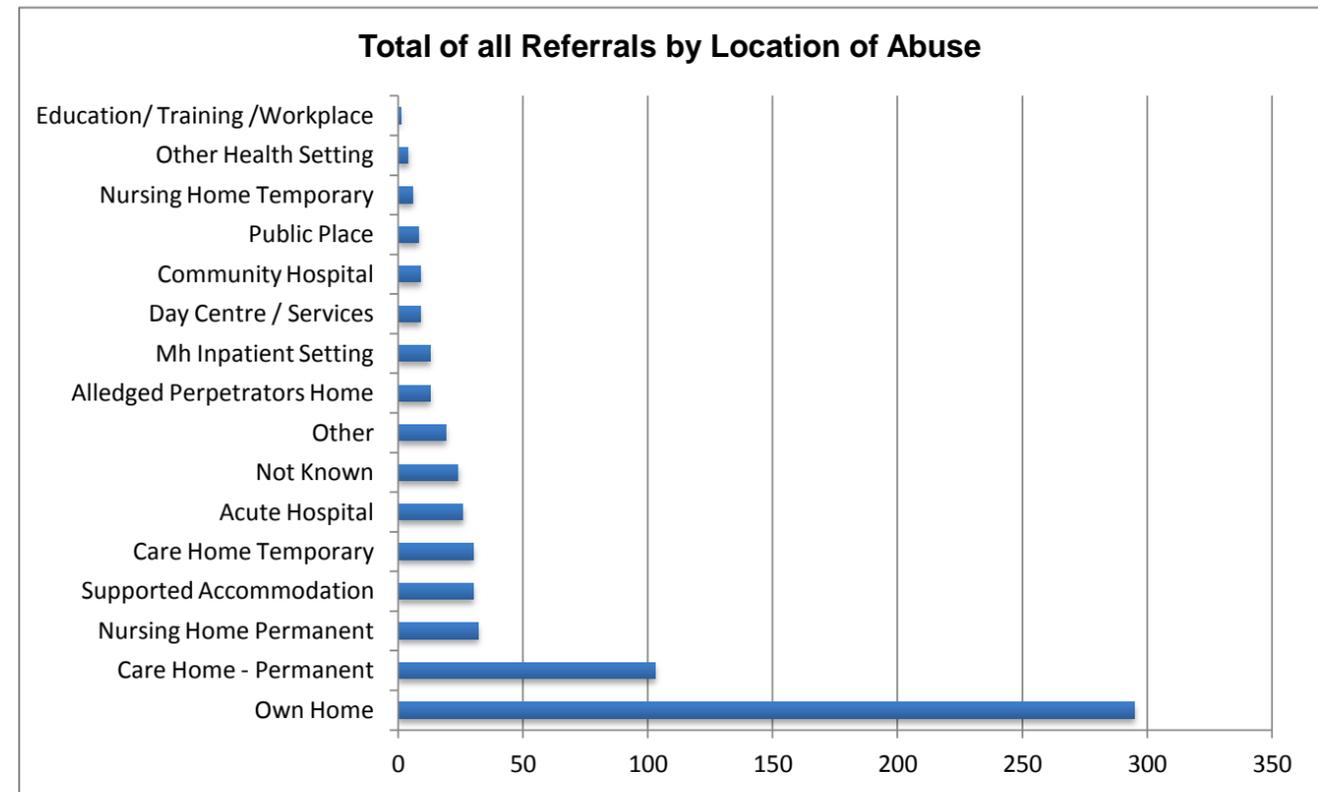
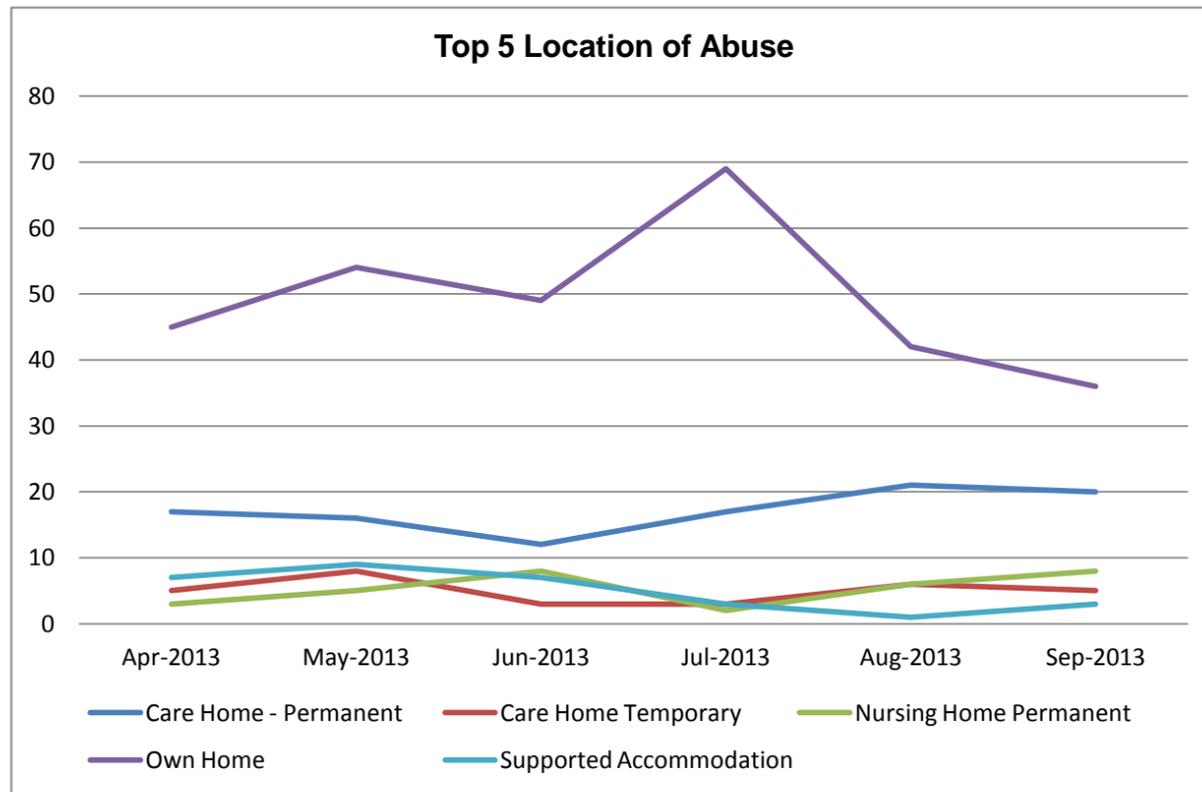


	Total Repeat Referrals	Distinct Clients Repeat Referrals	Total of all Safeguarding Referrals	% Repeat against all Safeguarding Referrals
Macclesfield SMART	13	12	91	14%
Wilmslow SMART	20	15	108	19%
Congleton SMART	20	17	118	17%
Crewe SMART	15	13	114	13%
Leighton Hospital	8	7	66	12%
Macclesfield Hospital	5	5	55	9%
IC Central	0	0	5	0%
IC East	1	1	15	7%
ASAFE	13	12	20	65%
CWE	2	2	21	10%
EMH	1	1	3	33%
OPMEC	2	2	6	33%

Total Repeat Referrals by Team

	Apr-2013	May-2013	Jun-2013	Jul-2013	Aug-2013	Sep-2013	Grand Total
Macclesfield SMART	0	0	0	5	5	3	13
Wilmslow SMART	0	2	4	6	4	4	20
Congleton SMART	0	4	3	5	5	3	20
Crewe SMART	4	3	0	6	0	2	15
Leighton Hospital	3	1	0	0	3	1	8
Macclesfield Hospital	0	2	0	2	1	0	5
IC East	0	0	0	1	0	0	1
ASAFE	0	0	0	0	1	2	3
CWE	0	1	0	1	0	0	2
EMH	0	0	1	0	0	0	1
OPMEC	0	0	0	0	1	1	2
Grand Total	7	13	8	26	20	16	90

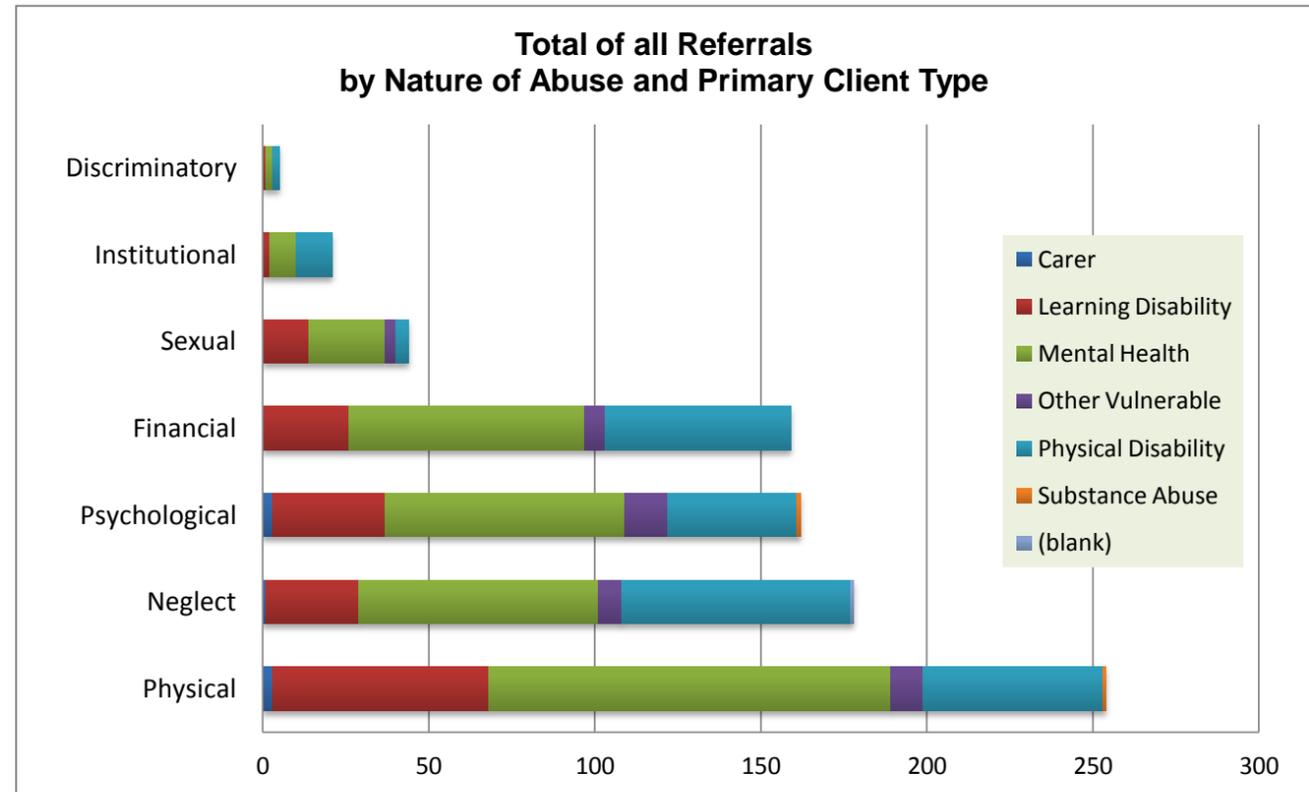
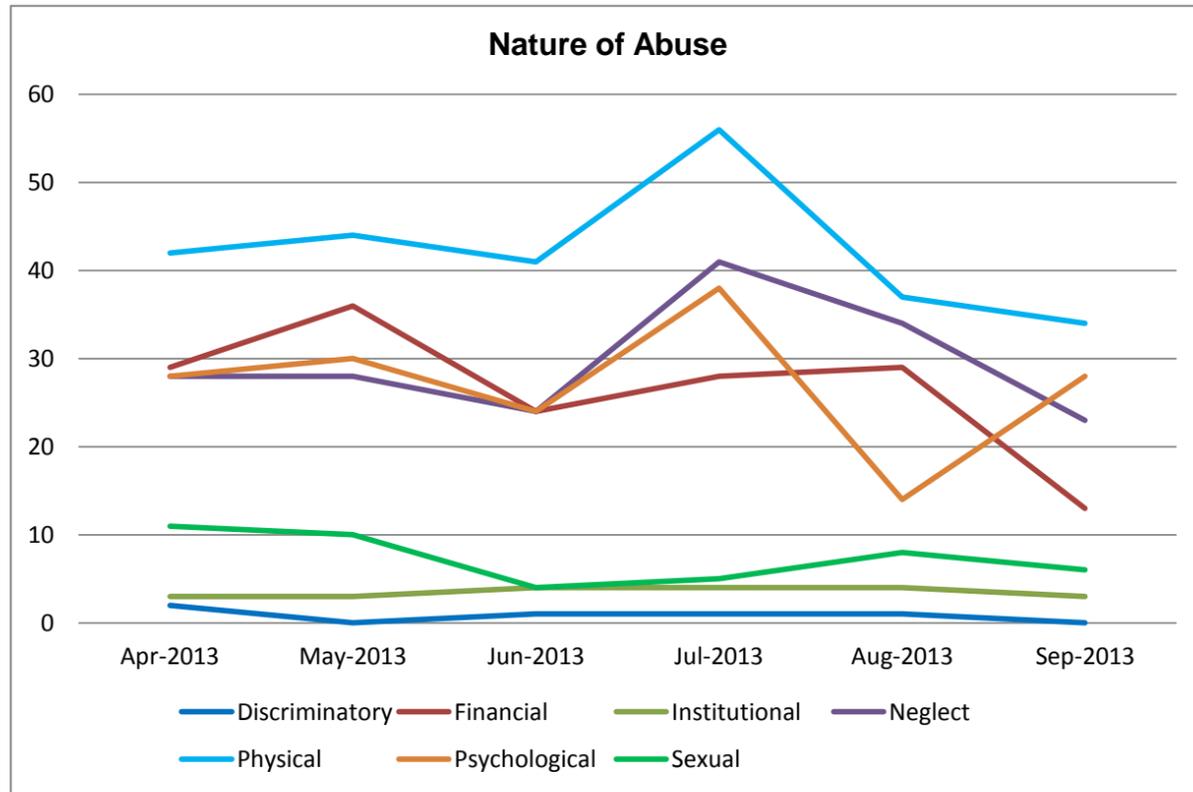
Location Of Abuse



