

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 24th March, 2009 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor W Fitzgerald (Chairman)
Councillor R Domleo (Vice-Chairman)

Councillors D Brickhill, D Brown, P Findlow, F Keegan, A Knowles, J Macrae,
P Mason and B Silvester

In attendance: Councillors A Richardson and A Thwaite

182 APOLOGIES FOR ABSENCE

There were no apologies for absence.

183 DECLARATIONS OF INTEREST

Members gave a general declaration of personal interest in respect of items on the agenda where an individual member was a Member of Cheshire County Council and/or one of the Borough Councils or Parish Councils. In accordance with the Code of Conduct they remained in the meeting during consideration of these items.

184 PUBLIC SPEAKING TIME/OPEN SESSION

There were no questions from members of the public.

185 MINUTES OF PREVIOUS MEETING

In considering the minutes clarification was given in respect of minute 178 (Appointments to Category 1 Schedule of Outside Organisations) to confirm that the 'Have Your Say' Cheshire Police Authority meetings (Ref no 34) are open to all members to attend, without invitation, and hence Members did not need to be appointed to this particular organisation.

RESOLVED

The minutes of the meeting held on 3 March 2009 were approved as a correct record.

186 KEY DECISION CE57 SCHOOL ADMISSIONS

Consideration was given to a proposed coordinated admission scheme and to admission arrangements for the year commencing September 2010.

Following the distribution of the Cabinet agenda the Admissions Forum had, at its meeting on 17 March 2009, considered the responses to the consultation and had recommended that the proposed arrangements for September 2010 admissions be approved, with minor changes set out below, and that all consultees be notified of the arrangements, as required by the appropriate Regulations. The arrangements were, therefore, now referred to the Cabinet for approval in order to comply with the statutory requirement that the arrangements were determined prior to 15 April 2009. The changes recommended were that

- In relation to the proposed re-zoning of the Church Lawton catchment area *to take effect in the event that a final decision is taken to close the school*, a small amendment to the earlier proposal, with the area to the east of the catchment area using the Trent and Mersey Canal as the southern boundary, including Lawton Hall Farm, Lawton Manor, Lawton Hall Drive, The Gardens, The Stables being rezoned to Scholar Green Primary School and not Excalibur as originally proposed.
- Additional text to be included in respect of waiting lists, which states: 'Precedence over other children held on the waiting list for children who are the subject of a direction to admit; are part of a managed transfer from a closing school; or who are allocated in accordance with the Authority's 'in Year Fair Access (Hard To Place) Protocol.

The Forum also re-considered the admission arrangements proposed by Sandbach High School and Sixth form College and responses to the proposal by the Local Authority that the increase in the published admission number from 210 to 240 should not be supported. In the light of this information, and the recalculation of the school's net capacity, together with information on the current number on roll and the number of applications received for entry in September 2009 the Forum resolved to recommend to the Cabinet that authorisation be given to an objection by the Local Authority to the School Adjudicator in the event that policy determined by the Governing Body for September 2010 includes a published admission number of 240.

In respect of the increase in admission numbers at Sandbach High School and Sixth Form College Members expressed concern at the ongoing effect this would have on the capacity of the premises; it was therefore agreed that the recommendations of the Admissions Forum should be supported.

RESOLVED

For the reasons set out in the report and as now given: -

1. That from September 2010 approval be given to the proposed primary and secondary coordinated admission schemes for Cheshire East Council's maintained schools, and to the proposed admission arrangements for its community and voluntary controlled schools, including the changes recommended by the Cheshire East Admissions Forum, and that notification of this determination be sent to all consultees.

2. That an objection be sent to the School Adjudicator on the arrangements proposed by Sandbach High School in the event that the Governing Body determine the proposed published admission number of 240 for September 2010.

187 KEY DECISION CE66 CAPITAL STRATEGY 2009/10

Consideration was given to the Capital Strategy for 2009/10, to form the basis for consultation with members and key stakeholders.

RESOLVED

For the reasons set out in the report: -

That approval be given to the proposed development of the Capital Strategy for 2009/10.

188 KEY DECISION CE67 ASSET MANAGEMENT PLAN 2009/14

Consideration was given to a report on progress in developing the Asset Management Plan for 2009 – 2014, and to its associated documents.

RESOLVED

For the reasons set out in the report: -

1. That the Asset Management Plan for 2009 – 2014 be approved.
2. That the work on the Asset Management paper and the Modern Use of Property document be endorsed.

