

## Cabinet Agenda

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**Date:** Tuesday, 9th April, 2019  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1,2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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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 in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are audio recorded and the recordings are uploaded to the Council's website.

### **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 disclosable pecuniary and non-pecuniary interests in any item on the agenda.

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

In accordance with paragraph 3.33 of the Cabinet Procedure Rules, 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 Cabinet. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding 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 at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

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Please contact Paul Mountford, Executive Democratic Services Officer  
Tel: 01270 686472  
E-Mail: [paul.mountford@cheshireeast.gov.uk](mailto:paul.mountford@cheshireeast.gov.uk)

4. **Questions to Cabinet Members**

A period of 20 minutes is allocated for questions to be put to Cabinet Members by members of the Council. Notice of questions need not be given in advance of the meeting. Questions must relate to the powers, duties or responsibilities of the Cabinet. Questions put to Cabinet Members must relate to their portfolio responsibilities.

The Leader will determine how Cabinet question time should be allocated where there are a number of Members wishing to ask questions. Where a question relates to a matter which appears on the agenda, the Leader may allow the question to be asked at the beginning of consideration of that item.

5. **Minutes of Previous Meeting** (Pages 3 - 6)

To approve the minutes of the meeting held on 12<sup>th</sup> March 2019.

6. **Notice of Motion - Building Regulations and Fire Safety** (Pages 7 - 14)

To consider the Notice of Motion.

7. **Exclusion of the Press and Public**

The report or a part thereof relating to the remaining item on the agenda has been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matter may be determined with the press and public excluded.

The Cabinet may decide that the press and public be excluded from the meeting during consideration of the item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 4 of Part 1 of Schedule 12A to the Local Government Act 1972 and the public interest would not be served in publishing the information.

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

8. **Supported Local Bus Service Review - Proposals for Little Bus Service** (Pages 15 - 48)

To consider a report on proposals for the Little Bus Service.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Cabinet**  
held on Tuesday, 12th March, 2019 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor L Wardlaw (Vice-Chairman)

Councillors A Arnold, P Bates, J Clowes, J P Findlow, J Saunders and  
D Stockton

**Councillors in attendance**

Councillors Rhoda Bailey, S Corcoran, I Faseyi, D Flude, S Hogben,  
R Menlove, B Moran and G Williams

**Officers in Attendance**

Frank Jordan, Executive Director of Place/Acting Deputy Chief Executive  
Mark Palethorpe, Acting Executive Director of People  
Mark Taylor, Interim Executive Director of Corporate Services  
Dan Dickinson, Acting Director of Legal Services/Monitoring Officer  
Alex Thompson, Acting S151 Officer  
Paul Mountford, Executive Democratic Services Officer

**Apologies**

Councillor Rachel Bailey  
Kath O'Dwyer, Acting Chief Executive

In the absence of the Leader, the Deputy Leader, Councillor L Wardlaw,  
chaired the meeting.

**97 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**98 PUBLIC SPEAKING TIME/OPEN SESSION**

A member of the public referred to damage caused to properties, which  
was said to have been caused by trees. Residents local to the area in  
question had made a number of formal complaints to the Council, as well  
as submitting a petition, but had not received a reply. At the meeting, the  
speaker submitted to the Chairman a copy of a letter that he had written to  
the Leader of the Council together with supporting documents.

The Portfolio Holder for Environment indicated that an update to the  
petition lodged with the Council would be issued in the coming week. An  
arboriculture consultant had been appointed to investigate the matter and  
had recommended that the trees be pollarded to manage their impact  
upon the area. Where pollarding was not suitable, further works would be

identified and undertaken. The Council would, if possible, undertake the pollarding in late March, but may have to delay the works to take account of the bird nesting season.

**99 QUESTIONS TO CABINET MEMBERS**

Councillor D Flude referred to proposals which she said had been in place for many months for a bridge from Gresty Road to Weston Road, Crewe, and which had not been brought to the attention of ward members. She asked for a written response as to why this was the case and asked what assurances could be given to local residents regarding the proposed scheme.

Councillor S Hogben asked whether the Council had a policy on the management of trees with particular reference to how they might affect residential properties. The Portfolio Holder for Environment replied that the Council's tree policy needed to be reviewed and brought up to date. At Councillor Hogben's request, he undertook to keep members informed of progress with the review of the policy through the Environment Overview and Scrutiny Committee.