Referrals by Location Of Abuse and Team

	Congleton		Macclesfield	Wilmslow	Leighton	Macclesfield	IC Central	IC East	ASAFE	CWE	EMH	OPMEC	Total
	SMART	Crewe SMART	SMART	SMART	Hospital	Hospital							
Acute Hospital	1	0	1	0	13	8	0	1	1	1	0	0	26
Alleged Perpetrators Home	2	4	3	2	0	1	0	0	1	0	0	0	13
Care Home - Permanent	19	17	11	35	8	3	0	0	9	0	0	1	103
Care Home Temporary	7	3	4	2	6	4	1	3	0	0	0	0	30
Community Hospital	0	0	2	1	5	0	0	0	1	0	0	0	9
Day Centre / Services	0	5	1	1	1	0	0	0	0	0	0	1	9
Education/ Training /Workplac	0	0	0	1	0	0	0	0	0	0	0	0	1
Mh Inpatient Setting	1	0	3	8	0	0	0	0	0	1	0	0	13
Nursing Home Permanent	2	3	9	4	7	1	1	0	5	0	0	0	32
Nursing Home Temporary	0	1	1	1	0	0	0	2	1	0	0	0	6
Other Health Setting	0	1	0	0	1	1	0	1	0	0	0	0	4
Own Home	77	56	30	49	24	31	2	3	2	15	2	4	295
Public Place	1	4	2	0	0	0	0	0	0	1	0	0	8
Supported Accommodation	3	9	18	0	0	0	0	0	0	0	0	0	30
Other	2	4	2	3	0	1	1	3	0	2	1	0	19
Not Known	3	7	4	1	1	5	0	2	0	1	0	0	24
Total	118	114	91	108	66	55	5	15	20	21	3	6	622

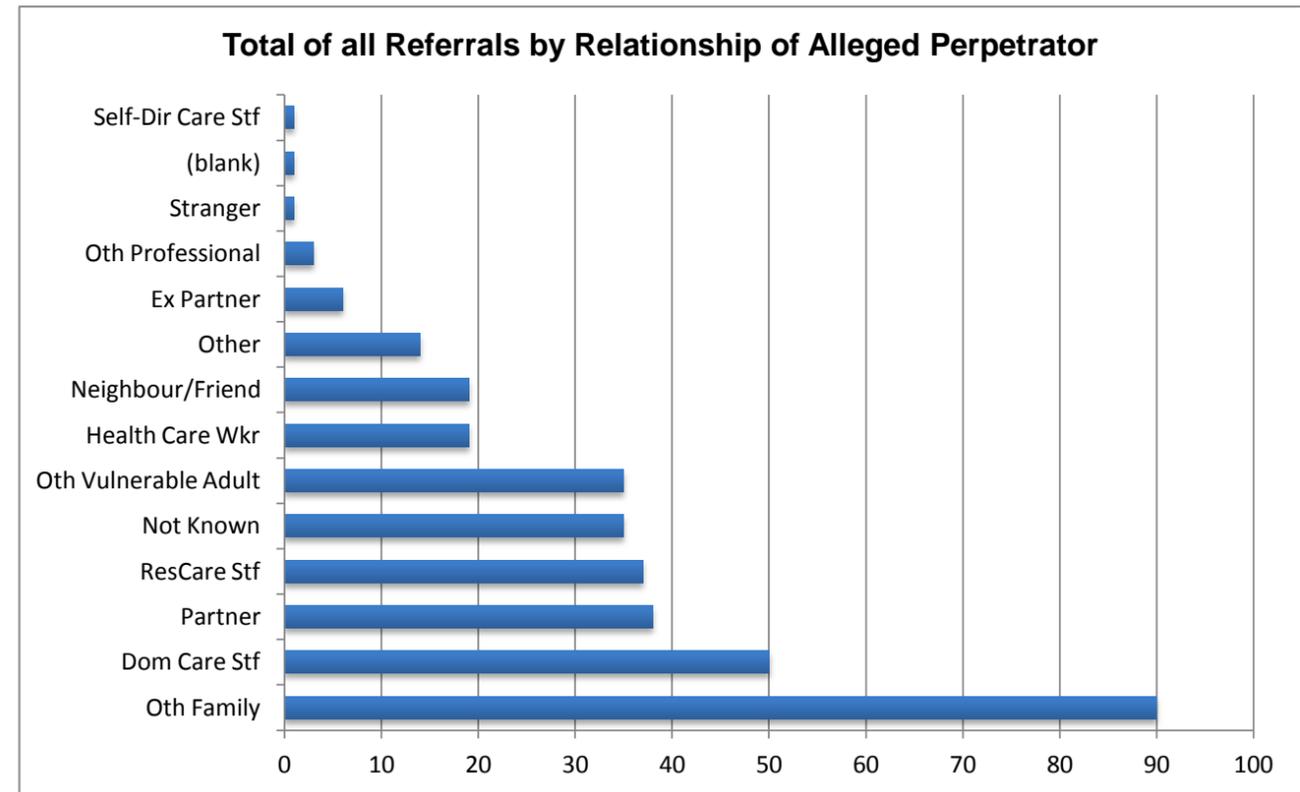
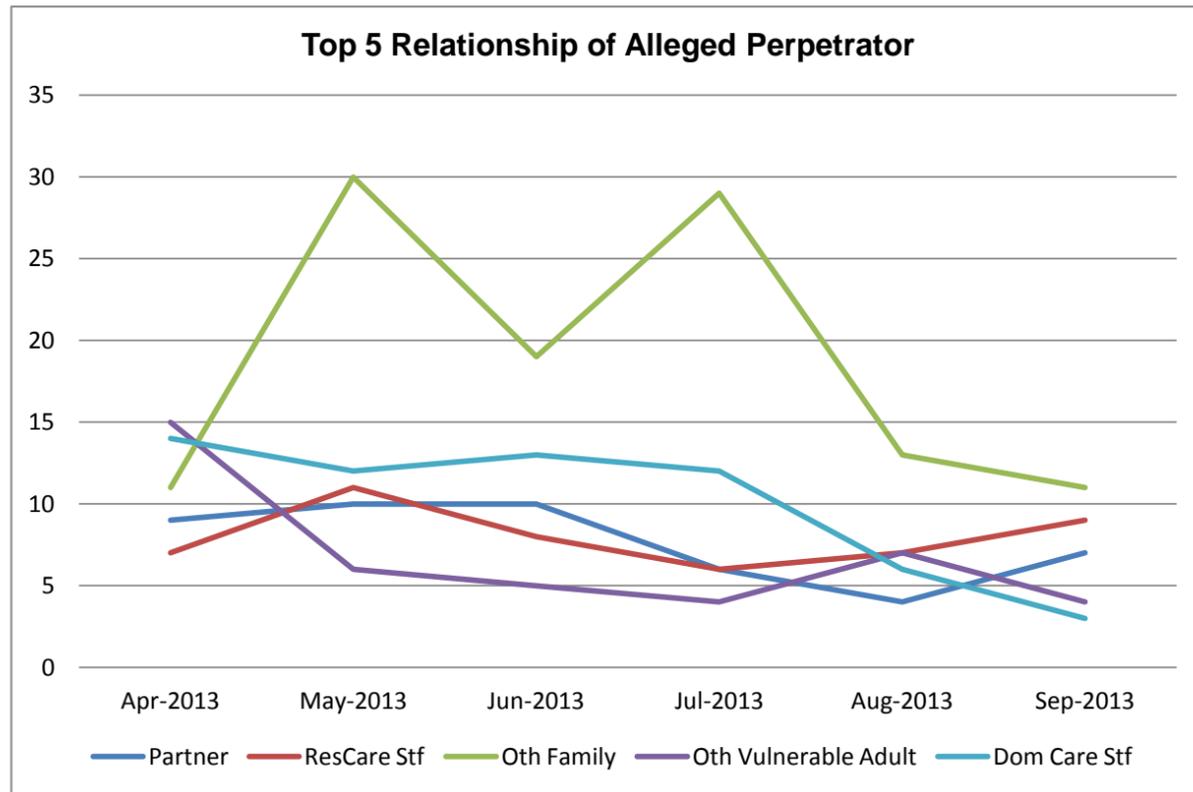
Nature Of Abuse



Referrals by Nature of Abuse and Team

	Congleton SMART	Crewe SMART	Macclesfield SMART	Wilmslow SMART	Leighton Hospital	Macclesfield Hospital	IC Central	IC East	ASAFE	CWE	EMH	OPMEC	Total
Discriminatory	1	1	1	0	0	1	0	1	0	0	0	0	5
Financial	41	45	16	26	5	8	1	5	2	7	1	2	159
Institutional	7	1	2	0	4	3	0	0	3	0	0	1	21
Neglect	30	31	21	27	36	17	2	0	12	1	0	1	178
Physical	39	43	43	50	23	27	4	2	8	11	1	3	254
Psychological	24	32	32	33	7	16	0	6	3	9	0	0	162
Sexual	10	8	12	2	5	4	0	1	0	1	1	0	44
Total	152	161	127	138	80	76	7	15	28	29	3	9	823