189 KEY DECISION CE53 CHESHIRE HOMECHOICE COMMON ALLOCATIONS POLICY

Cabinet considered amendments to the Cheshire Homechoice Common Allocations Policy, which had been made to reflect Members concerns and to take into account local connection to rural areas.

RESOLVED

For the reasons set out in the report: -

That approval be given to the amendments to the Cheshire Homechoice Common Allocations Policy, and to its adoption.

190 SUB REGIONAL HOUSING STRATEGY

Consideration was given to the Sub Regional Housing Strategy, published on behalf of the Cheshire Housing Alliance.

RESOLVED

For the reasons set out in the report: -

That the Sub Regional Housing Strategy be approved and adopted prior to its launch by the Cheshire Housing Alliance in April 2009.

191 **CRITICAL DAY 1 HR POLICIES**

Consideration was given to the policies that needed to be in place for non-teaching employees for Day One, and to policies for employees appointed on new Cheshire East terms and conditions of employment. The Head of HR and Organisational Development reported that whilst the Trade Unions were in agreement with the proposals Unison were in the process of appointing a replacement representative and, as a result, had submitted a statement to say that they were unable to agree to the policies at present but that was not to say that they would oppose them.

In order to ensure that the necessary policies were in place it was recommended that those listed in paragraphs 2.1 and 2.2 be approved and adopted and that there be an early review of terms and conditions, policies and procedures to ensure they were fit for purpose and reflected the culture and values of the new authority. Cabinet agreed that this was still the most appropriate way forward but that the matter should be referred back to them in the event of any difficulties arising.

RESOLVED

For the reasons set out in the report and as now given: -

1. That approval be given to the following policies, to apply to all Cheshire East non teaching employees, detailed in Appendices 1 to 7 of the report: -
 - Attendance Management Policy (Appendix 1)
 - Dignity at Work Policy (Appendix 2)
 - Disciplinary Policy (Appendix 3)
 - Grievance Policy (Appendix 4)
 - Recruitment Policy (Appendix 5)
 - Workforce Performance Management Policy (Appendix 6)
 - Equality in Employment Policy (Appendix 7)
2. That approval be given to the following policies, to apply to employees appointed on new Cheshire East terms and conditions of employment, detailed in Appendices 8 to 11 of the report: -
 - Attendance & Leave Policies (Appendix 8)
 - Health Policies (Appendix 9)
 - Pay Policies (Appendix 10)
 - Termination Policies (Appendix 11)
3. That there be an early review of terms and conditions, policies and procedures, and that the matter be considered further by the Cabinet in the light of any difficulties that arise.

192 **PENSION DISCRETIONS**

Consideration was given to the use of Pension Discretions for the Local Government Pension Scheme for Cheshire East Council. An amendment to paragraph 10 of Appendix 1 to the report was circulated at the meeting, the amendments being in italics as follows: -

First Tier - permanently incapable of any gainful employment but are NOT likely to work before Normal Retirement Age (accrued retirement benefits plus 100% of prospective membership until normal retirement age).

Second Tier - permanently incapable of any alternative gainful employment within a reasonable period of time, but is likely to be so capable before the age of 65 (*accrued retirement benefits plus 25% of prospective membership to normal retirement age*).

Third Tier - permanently incapable of their local authority employment but are judged by an occupational health practitioner to be capable of gainful employment within a reasonable period after leaving employment (pension equivalent to the members accrued benefits at the point of ill health retirement - payment of which will be stopped after three years or earlier, if ex-employee obtains, or becomes capable, of gainful employment)

RESOLVED

For the reasons set out in the report: -

That subject to the above amendments approval be given to the adoption of the Pension Discretions for the Local Government Pension Scheme to apply to all non-teaching employees of Cheshire East, as set out in Appendix 1.

193 **FLEXIBLE AND MOBILE AND WORKING POLICY**

Consideration was given to a Flexible and Mobile Working Policy to support service delivery and provide benefits for employees.

RESOLVED

For the reasons set out in the report: -

That approval be given to the Flexible and Mobile Working Policy, and to a proposed payment of £250 for set up costs and a tax free allowance of £3 per week to employees who are designated home workers.

194 **HEALTH AND SAFETY POLICY**

Consideration was given to a Health and Safety Policy for Cheshire East, and to the accountability arrangements. In considering the Policy the Cabinet agreed to a requested alteration to paragraph 1.6 of the Policy

whereby the word 'approval' was amended to 'consultation with a view to agreement'.