Councillor S Corcoran asked what plans the Council had to improve air quality in Sandbach and whether this would go beyond what was set out in the air quality action plan. He also asked if the Council would be following the example of Cheshire West and Chester Council by introducing on-the-spot fines for drivers who leave their engines idling and refuse to turn them off when asked to do so. The Portfolio Holder for Housing, Planning and Regeneration undertook to provide a written response.

**100 MINUTES OF PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting held on 5<sup>th</sup> February 2019 be approved as a correct record.

**101 COMMISSION OF FAMILIES ACHIEVING CHANGE TOGETHER (FACT)**

Cabinet considered a report on the impact and progress of the current FACT initiative and a proposed way forward to embed the approach for the long term involving the commissioning of three FACT teams for a period of five years (1 April 2020 to 31 March 2025). In order to assess the appetite and ability of the market to deliver the FACT model as a long term approach, a period of market engagement and testing would be needed prior to a competitive procurement process. This would require a further one year contract award (1 April 2019 to 31 March 2020) to the existing commissioned provider to ensure that there was no break in the delivery of FACT.

At the request of Councillor D Flude, the Portfolio Holder for Children and Families undertook to take a report to the Children and Families Overview and Scrutiny Committee before the end of the one-year contract.

**RESOLVED**

That Cabinet

1. directly awards a contract to Catch 22 to deliver the Families Achieving change Together (FACT) service for the period 1 April 2019 to 31<sup>st</sup> March 2020;
2. approves the re-commissioning of the FACT service via an EU compliant competitive procurement exercise; and
3. delegates authority to the Executive Director People, in consultation with the Children and Families Portfolio Holder, to award the FACT contract for a period of five years (1 April 2020 to 31 March 2025).

102      **RURAL ACTION PLAN**

Cabinet considered a report presenting a Rural Action Plan for the three year period 2019/20 - 2021/22. The aim of the Plan, which was appended to the report, was to help inform strategic choices and identify priorities regarding the rural area, based on the Council's strategies and plans along with their related evidence base.

**RESOLVED**

That Cabinet

1. approves the Rural Action Plan appended to the report; and
2. delegates authority to the Executive Director Place, in consultation with the Portfolio Holder for Adult Social Care and Integration, to update the action plan as necessary.

103      **EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED**

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

104      **ASDV REVIEW UPDATE**

Cabinet considered a report on the ASDV review.

**RESOLVED**

That the recommendations set out in the report be approved.

The meeting commenced at 2.00 pm and concluded at 2.50 pm

Councillor L Wardlaw (Chairman)



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## Cabinet

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**Date of Meeting:** 09 April 2019

**Report Title:** Notice of Motion – Building Regulations and Fire Safety

**Portfolio Holder:** Cllr Ainsley Arnold- Portfolio Holder for Housing, Planning and Regeneration

**Senior Officer:** Frank Jordan – Executive Director Place

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### 1. Report Summary

1.1. The purpose of this report is to respond to the following Notice of Motion considered at the Council meeting on 5<sup>th</sup> March 2019 in relation to the Building Control Regime proposed by Cllr Mannion:

*“This Council notes the conclusions that have been reached so far concerning the Grenfell Tower disaster. In particular it notes the section in the Hackitt report which highlights the “mindset of doing things as cheaply as possible and passing on responsibility for problems and shortcomings”. One longstanding and illogical result of this is that building control remains the only regulatory function of local government to be subjected to competition. Commercially compromised regulation sees safety margins engineered out and corners cut.*

*The private sector recruits people who have been trained at public expense, and cherry-picks the most lucrative schemes, while leaving the rest to councils – who of course pick up the bill for enforcement and other essential regulatory Tasks*

*We call for:*

*(a) the use of inflammable cladding materials on high rise residential buildings to be banned without further delay*

*(b) adequate compensation for councils faced with essential but significant costs in remediation*

*(c) local authorities to be the sole provider of building control services in*

*high residential buildings*

*(d) recognition of the essential role of regulation and an end to the constant denigration of Health and Safety*

*(e) the eventual return of this essential regulatory service to local authorities “*

## **2. Recommendations**

2.1. That Cabinet:

2.1.1. Reject the Notice of Motion by Cllr Mannion as worded, but support the spirit of the Notice of Motion

2.1.2. Agree that the Portfolio Holder for Housing, Planning and Regeneration write to the Secretary of State for Housing Communities and Local Government to:

- a) Support the Government’s decision to take forward all the recommendations in the Hackitt review.
- b) Support the changes in the Building Amendment Regulations 2018 requiring the use of non-combustible cladding materials on high rise buildings.
- c) Support the Government’s decision to compensate councils faced with remediation costs in relation to high-rise buildings with ACM cladding.
- d) Advocate that local authorities should be the sole provider of building control services in high residential buildings.
- e) Advocate that the Government consider the return of this essential regulatory service to local authorities in relation to all development as, in the interests of health and safety and the well being of residents, it should not be possible for a developer to choose their own building control regulator.