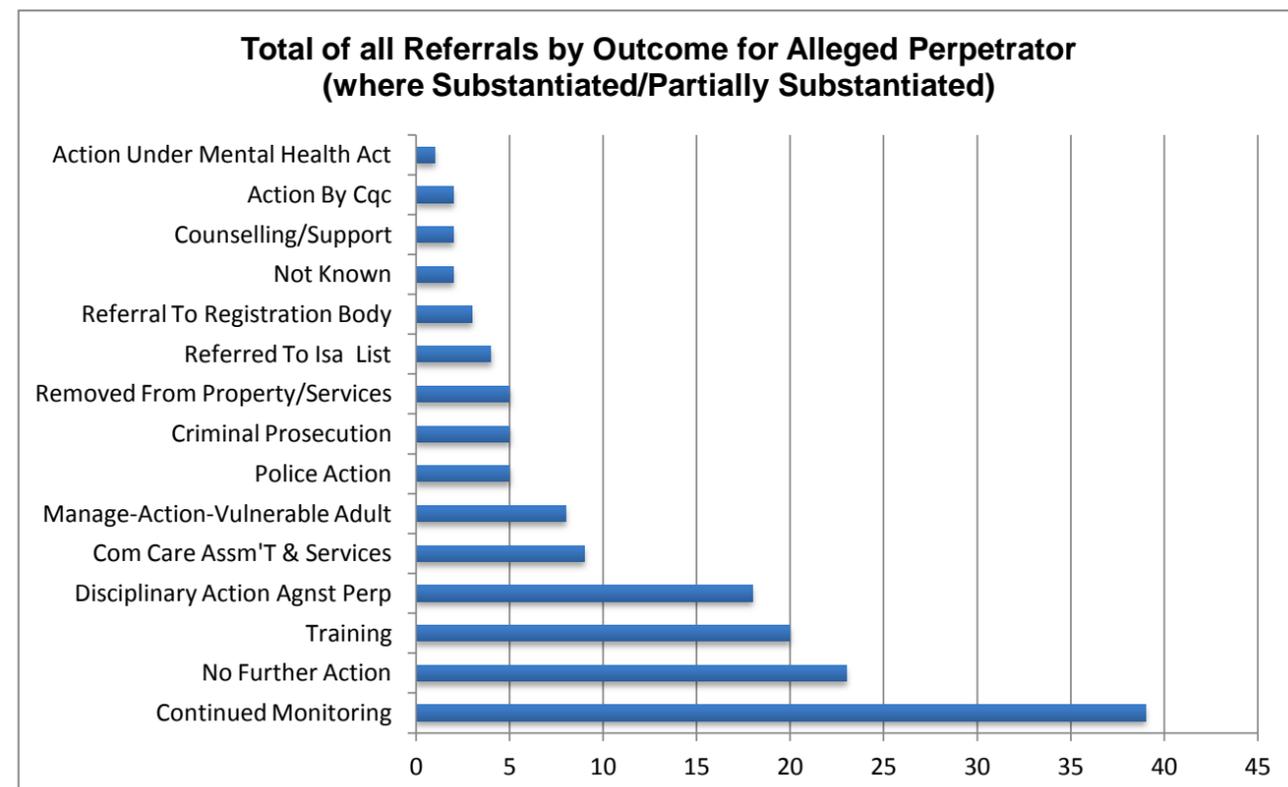
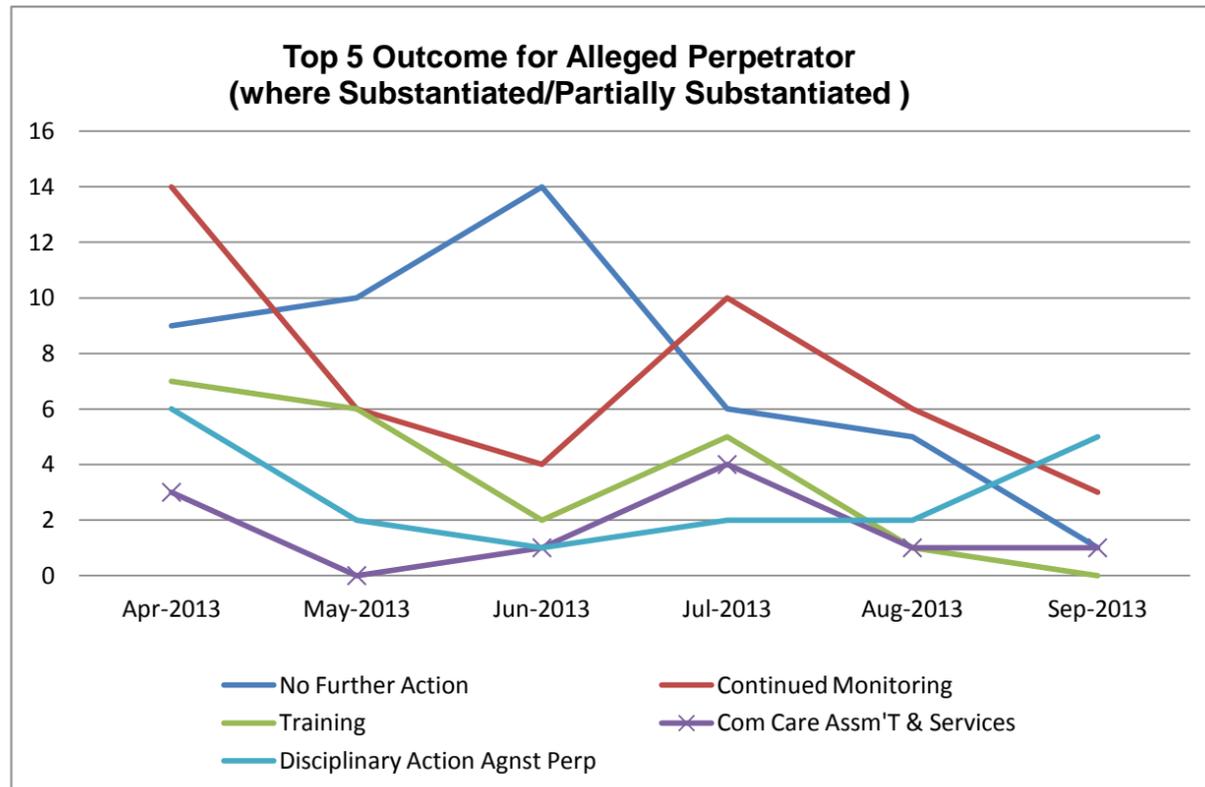
Relationship of Alleged Perpetrator



Referrals by Relationship of Alleged Perpetrator and Team

	Congleton SMART	Crewe SMART	Macclesfield SMART	Wilmslow SMART	Leighton Hospital	Macclesfield Hospital	IC Central	IC East	ASAFE	CWE	EMH	OPMEC	Total
Ex Partner	0	1	0	0	0	5	0	0	0	0	0	0	6
Not Known	6	5	7	4	7	4	0	1	2	0	1	0	37
Other	7	7	2	2	1	2	0	0	0	1	0	0	22
Partner	12	5	2	12	3	8	0	0	0	1	0	3	46
Stranger	0	0	0	0	0	1	0	0	0	0	0	0	1
Neighbour/Friend	2	9	2	3	3	3	0	0	0	0	0	0	22
ResCare Stf	13	3	3	16	3	6	0	0	4	0	0	0	48
Oth Family	32	22	9	23	5	8	2	8	0	4	0	0	113
Health Care Wkr	2	1	2	5	6	4	1	1	0	0	0	0	22
Oth Vulnerable Adult	4	11	11	12	2	0	1	0	0	0	0	0	41
Oth Professional	2	1	0	0	1	0	0	0	0	1	0	0	5
Self-Dir Care Stf	2	0	0	1	0	0	0	0	0	0	0	0	3
Dom Care Stf	23	14	10	9	0	2	0	1	1	0	0	0	60
Day Care Stf	0	1	1	0	0	0	0	0	0	0	0	0	2
Total	105	80	49	88	31	43	4	11	7	7	1	3	429

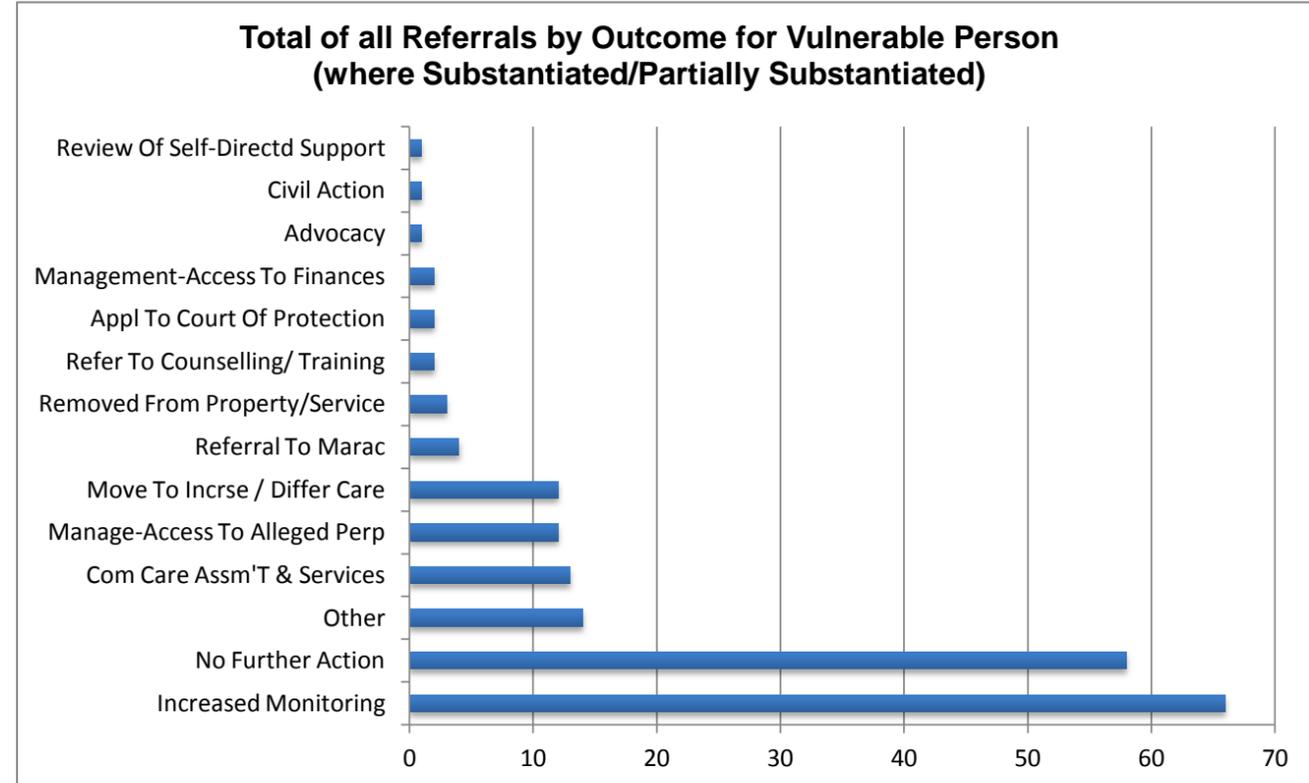
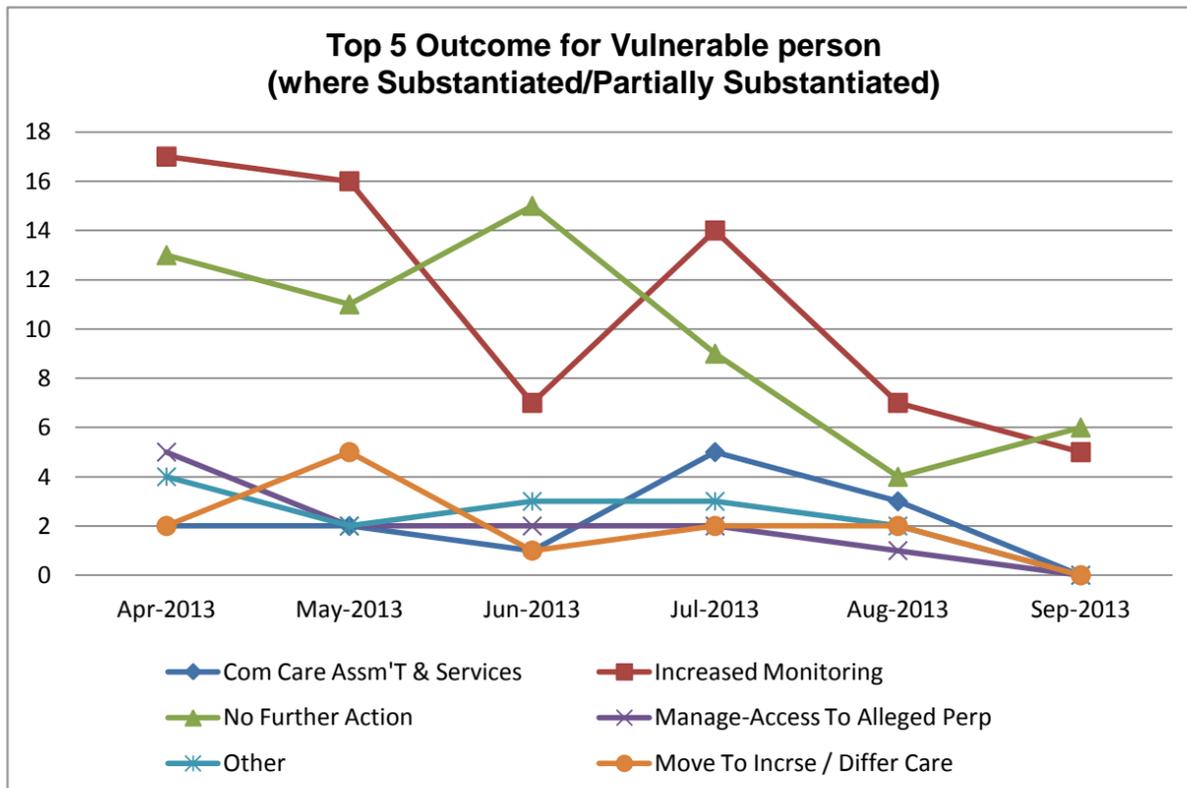
Outcome for Alleged Perpetrator