RESOLVED

For the reasons set out in the report: -

That approval be given to the Health and Safety Policy subject to the amendment detailed above.

195 **SURE START EARLY YEARS AND CHILDCARE
FUNDING AND CONTRACTUAL ARRANGEMENTS 2009/10**

Consideration was given to the extension of a number of grant funding schemes currently operated by Cheshire County Council, and to the delegation of authority to the Head of Children and Families Service to ensure they were allocated in accordance with Appendix 1 of the report.

RESOLVED

For the reasons set out in the report: -

1. That approval be given to the grant funding schemes set out in Table 1 of Appendix 1 for 2009-2010 and the individual delegation of authority to the Head of Children and Families Service to ensure that grants are allocated in accordance with Appendix 1.
2. That approval be given to the extension of arrangements for the payment and administration of the Nursery Education Grant free entitlement for three and four year olds until 31 March 2010 on the basis set out in this Report.
3. That approval be given to the extension of the contract with Action for Children for the provision of early intervention family support services to families with children aged 0 - 5 from 1 April 2009 for one year.
4. That approval be given to the arrangements for the application of funding for Extended Services during 2009/10 set out in this Report.

196 **HARMONISED POLICY AND PROCEDURE FOR
ACTIVITIES UNDER THE REGULATION OF INVESTIGATORY
POWERS ACT 2000**

Consideration was given to the Cheshire East Policy and Procedure for Surveillance, and the Procedure for the Acquisition and Disclosure of Communication Data under the Regulation of Investigatory Powers Act 2000.

RESOLVED

For the reasons set out in the report: -

That the policies and procedures identified in Section 1 of the report be adopted by Cheshire East Council from 1 April 2009.

197 **HARMONISED ENFORCEMENT POLICY FOR CHESHIRE EAST COUNCIL**

Consideration was given to the adoption of the harmonised Cheshire East Enforcement Policy for all council services with the exception of planning.

RESOLVED

For the reasons set out in the report: -

That the Enforcement Policy (Appendix 1) be adopted from 1 April 2009 for all Council services which have a responsibility for enforcement with the exception of planning.

198 **LOCAL ENVIRONMENTAL QUALITY STRATEGY**

Consideration was given to the adoption of the Environmental Quality Strategy. This Strategy would provide guidance for community wardens and environmental enforcement officers, on how they should tackle local environmental quality issues such as litter, dog fouling, graffiti, fly posting and fly tipping.

RESOLVED

For the reasons set out in the report: -

That the Local Environmental Quality Strategy be adopted.

199 **CORPORATE PROCUREMENT STRATEGY**

Consideration was given to the Corporate Procurement Strategy for 2009/12. This would set the direction for procurement within the Council and establish a framework for individuals and Directorates to operate in and be measured against.

RESOLVED

For the reasons set out in the report: -

That the Corporate Procurement Strategy be endorsed for publication and implementation.

200 **BOROUGH STATUS - COUNCIL NAME**

Consideration was given to the practical implications arising from the grant of borough status, and to the application of a consistent approach to the use of the word 'borough'. The report detailed the circumstances

under which this applied, namely when failure to do so could bring into question the legal authority to take action.

RESOLVED

For the reasons set out in the report: -

1. That approval be given to the use of the name Cheshire East Council if required to be used for any purpose except in the circumstances at 2 below.
2. That the name Cheshire East Borough Council be used where on the advice of the Borough Solicitor it is appropriate to protect the Council's legal position.

201 CABINET DECISION-MAKING ARRANGEMENTS

Consideration was given to proposed arrangements for individual Cabinet Members to make decisions in public.

RESOLVED

For the reasons set out in the report: -

1. That the Governance and Constitution Committee recommend to Council that the provisions set out in paragraph 8.2 of the report be adopted in respect of individual Cabinet Member decision making.
2. That the Governance and Constitution Committee recommend to Council that the extra provision regarding Key Decisions referred to in paragraph 8.4 be rescinded.
3. That the proposed arrangements for individual Portfolio /holder decision-making as outlined in the report be approved and implemented with effect from 1 April 2009.
4. That the Governance and Constitution Committee recommend to Council that these arrangements be incorporated into the Council's Constitution as appropriate.

202 LOCAL AREA AGREEMENT

In accordance with Section 100B(4)(b) of the Local Government Act 1972 the Chairman agreed to allow consideration of this item as a matter of urgency in order to comply with the deadline for the submission of the Agreement to the Department for Communities and Local Government. Negotiations on the Agreement had only been concluded on 20 March 2009.