## **3. Reasons for Recommendations**

3.1. In agreeing to the above recommendations, the Council would demonstrate its commitment to the safety and well-being of its residents in and around tall buildings.

3.2. Points (a) – (d) in the Notice of Motion have already been addressed by Government actions. The Government has: agreed to implement all of the recommendations in the Hackitt review; has made recent changes to the regulations to ban the use of combustible cladding on high buildings (as set out in section 5.0); has agreed to fully fund the removal and replacement of



ACM cladding; and has agreed that a new regulatory framework will oversee building regulations approval for high buildings.

- 3.3. Point (e) in the Notice of Motion is supported by recommendation (e).

#### **4. Other Options Considered**

- 4.1. None Considered - The paper outlines only one option in response to the Notice of Motion presented to Council.

#### **5. Background**

- 5.1. A Notice of Motion has been proposed following the tragic events at the Grenfell Tower in the Borough of Kensington & Chelsea and the subsequent independent review published by Dame Judith Hackitt. The Notice of Motion seeks to recognise and support the recommendations by Dame Judith Hackitt.
- 5.2. On the 14<sup>th</sup> June 2017 a fire broke out in the 24 storey Grenfell Tower block of flats in North Kensington, West London resulting in 72 deaths. Subsequently the government commissioned a number of investigations and in particular commissioned an 'Independent Review of Building Regulations and Fire Safety.'
- 5.3. In May 2018 the final report "Building a Safer Future", was published by Dame Judith Hackitt which determined that the current system is not considered fit for purpose, thereby making a number of recommendations. The report was presented to Parliament by the Secretary of State for Housing Communities and Local Government.
- 5.4. The report, known as the 'Hackitt review,' highlighted a number of key issues underpinning the system failure which included ignorance, indifference, lack of clarity associated with roles and responsibilities and importantly, inadequate regulatory oversights and enforcement tools.
- 5.5. The report recommends a new framework which will be designed to create a simpler and effective mechanism for driving building safety whilst providing a stronger oversight of duty holders, providing effective mechanisms to deal with poor performance.
- 5.6. The new framework would be focussed in the first instance on multi-occupancy higher risk 10 storey residential buildings and would be overseen by a new joint competent authority (JCA) comprised from members of Local Authority Building Control, fire and rescue authorities and the Health & Safety Executive.

- 5.7. It is expected that the framework would provide a series of robust gateway points to strengthen regulatory oversight whilst creating a more streamlined regulatory route to oversee building standards.
- 5.8. The report also highlighted a number of issues to be addressed through legislative changes whilst recognising weaknesses associated with the current structure of building control. Section 2.41 of the review identified concerns associated with the current ability of contractors to choose between Local Authority Building Control and Approved Inspectors to provide regulatory oversight of the building process. This unique competitive environment has been seen to provide the potential for reduced standards within the building industry whilst creating confusion and in certain cases a potential conflict of interest. The report recommends the cessation of this practice in relation to residential buildings over 18m in height.
- 5.9. The report recognises that the differences in the statutory (and non statutory) processes add to the complexity and means there is no level playing field between Approved Inspectors and Local Authority Building Control.
- 5.10. In response to the report the Government has issued a number of directives that strive to address the concerns raised and is seeking to create a stronger and more effective framework to improve building safety which will ultimately result in tougher sanctions for those who risk residents' safety.
- 5.11. The government has issued a statement confirming their commitment to reform over the next few years which will take forward all the recommendations in the Hackitt review, placing residents at the centre of the new system, empowering them with more ways of engagement and more significant redress.
- 5.12. The Government has stated that they accept the need to create a tougher framework and that the review recommended that it should not be possible for the duty holder to choose their own building control regulator, recommending a streamlined regulatory route for the provision of building control through local authorities as part of the new regulatory structure.
- 5.13. Whilst this proposal received widespread support, responses from Approved Inspectors highlighted significant concern about their future role and therefore further consultation on the removal of choice will be undertaken in the spring.