NB: Activity will be significantly lower in the more recent months as these cases may not yet be completed and the investigations still ongoing

	Congleton SMART	Crewe SMART	Macclesfield SMART	Wilmslow SMART	Leighton Hospital	Macclesfield Hospital	IC East	ASAFE	OPMEC	IC Central	Total
Not Known	0	0	0	1	0	2	0	0	0	0	3
No Further Action	10	9	0	11	2	5	7	0	0	1	45
Continued Monitoring	12	4	8	12	1	3	0	0	2	1	43
Training	5	0	7	4	1	2	1	1	0	0	21
Counselling/Support	0	0	0	0	0	1	1	0	1	0	3
Com Care Assm'T & Services	4	0	4	1	0	1	0	0	0	0	10
Action By Cqc	0	1	0	1	0	0	0	0	0	0	2
Removed From Property/Servi	1	4	1	0	0	0	0	0	0	0	6
Disciplinary Action Agnst Perp	6	0	2	6	2	0	0	2	0	0	18
Police Action	2	2	0	1	1	0	1	0	0	0	7
Manage-Action-Vulnerable Ad	2	3	3	0	0	0	0	0	0	0	8
Referred To Isa List	3	1	0	0	0	0	0	0	0	0	4
Action Under Mental Health Ac	1	0	0	0	0	0	0	0	0	0	1
Referral To Registration Body	2	0	0	0	0	0	0	1	0	0	3
Criminal Prosecution	3	2	0	0	0	0	0	0	0	0	5
Total	51	26	25	37	7	14	10	4	3	2	179

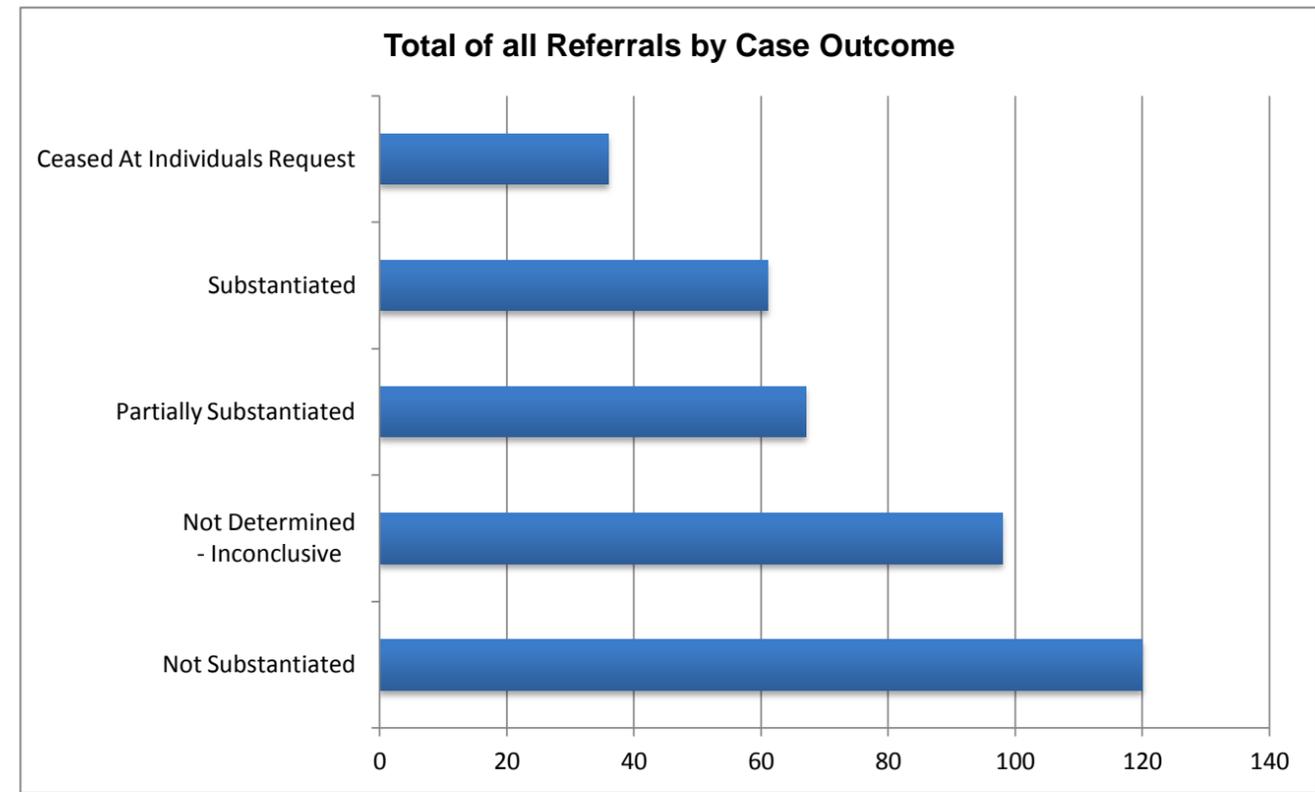
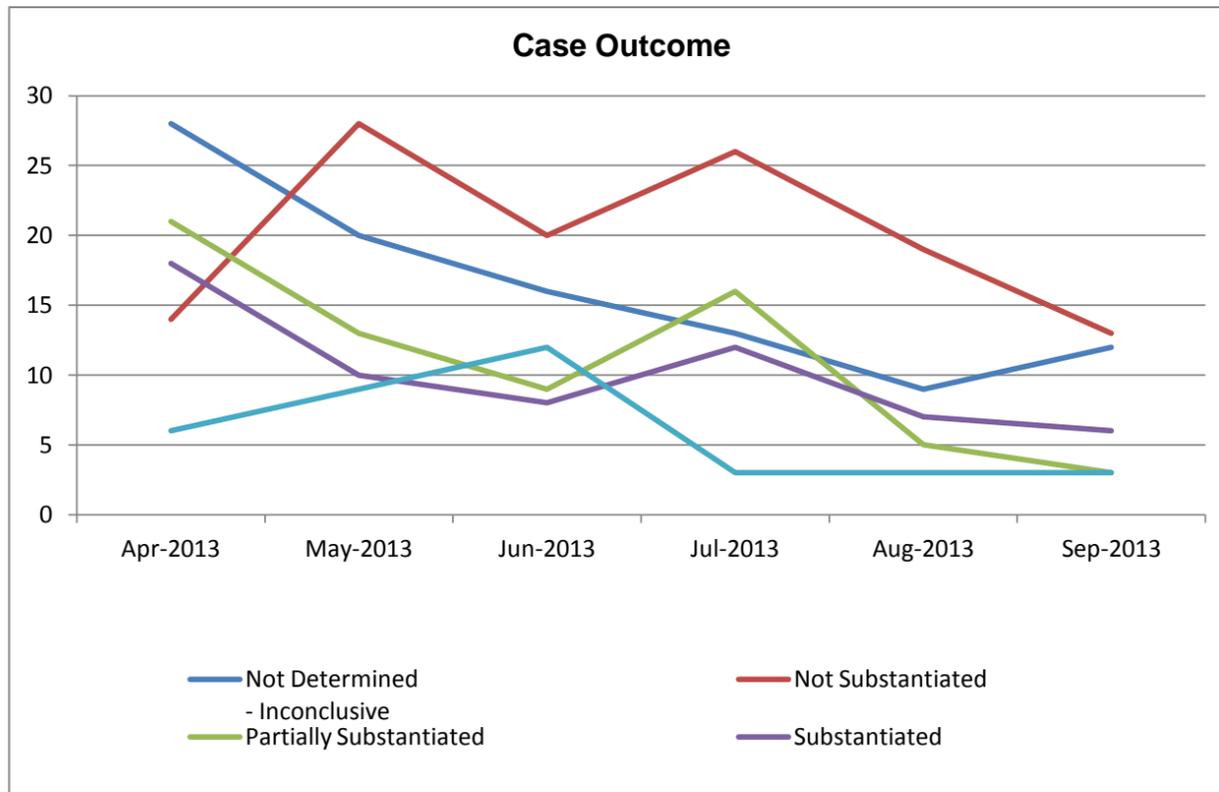
Outcome for Vulnerable Person



NB: Activity will be significantly lower in the more recent months as these cases may not yet be completed and the investigations still ongoing