Formal approval was sought of the reviewed and refreshed 'severed' Local Area Agreement for Cheshire East (Appendix A) to meet the submission timetable outlined by the Department for Communities and

Local Government and the statutory requirements of Section 111 of the Local Government and Public Involvement in Health Act 2007.

RESOLVED

For the reasons set out in the report: -

That approval be given to the reviewed and refreshed 'severed' Local Area Agreement for Cheshire East on behalf of the Council for submission to the Department for Communities and Local Government.

203 SHARED SERVICES

In accordance with Section 100B(4)(b) of the Local Government Act 1972 the Chairman agreed to allow consideration of this item as a matter of urgency as the agreements needed to be completed by 31 March 2009. It had not been possible to finalise the report until the Joint Programme Development Team had met with representatives of the West on Monday 23 March 2009.

Consideration was given to this report on progress made in collaborating with Cheshire West and Chester Council to deliver a number of the Councils functions on a shared basis. The report detailed those to be shared on a long-term basis, or for a transitional period, or that were being dealt with as part of a separate process, and indicated which Council was to be the host authority.

In considering the Membership of the Joint Committee it was considered that the Portfolio Holders associated with Performance and Capacity would be the most appropriate Members. It was, however, intended that other relevant Portfolio Holders would be co-opted to attend as appropriate.

RESOLVED

For the reasons set out in the report: -

1. That the lists of transitional and longer-term shared services be ratified (Appendix 1);
2. That the Joint Programme Development Team be authorised to proceed with ensuring the smooth transition to Shared service operation at Vesting Day;
3. That the Borough Treasurer and Head of Assets, in conjunction with the Portfolio Holder for Shared Services and the Portfolio Holder for Resources, be given delegated authority to finalise the legal documents to give effect to the shared services agreements;
4. That agreement be given to enter into the necessary legal agreements to give effect to the shared services arrangements set out in this report subject to any amendments agreed by the Borough Treasurer and Head of Assets, in conjunction with the Portfolio Holder for Shared Services and the Portfolio Holder for Resources;

5. That agreement be given to the creation of a Joint Committee for the purposes of strategic decision making to facilitate shared service provision with Cheshire West and Chester Council and nominate three councillors to be members to the Joint Committee; these to be the Portfolio Holders for Resources, Procurement, Assets and Shared Services and Performance and Capacity.
6. That agreement be given for the discharge of its functions relating to the services specified in Appendix 1 by the Joint Committee for discharge by the Joint Committee as appropriate and pending such a resolution of the Joint Committee; agree to the discharge of those functions as specified in Appendix 1 where Cheshire West and Chester Council is specified as the host by Cheshire West and Chester Council;
7. That agreement be given to accept responsibility for the discharge of the services specified in Appendix 1 where Cheshire East Council is named as the host on behalf of the Joint Committee or, pending such resolution by the Joint Committee, on behalf of Cheshire West and Chester Council;
8. That agreement be given to the secondment, as appropriate, of staff working within the proposed shared service arrangement in respect of the services which are the responsibility of the Joint Committee;
9. That the transfer of assets be authorised as appropriate to give effect to the shared services arrangements.

204 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That in accordance with Section 100(A)4 of the Local Government Act 1972 the public be excluded from the meeting for the following item on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest in maintaining the exemption outweighs the public interest in disclosing it.

(Paragraph 3 concerns information relating to the financial or business affairs of any particular person, including the authority holding that information.)

205 **KEY DECISION CE68 WASTE TREATMENT PFI CONTRACT**

Approval was sought of the terms and conditions of the proposed Inter Authority Agreement which will govern the relationship between Cheshire West and Chester Council and Cheshire East Council in relation to the

Cheshire Waste Treatment PFI Contract, and the ongoing management of the Waste Contracts.

RESOLVED

For the reasons set out in the report: -

That the contents of the report be noted and approved and that the Certifying Officer be authorised to settle the final terms of the inter Authority Agreement and secure its completion by the 31 March 2009 deadline.

In accordance with Rule 13 of the Council's Scrutiny Procedure Rules, and as the Chairman of the Scrutiny Committee has agreed that this decision should be treated as urgent, the call in procedure does not apply to this decision.

The meeting commenced at 2.00 pm and concluded at 4.10 pm

Councillor W Fitzgerald (Chairman)