5.14. The Government has issued an appropriate implementation plan, suggesting the establishment of a new joint regulators group to help develop and pilot new approaches and in spring 2019 will consult on a number of factors including;

5.14.1. The scope of the new regime

5.14.2. Proposals for creating duty holder responsibilities

5.14.3. Proposals for a stronger and more effective enforcement and sanctions regime

5.14.4. How gateways may be used throughout the regulatory process

5.14.5. Proposals for managing the provision of building control with the new framework and the role of Approved Inspectors in supporting duty holders

5.14.6. Options for a more effective framework to oversee the new regime

5.15. On the 29th November 2018 the Building Amendment Regulations 2018 were laid before parliament and came into force as of the 21st December 2018. The Regulations made a number of amendments to the principal Building Regulations 2010:

*“Clarification associated with the definition of “external wall”, which will include anything located within any space forming part of the wall, decoration or other finish to any external surface forming part of the wall. Any doors, windows and part of a roof with a pitch angle less than 70 degrees to the horizontal.*

*For the purposes Regulation 7 now includes sub-paragraph (2) which requires building work to be carried out so that materials which become part of an external wall or specified attachment are of a European Classification A2-s1, d0 or A1 classified in accordance with BS-EN 13501 – 1:2007+A1:2009.*

*Non combustible materials are defined within paragraph 11 of Appendix A to Approved Document B or in terms of performance when tested to BS476 – 4 : 1976 or when classified as A1 in accordance with BS-EN 13501 – 1:2007. As the government has included the requirement for external walls to achieve class A2,-S1, d) or A1 within Regulation 7, this places a statutory requirement to comply with the performance level and therefore excludes the use of non combustible materials on external walls*

*with certain exceptions such as doors, windows and associated frames.”*

- 5.16. The ban is focused on buildings where risks are greatest. It will apply to high rise residential buildings over 18m in height. It will therefore apply to hospitals, residential schools, care homes, and student accommodation. These changes are prescriptive and therefore not open to interpretation.
- 5.17. It is understood that the Government has set out a remediation programme published by the MHCLG dealing with the situation of existing buildings with the type of Aluminium Composite Material (ACM) cladding which will be subject to the ban. Of the 457 high-rise buildings with ACM cladding, 39 buildings have completed the process of remediation, 120 buildings have started remediation, 129 buildings have a remediation plan in place and there are 44 buildings where building owners intend to remediate and plans are being developed. The MHCLG state that they will fully fund the removal and replacement of dangerous ACM cladding on residential social housing buildings over 18m owned by councils and housing associations, with costs estimated at £400m. MHCLG has so far allocated £248m to replace cladding on 135 buildings. The minister has also written to all relevant private sector building owners reminding them of their responsibilities towards making their buildings safe, including reminding them that local authorities have powers to enforce these improvements if building owners do not take action.

## **6. Implications of the Recommendations**

- 6.1. Points (a) – (d) in the Notice of Motion have already been addressed by the Government and the recommendations support those actions. Point (e) in the Notice of Motion is supported by recommendation (e) to advocate the return of Building Control to Local Authorities.
- 6.2. To support the proposals for Local Authorities to be sole providers of Building Control services in high residential buildings will have little impact on the Cheshire East team, as current resources are available to deal with the volume of properties that fit this criteria within the region.
- 6.3. To support the proposals for the eventual return of the Building Regulation service to completely return to the Local Authority will require legislative changes and the Council’s resources would require substantial investment to deal with the increased workload, although there would be a resultant increase in fee income to support such an investment.

**6.4. Legal Implications**

6.4.1. None

**6.5. Finance Implications**

6.5.1. None

**6.6. Policy Implications**

6.6.1. None

**6.7. Equality Implications**

6.7.1. None

**6.8. Human Resources Implications**

6.8.1. None at this time

**6.9. Risk Management Implications**

6.9.1. None

**6.10. Rural Communities Implications**

6.10.1. There are no direct implications for rural communities.

**6.11. Implications for Children & Young People/ Looked After Children**

6.11.1. There are no direct implications for children and young people.

**6.12. Public Health Implications**

6.12.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. No specific ward is affected

**8. Consultation & Engagement**

N/A

**9. Access to Information**

The background papers to this report are available for inspection on request.

**10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

Name: Sean Hannaby

Job Title: Director of Planning & Environment

Email: [Sean.Hannaby@cheshireeast.gov.uk](mailto:Sean.Hannaby@cheshireeast.gov.uk)

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