	Congleton SMART	Crewe SMART	Macclesfield SMART	Wilmslow SMART	Leighton Hospital	Macclesfield Hospital	IC Central	IC East	CWE	ASAFE	OPMEC	Total
Com Care Assm'T & Services	2	2	1	2	0	5	0	1	0	0	0	13
Referral To Marac	2	0	0	0	1	1	0	0	0	0	0	4
Increased Monitoring	10	10	13	13	1	7	2	3	3	2	2	66
Management-Access To Finar	0	0	0	1	0	0	0	1	0	0	0	2
No Further Action	15	9	6	17	2	1	0	7	1	0	0	58
Manage-Access To Alleged Pe	3	4	4	0	0	1	0	0	0	0	0	12
Other	3	2	1	1	2	1	0	2	2	0	0	14
Move To Incrse / Differ Care	6	1	1	3	0	0	0	1	0	0	0	12
Review Of Self-Directd Suppo	1	0	0	0	0	0	0	0	0	0	0	1
Civil Action	0	0	0	0	0	1	0	0	0	0	0	1
Refer To Counselling/ Training	2	0	0	0	0	0	0	0	0	0	0	2
Appl To Court Of Protection	0	1	0	0	0	0	0	0	1	0	0	2
Removed From Property/Servi	1	1	0	0	0	1	0	0	0	0	0	3
Advocacy	0	0	0	0	1	0	0	0	0	0	0	1
Total	45	30	26	37	7	18	2	15	7	2	2	191

Case Outcome



NB: Activity will be significantly lower in the more recent months as these cases may not yet be completed and the investigations still ongoing

Referrals by Case Outcome

	Congleton SMART	Crewe SMART	Macclesfield SMART	Wilmslow SMART	Leighton Hospital	Macclesfield Hospital	IC Central	IC East	ASAFE	CWE	EMH	OPMEC	Total
Not Determined - Inconclusive	16	14	14	33	1	13	2	0	2	1	1	1	98
Not Substantiated	25	30	10	14	22	13	0	4	2	0	0	0	120
Partially Substantiated	8	7	9	21	2	13	1	2	0	4	0	0	67
Substantiated	17	16	8	10	5	1	1	0	2	1	0	0	61
Ceased At Individuals Reques	9	6	5	6	0	2	0	5	0	1	0	2	36
Total	75	73	46	84	30	42	4	11	6	7	1	3	382

CHESHIRE EAST COUNCIL

Corporate Scrutiny Committee

Date of Meeting:	31 March 2014
Report of:	Chief Operating Officer
Subject/Title:	ASDV Scrutiny, Governance and Stewardship
Portfolio Holder:	Councillor Peter Raynes

1.0 Purpose of the report

- 1.1 In February 2013 the Council set out its three year plan to becoming a strategic commissioning council. The strategic commissioning model ensures a measured approach to achieving the Council's ambitions alongside the required financial savings. It also provides a platform to redefine and reinvent services and to sustain quality services to Cheshire East residents and businesses. The role of elected members is also strengthened - beginning and ending with councillors' democratic relationship with local residents, who should have a stronger voice and input into commissioning decisions in the future.
- 1.2 This new approach requires robust corporate leadership, innovation and for the Council and its partners to deliver more with less. In summary it requires a clear focus on identifying and prioritising local needs. Cheshire East Council then concentrates on meeting those needs in a cost-effective way by stimulating and managing a diverse local market of high quality local providers.
- 1.3 This report updates the Corporate Scrutiny Committee on the:
- governance structures under which Cheshire East Limited and its subsidiary companies will operate; and
 - scrutiny arrangements for other alternative service delivery vehicles, (ASDVs).

The 24 March 2014 Cabinet report on Group Structure and Governance is attached at appendix A and B.

2.0 Recommendations

- 2.1 The Committee is asked to:
- 2.2 Note and comment upon the scrutiny arrangements set out in this report and at appendices A and B.
- 2.3 Note the need to review the scrutiny arrangements set out in the report in light of the wider scrutiny review being done by a cross-party working group Chaired by Councillor Peter Groves.

3.0 Reasons for Recommendations

- 3.1 The Council has realised the need to change the way future services are provided in order to create opportunities for innovation and provide service efficiencies. As a result, the Council has determined to take a more strategic commissioning role.
- 3.2 The aspirations to deliver services and redefine the Council's role in core place-based services are set out in the Three Year Plan. The development of a group company structure forms part of that major change programme.
- 3.3 The Corporate Scrutiny Committee has an ongoing statutory role of scrutiny and monitoring performance of ASDVs.

4.0 Background

- 4.1 The Council has realised the need to change the way future services are delivered. Strategic Commissioning is about achieving even greater value for money, by doing things differently and using innovative new approaches to the way in which services are delivered, that achieve the outcomes desired by local people. It is not about simply reducing costs through arranging cheaper provision or about traditional outsourcing. The new approaches will be used to 'get the best' from:

- in-house services;
- joint ventures between the Council and other providers;
- and from new delivery vehicles such as social enterprises or staff mutuals.

- 4.2 The Council is currently reviewing its scrutiny arrangements, led by the Constitution Committee. The detailed review is being done by a cross-party working group, Chaired by Councillor Peter Groves. The terms of reference for the review have been agreed and expert advice is provided by Professors Steve Leach and Colin Copus of De Montfort University.
- 4.3 The working group has agreed that the review must take into account the emerging ASDV landscape including issues of accountability and transparency. The Corporate Scrutiny Committee chair invited the Chief Operating Officer to present a report outlining the scrutiny arrangements for the new ASDVs.

5.0 Alternative service delivery vehicles

- 5.1 The Council's group of companies will be structured under its wholly owned parent company, Cheshire East Ltd. The Council is the sole shareholder of Cheshire East Ltd.
- 5.2 The Council already has two Council owned and controlled companies in place – East Cheshire Engine of the North Limited and Tatton Park Enterprises Limited. In February 2014 Cabinet also approved the detailed business cases for two new companies - Ansa Environmental Services Limited and Orbitas, Bereavement Services Limited. Ansa and Orbitas will 'go live' on 1 April 2014.

- 5.3 Each of the companies listed in paragraph 5.2, together with any other Council owned and controlled companies set up in future, will be subsidiaries of Cheshire East Ltd. Cheshire East Ltd will own the majority interest, (80%), in all of its subsidiaries. Cheshire East Council retains a minority interest, (20%), in each subsidiary. By holding a minority shareholding in the subsidiaries the Council retains control over important decisions.
- 5.4 Two further ASDVs will 'go live' during the first quarter of 2014-15:
- Everybody Sport & Recreation, (ESAR), and
 - CoSocius Limited (shared HR, Finance and ICT back office services with Cheshire West and Chester Council)
- 5.5 ESAR is an independent charitable trust and, as such, will not form part of the group. CoSocius, a joint venture with Cheshire West and Chester Council will also not form part of the group.
- 6.0 Governance**
- 6.1 The Council's overriding principle for the governance, stewardship and control arrangements for its ASDVs is to be resident and business led, and to ensure accountability to residents, service users, businesses and local councillors. However, the Council remains responsible for ensuring that it uses public funds properly and that it can demonstrate value for money.
- 6.2 Maintaining accountability to residents, service users, businesses and local councillors is vital. The arrangements introduced will ensure this and will remain under regular review.
- 6.3 Cabinet's control over the parent company and its subsidiaries is exercised through a number of key documents:
- articles of association;
 - directors' mandate;
 - shareholders agreement;
 - mandates for the shareholder's representatives; and
 - the contract.
- 6.4 Further details on the purpose and outline content of each of the documents listed in paragraph 12.3 are set out in appendix A, section 12. These documents require careful drafting not least to protect the companies' *Teckal* exemption in the early years. (The *Teckal* exemption enables the Council to award contracts directly to its subsidiaries without going through a public procurement process.) Draft documents will be shared with the Cabinet and the board of each company before they are approved.
- 6.5 The governance arrangements for ESAR and Coscious are different:
- **ESAR:** As an independent charitable trust the Council's relationship with ESAR is, essentially, contractual. A detailed contract and performance specification is currently being negotiated. The contract will protect the Council's interest and

ensure that its significant investment in ESAR plays an important role in achieving its key strategic outcomes.

- To provide additional protection, the freehold of the assets used by ESAR will remain with the Council. ESAR will operate/access those assets through a series of leases and licences.
- Performance monitoring against the contract will be led by the Council's Executive Director of Strategic Commissioning.
- **CoSocius** will be legally separate from the Council and will have more freedom to trade and operate on a commercial basis. The Council will enter into a 5 year contract for the provision of ICT, finance and HR services. The Council together with Cheshire West and Chester Council (as shareholders) will seek to maximise value for money to benefit local taxpayers.
- The shared services joint committee agreed the governance of CoSocius, its relationship with this Council and between Cheshire West and Chester Council at its meeting on 29 November 2013. That committee is expected to agree the 'go live' date for CoSocius on 28 March 2014.
- The Council will exercise its powers as shareholder in CoSocius through a new shareholder board. That Board will be expected to provide regular update reports to the Cabinet.

6.6 The governance arrangements summarised above will be regularly reviewed. This is necessary to ensure that they provide the appropriate balance between proper governance and stewardship of public money alongside doing things differently and using innovative new approaches to service delivery.

6.7 The Cabinet will also take the opportunity to reflect upon its experiences in setting up ASDVs to date. This will include officers continuing to review and refine the contract documentation for ANSA and Orbitas beyond the 1 April 'go live' date. This will ensure that the learning from these two vehicles, and from ESAR and CoSocius, will be applied to the next phase of ASDVs.

7.0 Scrutiny

7.1 While the Council is setting up a group company structure to provide some services it remains committed to being open and transparent. The Cabinet will ensure that all services remain directly accountable to residents and elected members by offering them the chance to influence, scrutinise and propose changes to how services are run.

7.2 The Cabinet will set out its expectations for all of its companies in the shareholder's agreement. For example, that agreement will empower the new commissioning portfolio holder to:

- hold periodic meetings with the chairs and vice chairs of each company;

- present joint reports to Cabinet alongside the shareholder's representative, any scrutiny committee and, where appropriate, the company boards;
 - ensure regular public meetings and quarterly reporting of outcomes and performance; and
 - in exceptional circumstances, have the right to recommend the removal of a *non-executive* director to the Leader of the Council and Cabinet.
- 7.3 One potential outcome of the Council's review of its scrutiny arrangements is the creation of cross-party commissions with *scrutiny-like* powers. It is envisaged that these new commissions will be both forward looking and retrospective, whilst allowing for ultimate scrutiny powers to be held by the Council's corporate scrutiny function.
- 7.4 Commissions will be cross-party and member-led. They will assist in policy development and also scrutinise the performance of each subsidiary. They will present joint reports to the Cabinet alongside the commissioning portfolio holder and subsidiary company boards where appropriate. The lead officer will be the Strategic Director of Commissioning.
- 7.5 Cheshire East Ltd will require its subsidiaries to present regular performance monitoring reports. In most cases these will be quarterly. Those reports will form the basis of public reporting to Cabinet as the shareholder and also to the Commission. The precise frequency of reporting and public meetings will be set out in the directors' mandate for each company. Cheshire East Ltd will also prepare an annual report and hold its annual general meeting in public – together with those of all of its subsidiaries.
- 7.6 Cheshire East Ltd will meet in public at least once a quarter – it will also hold Board meetings in private. At the request of the chairman of Cheshire East Ltd, the Leader of the Council, the Chief Executive, or other invitee will be expected to answer questions from members of the Public or from other elected members. In addition, each subsidiary will be required to hold:
- quarterly public meetings; and
 - monthly Board meetings - minuted but not public, unless the Board agrees otherwise.
- 7.7 All councillors will have the right to attend all public meetings with the right to speak with the agreement of the chair. All papers for public meetings will be made available electronically.
- 7.8 The Cabinet and its advisors have the power to visit and inspect the books and records of the new delivery companies at any time. In particular, the Council's internal and external auditors will have open access to every company in the group. The Council's internal auditors will continue to:
- provide independent assurance on arrangements;
 - evaluate and assess strategic risks; and

- evaluate reliability and integrity of information
- 7.9 In providing that assurance internal audit will include specific pieces of work in its 2014-15 audit plan. This will include, for example:
- Reviewing the governance arrangements in place at both the Council and the companies to determine whether they are operating effectively; and
 - mapping the assurance framework – including all ASDVs - to determine whether reliance can be placed on an ASDV's own internal auditors or external auditors/assurance providers; and
- 7.10 In addition Internal Audit will carry out specific pieces of work at the request of the Audit and Governance Committee and, for example, the Chief Operating Officer or the Cabinet.
- 7.11 The activities carried out by other ASDVs will form part of the Council's usual scrutiny arrangements. For example:
- Cosocius will report to its joint Shareholder Board. That Board will report to Cabinet.
 - For ESAR via the Chief operating Officer's quarterly performance reports to Cabinet.
- 7.12 A diagram showing the proposed governance and scrutiny reporting lines for ASDVs is attached at appendix B.

8.0 Audit arrangements and access to information

- 8.1 For each Council owned and controlled company the shareholders agreement will and accompanying articles of association enable the Cabinet and its advisors to visit and inspect the books and records at any time. In particular, the Council's internal and external auditors will have open access to every company in the group. This will not apply to ESAR as an independent charitable trust.
- 8.2 The Cabinet expects to appoint Grant Thornton as external auditors for the group. Cheshire East Ltd group accounts will be consolidated into the Council's financial statements. Internal Audit will continue to share information and co-ordinate audit activities with the external auditors to ensure appropriate coverage and minimise duplication of effort in respect of the ASDVs.

9.0 Conclusions

- 9.1 The Council's overriding principles for the governance, stewardship, scrutiny and control arrangements for its ASDVs are:
- to be resident and business led; and
 - to ensure accountability to residents, service users, businesses and local councillors.
- 9.2 The scrutiny arrangements set out in this report and its appendices will be regularly reviewed. The Corporate Scrutiny Committee will also want to take the opportunity to review the scrutiny arrangements for ASDVs and ensure that they remain appropriate.

10.0 Wards Affected - All wards are affected by this decision.

11.0 Local Ward Members - All wards are affected by this decision.

12.0 Policy Implications

12.1 The recommendations are in accordance with the Council's plan to become a strategic commissioning council.

13.0 Financial Implications

13.1 The financial implications for the establishment of ANSA, Everybody Sport & Recreation (ESAR) and Orbitas were laid out in the detailed business cases presented to Cabinet on 4th February 2014. These included plans to deliver savings of over £3.3m over the next three financial years.

13.2 There are no further financial implications arising from this report.

14.0 Legal Implications

14.1 The legal implications regarding the establishment of the companies were considered in reports to Cabinet in June and October 2013 and February 2014. The legal implications are considered further within the body of this report.

14.2 The Council can set up the companies under the general power of competence laid down by section 1 of the Localism Act 2011. In addition, section 4 of the Localism Act 2011 provides

“4. Limits on doing things for commercial purpose in exercise of general power

(1) The general power confers power on a local authority to do things for a commercial purpose only if they are things which the authority may, in exercise of the general power, do otherwise than for a commercial purpose.

(2) Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company.

(3) A local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.

(4) In this section “company” means:

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.”

In other words any enterprise must be conducted through a company within the meaning of section 1 of the Companies Act 2006.

- 14.3 The requirements of both local government and company law are reflected in this report and its appendices.

15.0 Risk Assessment

- 15.1 The risks within the Alternative Service Delivery Vehicle, (ASDV), programme are identified and managed at 3 levels: Project, Programme and Corporate.
- 15.2 The project risks for each of the new companies were detailed within the business cases presented to Cabinet in February 2014. The respective project boards - in managing the risks - have established appropriate mitigating actions and monitor each risk on a regular basis in accordance with the Council's project management methodology.
- 15.3 Programme risks are those that are common to more than one ASDV project. These risks are identified, managed and monitored by the ASDV Steering Group. Two of the programme risks are classified as corporate risks and have been escalated to the corporate Risk Management Group for consideration and monitoring and inclusion. These are:

- Contract and relationship management; and
- ASDV Business Plans

The Corporate Leadership Board ensures that actions and recommendations within the Corporate Risk Register are implemented.

- 15.1 The Council's risk management processes are being updated to ensure proper assessment of risk in relation to ASDVs. This is to ensure that:
- The risks associated with each ASDV have been identified, prioritised and are being appropriately managed; and
 - Each ASDV has effective risk management procedures in place.

16.0 Access to Information

- 16.1 The background papers relating to this report are attached as appendices. The report author is:

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 24 March 2014
Report of: Chief Operating Officer
Subject/Title: Cheshire East Ltd – Group Structure and Governance Arrangements
Portfolio Holder: Cllr Michael Jones

1.0 Purpose of the report

1.1 In February 2013 the Council set out its three year plan to becoming a strategic commissioning council. The strategic commissioning model ensures a measured approach to achieving the Council's ambitions alongside the required financial savings. It also provides a platform to redefine and reinvent services and to sustain quality services to Cheshire East residents and businesses. The role of elected members is also strengthened - beginning and ending with councillors' democratic relationship with local residents, who should have a stronger voice and input into commissioning decisions in the future.

1.2 This new approach requires robust corporate leadership, innovation and for the Council and its partners to deliver more with less. In summary it requires a clear focus on identifying and prioritising local needs. Cheshire East Council then concentrates on meeting those needs in a cost-effective way by stimulating and managing a diverse local market of high quality local providers.

1.3 This report:

- sets out the proposed structure and mandate for creating a new wholly owned Council company – Cheshire East Ltd. This company will act as parent company to all other companies set up by the Council. Cheshire East Ltd will hold 80% of the shares in its subsidiaries with the Council holding the remaining 20%; and
- seeks approval for the governance structures under which the group will operate.

2.0 Recommendations

2.1 Cabinet is asked to approve:

- i) The establishment of the wholly owned local authority parent company Cheshire East Ltd.
- ii) The general principles of governance of the parent company and its subsidiaries and operation as set out in this report. This includes the appointment of the Deputy Leader as a non-executive director to act as Chairman of the Group Board.

- iii) The re-organisation of the Council's existing companies as subsidiaries of Cheshire East Ltd. Cheshire East Ltd will hold 80% of the shares in its subsidiaries with the Council holding the remaining 20%.
- iv) That each subsidiary apply to the government to be recognised under the Redundancy Payments Modification Order (RPMO). This will protect the continuous service for employees who transfer under TUPE and those who are appointed in future from another RPMO body.
- v) A 1 April implementation date for Cheshire East Limited, Ansa and Orbitas. Beyond that date the Council will continue to review and refine the contract documentation - together with the governance arrangements set out in this report - for all its companies.

And to note:

- vi) The appointment of Kevin Melling as the Managing Director for ANSA and Orbitas.
- 2.2 In addition to the specific recommendations, Cabinet approves the general approach laid out in this report and authorises the:
- i) Chief Operating Officer as Section 151 Officer to take any necessary and consequential action arising from the above recommendations, in agreement with the Leader of the Council.
 - ii) Head of Legal Services and Monitoring Officer to enter into any necessary documentation to give effect to the above recommendations including the:
 - articles of association;
 - the shareholder agreement and mandate for the shareholder's representative; and
 - Directors' mandate for each company.

3.0 Reasons for recommendations

3.1 The Council has realised the need to change the way future services are provided in order to create opportunities for innovation and provide service efficiencies. As a result, the Council has determined to take a more commissioning role.

3.2 The aspirations to deliver services and redefine the Council's role in core place-based services are set out in the Three Year Plan. The development of a group company structure forms part of that major change programme.

4.0 Wards Affected - All wards are affected by this decision.

5.0 Local Ward Members - All wards are affected by this decision.

6.0 Policy Implications

6.1 The recommendations are in accordance with the Council's plan to become a strategic commissioning council.

7.0 Financial Implications

7.1 The financial implications for the establishment of ANSA, Everybody Sport and Recreation (ESAR) and Orbitas were laid out in the detailed business cases presented to Cabinet on 4th February 2014. These business cases laid out plans to deliver savings of over £3.3m over the next three financial years. Further financial implications relating to directors' remuneration are set out in this report.

8.0 Legal Implications

8.1 The legal implications regarding the establishment of the companies were considered in reports to Cabinet in June and October 2013 and February 2014. The legal implications are considered further within the body of this report.

8.2 The Council can set up the companies under the general power of competence laid down by section 1 of the Localism Act 2011. In addition, section 4 of the Localism Act 2011 provides that "any enterprise be conducted through a company within the meaning of section 1 of the Companies Act 2006".

9.0 Risk Management

9.1 The risks within the Alternative Service Delivery Vehicle, (ASDV), programme are identified and managed at 3 levels: Project, Programme and Corporate.

9.2 The project risks for each of the new companies were detailed within the business cases presented to Cabinet in February 2014. The respective project boards - in managing the risks - have established appropriate mitigating actions and monitor each risk on a regular basis in accordance with the Council's project management methodology.

9.3 Programme risks are those that are common to more than one ASDV project. These risks are identified, managed and monitored by the ASDV Steering Group. Two of the programme risks are classified as corporate risks and have been escalated to the corporate Risk Management Group for consideration and monitoring and inclusion. These are:

- Contract and relationship management; and
- ASDV Business Plans

The Corporate Leadership Board ensures that actions and recommendations within the Corporate Risk Register are implemented.

9.4 The Audit and Governance Committee is responsible for keeping under review the effectiveness of the risk management, control and governance arrangements. That Committee receives a quarterly update on the Corporate Risk Register. Cabinet also receives quarterly monitoring reports and an annual report on the Corporate Risk Management.

9.5 The responsibility to manage operational risks after the 'go live' date rests with the individual company.

10.0 Background

- 10.1 It is clear that change is inevitable. Strategic Commissioning is about achieving even greater value for money, by doing things differently and using innovative new approaches to the way in which services are delivered, that achieve the outcomes desired by local people. It is not about simply reducing costs through arranging cheaper provision or about traditional outsourcing. The new approaches will be used to get the best from in-house services, from joint ventures between the Council and other providers, and from new delivery vehicles such as social enterprises or staff mutuals.
- 10.2 The Council already has two successful wholly owned companies in place – Engine of the North and Tatton Park Enterprises. In February 2014 it also approved the detailed business cases for two new companies - Ansa Environmental Services Limited and Orbitas Bereavement Services Limited.

11.0 Proposed structure and mandate of Cheshire East Ltd

- 11.1 The Council's group of companies will be structured under its wholly owned parent company, Cheshire East Ltd. The Council is the sole shareholder of Cheshire East Ltd.
- 11.2 Everybody Sport and Leisure is a charitable trust and, as such, is not part of the group. CoSocius, a joint venture with Cheshire West and Chester Council is also not part of the group.
- 11.3 Cheshire East Ltd will own the majority interest, (80%), in all of its subsidiaries. Cheshire East Council retains a minority interest, (20%), in each subsidiary. By holding a minority shareholding in the subsidiaries the Council retains more control over important decisions. Importantly, the minority shareholding also provides all councillors with access to the companies. The following companies will now become subsidiaries of Cheshire East Ltd:
- Tatton Park Enterprises Ltd;
 - East Cheshire Engine of the North;
 - Ansa Environmental Services Limited; and
 - Orbitas, Bereavement Services Limited.

A diagram showing the proposed group structure is attached, appendix A.

- 11.4 Cheshire East Ltd and all of its subsidiaries, although separate entities, will continue to be held accountable by Cheshire East Council. The Council will have robust governance arrangements in place to ensure each company provides quality services for the residents and businesses of Cheshire East. Formal contracts, built around key outcome focused performance indicators, will be in place and will be monitored by an effective client function. Arrangements relating to the Council's strategic contract with Engine of the North will be considered by Cabinet in April 2014.
- 11.5 Each subsidiary will be required to apply to the government to be recognised under the Redundancy Payments Modification Order (RPMO). This will

protect the continuous service for employees who transfer under TUPE and those who are appointed, in future, from another RPMO body. (RPMO refers to the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 (as amended)), commonly referred to as the redundancy payments.)

- 11.6 The legal framework for all UK companies is enshrined in company law. Cheshire East Ltd will be a company limited by shares. The Council is the sole shareholder. All of the Council's powers as shareholder will be exercised by the Cabinet. The Cabinet will hold directors to account to ensure the proper use of public money. The objects of the parent company and its subsidiaries are clearly set out in their articles of association.
- 11.7 Cheshire East Ltd's primary objective is to provide a forum for strategic decision-making across the group. Its board of directors will set the overall strategy in relation to the activities of its subsidiaries. In setting the overall strategy for the group Cheshire East Ltd will also sign off all business plans and hold its subsidiaries to account. However the Cabinet, representing the shareholder, will approve any decisions which would have an effect on the shareholder's rights.
- 11.8 Cheshire East Ltd also provides a 'natural home' for roles that could be common across the group – company secretary, finance and HR. The subsidiary companies will be expected to adopt a common 'group' approach using existing Council policies and strategies where appropriate. For example, these will include group financial procedure rules, fraud and whistle-blowing policies, urgent decisions, disciplinary procedures, health and safety. The group expects to appoint Grant Thornton as its auditors and its accounts will be consolidated into the Council's financial statements.
- 11.9 The Deputy Leader of the Council, as portfolio holder for strategic outcomes and delivery will be the chairman of Cheshire East Ltd. The new service commissioning portfolio holder will also be a non-executive director providing an explicit link with the Council's new commissions.
- 11.10 The appointment of directors to Cheshire East Ltd is not yet complete. At this stage it is anticipated that the Strategic Director of Commissioning will sit on the board. The Leader of the Council, the finance portfolio holder and the Chief Executive should also attend but will not have a vote.
- 11.11 The Council's Chief Operating Officer and Head of Legal Services will also advise the board from time to time. The Head of Legal Services will also act as company secretary for all companies in the group unless agreed otherwise in consultation with Cabinet.
- 11.12 There are some risks associated with the Council's statutory officers involvement with Cheshire East Ltd – whether as directors or advisors. The Council has sought external legal advice in relation to those risks. In summary, given that the Council will wholly own Cheshire East Ltd it is unlikely that there will be a potential conflict of interest between it,(or its subsidiaries), and the Council at least in the early years.

11.13 In the event that there were a potential or actual conflict of interest the Council's statutory officers may still act for both parties – subject to certain provisions. These include:

- the need for the Council's Scheme of Delegation to specifically provide for these new roles and that relevant contracts of employment are amended to accommodate them - including appropriately worded specific indemnities against potential non-fraudulent personal liability; and
- that where those officers feel in any doubt as to whether there is a potential or actual conflict of interest between their statutory role to the Council and their advisory role to the companies then they should be allowed absolute discretion to seek external advice from an appropriately qualified professional if they wish; and
- company directors should accept that in light of the fact that they are receiving advice from the Council statutory officers, it will be even more important that the Company remains solvent and complies with the law.

11.14 In addition those officers must be allowed sufficient time to devote to their statutory duties. In the event of any conflicting demands between the Council and its companies the officers should prioritise those of the Council.

11.15 While the Cheshire East Ltd group is unique in its range and scope of services, a number of other public sector companies operate in a similar way. Examples include:

- The Norse Group – bringing together property services, commercial services – covering a wide range of services including waste management, environmental services, building maintenance, transport, catering - and residential and housing with care service across Norfolk and further afield.
- Kent Commercial Services – a range of trading companies providing energy purchasing, temps/agency staff and minor building works in Kent .
- Essex Cares – a trading company for disability and homecare services.
- The Barnet Group - bringing together a trading company to manage 15,000 council homes and a social care provider for people with learning and physical disabilities.

12.0 **Governance**

12.1 The Council's overriding principle for the governance, stewardship and control arrangements for its ASDVs is to be resident and business led, and to ensure accountability to residents, service users, businesses and local councillors. However, the Council remains responsible for ensuring that it uses public funds properly and that it can demonstrate value for money.

12.2 Maintaining accountability to residents, service users, businesses and local councillors is vital. The arrangements introduced will ensure this and will remain under regular review.

- 12.3 Cabinet's control over the parent company and its subsidiaries is exercised through a number of key documents:
- articles of association;
 - directors' mandate;
 - shareholder's agreement;
 - mandates for the shareholder's representatives; and
 - the contract.
- 12.4 The content of the **articles of association** is governed by company law. Put simply they set out the objectives of the company and what its directors can and cannot do. Typically they will also include specific powers reserved for the Cabinet as shareholder. They will also ensure that the Council's internal and external auditors - and other employees/advisors - can inspect all records held by the company.
- 12.5 A **directors' mandate** is used to set out a more detailed 'set of rules' under which the company board can operate. They are particularly helpful in the context of local authority companies where the over-riding objective is to retain transparency and openness. They also have a key role in ensuring each company continues to benefit from the *Teckal* exemption - at least initially. (The *Teckal* exemption enables the Council to award contracts directly to its subsidiaries without going through a public procurement process.)
- 12.6 The **shareholder's agreement** is a key document between the Cabinet and the companies. It will set out, in some detail, how the Cabinet will exercise control and influence over the group. The Cabinet will have the key role of holding directors to account to ensure quality delivery and proper use of public money.
- 12.7 The shareholder's agreement will set out the governance principles set out in this report. It will include a range of issues which are subject to prior approval by the shareholder before a decision can be made by the company boards. These are described as 'reserved decisions'. For example:
- appointment and removal of directors and auditors;
 - remuneration of directors;
 - non-executive directors must be serving councillors;
 - approval of business plan and any subsequent (significant) changes;
 - requirement to meet in public;
 - expectations re performance reporting;
 - engagement of consultants.
- 12.8 The agreement is the key mechanism for ensuring that the Council, through the Cabinet, or via appropriate delegations, exercises decisive control over its companies and continues to approve significant decisions. These proposals will also ensure that relevant decisions remain subject to the Council's scrutiny arrangements – including the new commissions.

- 12.9 Cabinet will also nominate **shareholder's representatives** for each company. In summary, this person observes the companies' decision making processes and represents the interests of the shareholder. Given the range of companies involved, this is likely to be more than one person. They will be able to attend board meetings across the group – as the shareholder's eyes and ears. This 'access' is secured through the minority shareholding the Council has in the subsidiaries. Without the minority shareholding the Council's access to the subsidiaries would have been restricted to the parent company board. In turn this could have limited its ability to demonstrate decisive control.
- 12.10 The shareholder's representatives will, in most cases, be an officer. Cabinet will authorise its representative to communicate its wishes to the company as required. Where issues arise in relation to a *non-executive* director, (a councillor), the shareholder's agreement will provide Cabinet with the necessary powers to act.
- 12.11 The **contract** is intended to empower rather than constrain the companies. In summary, the Council will specify the broad outcomes it requires the contractor to deliver and include key performance indicators. In contrast, the contractor is required to produce detailed statements setting out how it will meet the Council's requirements.
- 12.12 The contract will also include the agreed payment mechanism and clear triggers and sanctions if either party does not meet its obligations. The overall terms and conditions will be the same for each contract.
- 12.13 Each of the documents listed at paragraph 12.3 need to be carefully drafted to protect the companies' *Teckal* exemption – at least in the early years. Taken together these arrangements will demonstrate that the shareholder has decisive control over the group. (This is an important *Teckal* test.) Over time a company may well wish to trade more widely. At that stage the Council and the company will need to reconsider these arrangements – not least to ensure that the companies do not get caught by public procurement legislation in future.
- 12.14 The implementation date for Cheshire East Limited, Ansa and Orbitas is 1 April 2014. However, beyond that date the Cabinet will continue to review and refine the documents set out in paragraph 12.3 and the wider governance and scrutiny arrangements set out in this report.

13.0 **Company Directors**

13.1 Each company board will have:

- a managing director; and
- three non-executive directors (Councillors).

Cabinet will agree outline job descriptions for each of the above roles.

Each company will also have a staff representative (nominated by the employees). That person will be expected to attend management and Board meetings as an observer. It will be for Cabinet to determine whether the staff

representatives, or any other operational managers, are appointed as directors.

- 13.2 In addition, the shareholder's representative will be expected to attend the Board as an observer. The shareholder, staff representatives and any other operational manager regularly attending board meetings will need to be alert to the risks of becoming a shadow director under company law.
- 13.3 The roles and responsibilities of company directors are governed by company law. In summary, a director must act in the way he considers is most likely to promote the success of the company.
- 13.4 A director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. In the context of a local authority company the articles of association will expressly state that a director is not to be regarded as having a conflict of interest by virtue of being a member of the Council alone.
- 13.5 Company directors can be paid. Under company law the nature of any payments are for each board to determine. Under local government law the role of company director cannot be classed as a special responsibility allowance. They are not special responsibilities in relation to the Council.
- 13.6 In principle any payment to a *non-executive* director through a council owned company should be pitched at a level of similar/comparative duties in the Council. For example being the chair of a company may be considered as being over and above the role of a Council committee chair but less than a Cabinet member. To ensure transparency and consistency in relation to any such payments the shareholders agreement will set out the Council's expectations in relation to any remuneration offered. The Council expects all companies to:
- offer councillors acting as the chair of a company payment of up to £10,000. It will be for each councillor to decide whether to accept this payment; and
 - offer other councillors acting as *non-executive* company directors a payment of up to £5,000. It will be for each councillor to decide whether to accept this payment.
- 13.7 In each case where any individual councillor is also entitled to a special responsibility allowance in respect of their wider responsibilities the total amount paid is subject to the limits set out in paragraph 13.6. This ensures that a councillor does not 'benefit twice' by receiving an income from the company in addition to their special responsibility allowance.
- 13.8 Directors' remuneration accrues from day to day. It is also generally accepted that such accrual is from the day the company was incorporated/became active. It is for each board to determine what their remuneration is and from when it falls due in agreement with Cabinet. This will be reflected in the shareholder's agreement.

13.9 The Council's Chief Executive proposes to appoint a single managing director for ANSA and Orbitas. Following the recent recruitment exercise Kevin Melling will be appointed to that post.

14.0 **Scrutiny**

14.1 While the Council is setting up a group company structure to provide services it remains committed to being open and transparent. The Cabinet will ensure that all services remain directly accountable to residents and elected members by offering them the chance to influence, scrutinise and propose changes to how services are run. The Cabinet will set out its expectations for all of its companies in the shareholder's agreement.

14.2 For example, that agreement will empower the new commissioning portfolio holder to:

- hold periodic meetings with the chairs and vice chairs of each company;
- present joint reports to Cabinet alongside the shareholder's representative, any scrutiny committee and, where appropriate, the company boards;
- ensure regular public meetings and quarterly reporting of outcomes and performance; and
- in exceptional circumstances, have the right to recommend the removal of a *non-executive* director to the Leader of the Council and Cabinet.

14.3 The Council is currently reviewing its scrutiny arrangements. Led by the Constitution Committee, the detailed review is being done by a cross-party working group, Chaired by Councillor Peter Groves. The terms of reference for the review have recently been agreed and expert advice is being provided by Professors Steve Leach and Colin Copus of De Montfort University.

14.4 The working group has agreed that the review must take into account the emerging ASDV landscape including issues of accountability and transparency. One potential outcome is the creation of cross-party commissions with *scrutiny-like* powers. It is envisaged that these new commissions will be both forward looking and retrospective, whilst allowing for ultimate scrutiny powers to be held by the Council's corporate scrutiny function.

14.5 Commissions will be cross-party, and member-led. They will assist in policy development and also scrutinise the performance of each subsidiary. They will present joint reports to the Cabinet alongside the commissioning portfolio holder and subsidiary company boards where appropriate. The lead officer will be the Strategic Director of Commissioning.

14.6 Cheshire East Ltd will require its subsidiaries to provide regular performance monitoring reports. In most cases these will be quarterly. Those reports will form the basis of public reporting to Cabinet as the shareholder and also to the Commission. The precise frequency of reporting and public meetings will be set out in the directors' mandate for each company. Cheshire East Ltd will

also prepare an annual report and hold its annual general meeting in public – together with those of all of its subsidiaries.

14.7 Cheshire East Ltd will meet in public at least once a quarter – it will also hold private meetings. At the request of the chairman of Cheshire East Ltd, the Leader of the Council, the Chief Executive, or other invitee will be expected to answer questions from members of the Public or from other elected members.

14.8 Each subsidiary will be required to hold:

- a quarterly public meeting; and
- a monthly management meeting - minuted but not public, unless the Board agrees otherwise.

14.9 All councillors will have the right to attend all public meetings with the right to speak with the agreement of the chair. All papers for public meetings will be made available electronically, on request.

14.10 The business cases for each company have been reviewed through the Council's usual Technical Enabler Group, (TEG), and Executive Monitoring Board, (EMB), processes. Their day to day activities, beyond the 'go live' date will not be subject to further review by TEG or EMB. Ongoing contract monitoring will be done by the Strategic Director of Commissioning. However, the Council's usual checks and balances, including TEG and EMB, will continue to apply in the following instances:

- business cases proposing significant changes in scope for an existing company;
- proposals to establish a new vehicle; and
- any specific projects with a total value on £250,000 or more.

These requirements will be set out in the shareholder's agreement.

14.11 In addition EMB will receive regular reports summarising all new contracted spend of £250,000 or more. EMB will reserve the right to seek clarification on, and review of, any such expenditure. This information will also be included in EMB's regular update reports to Cabinet.

14.12 The Cabinet and its advisors have the power to visit and inspect the books and records of the new delivery companies at any time. In particular, the Council's internal and external auditors will have open access to every company in the group. The Council's internal auditors will continue to:

- provide independent assurance on arrangements;
- evaluate and assess strategic risks; and
- evaluate reliability and integrity of information

15.0 Conclusions

15.1 The Council's overriding principles for the governance, stewardship and control arrangements for its ASDVs are:

- to be resident and business led; and

- to ensure accountability to residents, service users, businesses and local councillors.

The arrangements set out in this report will ensure this. They will be regularly reviewed so that they provide the appropriate balance between proper governance and stewardship of public money alongside doing things differently and using innovative new approaches to service delivery.

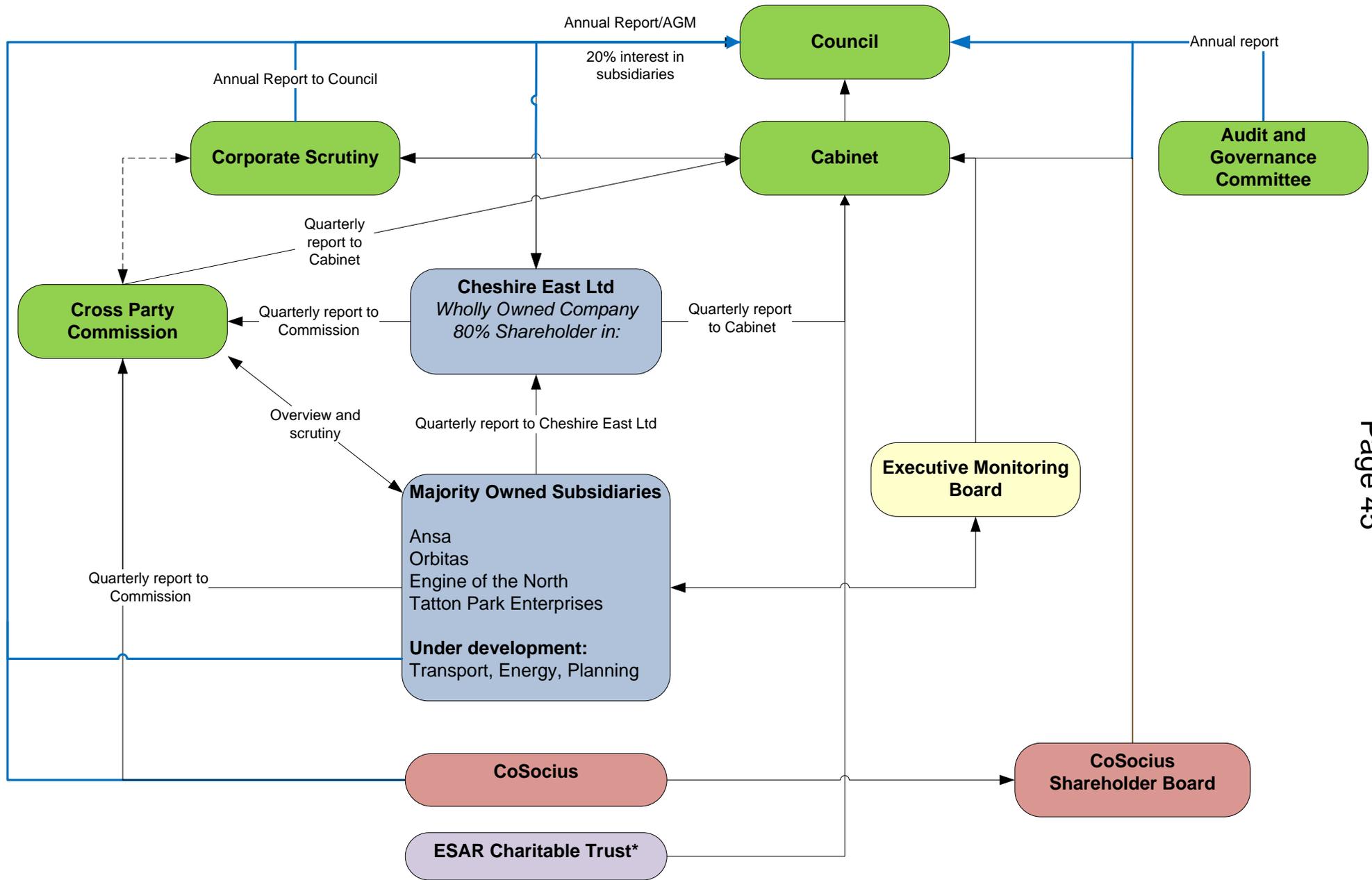
- 15.2 The Cabinet will also take the opportunity to reflect upon its experiences in setting up ASDVs to date. This will include officers continuing to review and refine the contract documentation for ANSA and Orbitas beyond the 1 April 'go live' date. This will ensure that the learning from these two vehicles, and from ESAR, will be applied to the next phase of ASDVs.

16.0 **Access to Information**

There are no background papers relating to this report. The report author is:

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Cheshire East Council - ASDV Reporting Lines



— Reporting directly to Council

*Independent charitable Trust. Council relationship managed via the contract.

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.CHESHIRE EAST COUNCIL

REPORT TO: CORPORATE SCRUTINY COMMITTEE

Date of Meeting: 31 March 2014
Report of: Head of Governance and Democratic Services
Subject/Title: Work Programme update

1.0 Report Summary

- 1.1 To review items in the 2013/2014 Work Programme listed in the schedule attached, together with any other items suggested by Committee Members.

2.0 Recommendations

That the 2013/2014 work programme be reviewed.

3.0 Reasons for Recommendations

- 3.1 It is good practice to agree and review the Work Programme to enable effective management of the Committee's business.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 Not applicable.

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 Not known at this stage.

7.0 Financial Implications

- 7.1 Not known at this stage.

8.0 Legal Implications

- 8.1 None.

9.0 Risk Management

9.1 There are no identifiable risks.

10.0 Background and Options

10.1 The schedule attached has been updated to reflect the decisions taken by the Committee at its previous meeting.

10.2 Members are asked to review the schedule attached to this report, and if appropriate, add new items or delete items that no longer require any scrutiny activity. When selecting potential topics, Members should have regard to the Council's new three year plan and also to the general criteria listed below, which should be applied to all potential items when considering whether any Scrutiny activity is appropriate.

The following questions should be asked in respect of each potential work programme item:

- Does the issue fall within a corporate priority;
- Is the issue of key interest to the public;
- Does the matter relate to a poor or declining performing service for which there is no obvious explanation;
- Is there a pattern of budgetary overspends;
- Is it a matter raised by external audit management letters and or audit reports?
- Is there a high level of dissatisfaction with the service;

10.3 If during the assessment process any of the following emerge, then the topic should be rejected:

- The topic is already being addressed elsewhere
- The matter is subjudice
- Scrutiny cannot add value or is unlikely to be able to conclude an investigation within the specified timescale

11 Access to Information

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

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Corporate Overview and Scrutiny Committee Work Programme 31 March 2014

Issue	Description/Comments	Suggested by	Portfolio Holder as at February 2013	Current Position R,A,G	Date for completion
Children and Adults Safeguarding issues	Standard agenda item to receive updates	The Committee	Children and Families and Health and Adult Social Care	Standard item to be introduced from April 2013	16 April 2013 and continuing
Ofsted Inspection	To review the findings of the Ofsted Inspection March 2013	The Committee	Children and Families	Further action required to co-ordinated with the Children and Families PDG.	TBA
Performance Management information	To be received at least quarterly	Handover from Previous Scrutiny	Performance	To be received quarterly.	Continuing
Budget Monitoring	To be undertaken at least quarterly	Handover from Previous Scrutiny	Finance	To be received quarterly.	Continuing

New Service Delivery vehicles	To consider the framework for future scrutiny of the various arms length vehicles	The Committee	All Portfolios	Report on today's agenda	31 March 2014
Green Waste Collection	To review the impact of not collecting green waste outside of the summer months	The Committee	Environment Services	Report on today's agenda	31 March 2014
Section 106 Agreements	To receive progress reports on monies owing/spent	Handover from Previous Scrutiny	Strategic Communities	6 monthly review.	June 2014
Regulation 33 update	To receive periodic reports on Section 33 visits to Children's establishments.	Handover from Previous Scrutiny	Children and Families	To be received 6 monthly	June 2014
New management Structure	To review the effectiveness of the new management structure approved in February 2013	The Committee	All Portfolios	The new structure is expected to be completed by the Autumn of 2013	September 2014
BeWilderwood	To review the financing arrangements of this scheme	The Committee	Prosperity		TBA

Budget Consultation 2015/16	To determine the Committees involvement in budget consultation arrangements in accordance with constitutional requirements.	The Committee	Finance		TBA.
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