

# **Local Service Delivery (Crewe)**

## **Agenda**

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<b>Date:</b>	<b>Monday, 26th September, 2011</b>
<b>Time:</b>	<b>10.00 am</b>
<b>Venue:</b>	<b>East Committee Room - Municipal Buildings, Earle Street, Crewe, CW1 2BJ</b>

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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 at the foot of each report.

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

1. **Appointment of Chairman**

To appoint a Chairman of the Committee.

2. **Appointment of Vice Chairman**

To appoint a Vice Chairman for the Committee.

3. **Apologies for Absence**

4. **Declarations of Interest**

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

5. **Terms of Reference** (Pages 1 - 4)

To consider the Terms of Reference for the Committee as appended to the report of the Borough Solicitor.

6. **Local Service Delivery - Transfer and Devolution** (Pages 5 - 28)

To consider the report of the Head of Policy and Performance which sets out the role of the Committee.

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

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7. **Dates of Future Meetings**

Members to be invited to agree date(s) for future meetings to enable the Committee to report back to Cabinet in due course.

## **CHESHIRE EAST COUNCIL**

### **REPORT TO: Local Service Delivery Committee (Crewe)**

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**Date of Meeting:** 26 September 2011  
**Report of:** Borough Solicitor  
**Subject/Title:** Local Service Delivery Committees - Terms of Reference

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#### **1.0 Report Summary**

- 1.1 Local Service Delivery Committees have been constituted for the unparished areas of Crewe and Macclesfield and it is necessary to agree Terms of Reference for the Committees. The membership of the Committees was agreed at the Annual meeting of the Council, on 18 May 2011.

#### **2.0 Decision Requested**

- 2.1 That the Terms of Reference for the Local Service Delivery Committee (Crewe), be recommended to Council for approval, this being a responsibility of Council, as listed in Part 3 of the Constitution.

#### **3.0 Reasons for Recommendations**

- 3.1 To ensure the effective operation of the Committee.

#### **4.0 Wards Affected**

- 4.1 The unparished wards of Crewe.

#### **5.0 Local Ward Members**

- 5.1 Members for the unparished wards of Crewe.

#### **6.0 Policy Implications including - Carbon Reduction - Health**

- 6.1 None

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 None

**8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 None.

**9.0 Risk Management**

9.1 There are no identifiable risks.

**10.0 Background and Options**

10.1 Local Service Delivery Committees were established for the unparished areas of Crewe and Macclesfield, at the meeting of the Council on 18 November 2010. Membership of the Committees was approved at the Annual meeting of the Council, on 18 May 2012. It is necessary to agree appropriate terms of reference, to ensure the effective operation of the Committees. A copy of the draft Terms of Reference is appended to this report.

**11.0 Access to Information**

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

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**Local Service Delivery Committees -Terms of Reference**

Council has agreed that two Local Service Delivery Committees be constituted, whose membership shall comprise of those Councillors who represent wards within the unparished areas of the towns of Crewe and Macclesfield, 'to make representations to Cabinet and Council about the delivery of local services in the area and to monitor local services where a town or parish council acting under local devolution arrangements would have been expected to do so (but not otherwise)'.

**Membership**

The Committees will be appointed at the Annual meeting of the Council.

Other Ward Members for the unparished areas, who are not members of the Committee will receive copies of all agenda papers and will be invited to participate.

**Wards Affected****Crewe**

Crewe North  
Crewe East  
Crewe South  
Crewe West  
Crewe Central  
Crewe St. Barnabas

**Macclesfield**

Macclesfield West and Ivy  
Macclesfield Hurdsfield  
Broken Cross and Upton  
Macclesfield South  
Macclesfield Central  
Macclesfield Tytherington  
Macclesfield East

**Proposed Terms of Reference: -**

1. To consider the delivery of services in the relevant unparished area in relation to those services or asset types being transferred or devolved, as part of the overall local delivery arrangements across Cheshire East, consistent with the parished areas.
2. To consider the cost implications of the delivery of services or cost of assets in the relevant unparished area consistent with the agreed policy in parished areas.

3. To consider the cost and delivery implications in the context of a potential special expenses levy in the unparished area to represent the cost of delivery to provide consistency across Cheshire East
4. To make recommendations to Cabinet on the level of service provision for those services/assets being considered as part of the local delivery arrangements (in parished areas)
5. To make recommendations to Cabinet on any special expenses levy arising from point 4 above.

## CHESHIRE EAST COUNCIL

### REPORT TO: Local Service Delivery Committee- Crewe

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<b>Date of Meeting:</b>	26 <sup>th</sup> September 2011
<b>Report of:</b>	Vivienne Quayle – Head of Policy and Performance
<b>Subject/Title:</b>	Local Service Delivery – Transfer and Devolution Local Service Delivery Committee's
<b>Portfolio Holder:</b>	Cllr Rachel Bailey Cllr David Brown Cllr Jamie Macrae

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#### 1.0 Report Summary

- 1.1 The following report and appendix are designed to start to give members of the Local Service Delivery Committee sufficient information to make a decision on those existing services that they wish to see provided in the currently unparished area of Crewe (consistent with those transferring to parished areas) and enable them to consider issues relating to a potential special expense levy on the residents of the area.
- 1.2 A process of consultation and negotiation has taken place over the last 12 months with Town and Parish Councils where they have been invited to consider the assets, functions and services they wish to take over in their area and for which they have existing powers and duties.
- 1.3 All the Town Councils and some of the Parishes have registered an interest and Cabinet made a decision to approve the transfers of certain assets and services at its meeting on 5<sup>th</sup> September 2011. (Report attached for information)
- 1.4 It is Cheshire East Council policy that the relevant services become the responsibility of the Town and Parish Councils and it will be for each local Council to determine level of service and any impact on the local precept as required.

#### 2.0 Decision Requested

- 2.1 As this is the first meeting of the Committee this report is for information in order to ensure members are aware of the current situation and so that the Committee can make a recommendation to cabinet and Council at its next meeting on the relevant services which is wishes to continue to be provided by Cheshire East and the level of special expense payment that should be levied.

### **3.0 Reasons for Recommendations**

- 3.1 Crewe and Macclesfield are unparished and have no local Council at present to represent them. In order to ensure that the area of Crewe has similar opportunities and choices as the other parished areas and that all areas of Cheshire East are treated consistently, it has been necessary to set up specific committees to carry out the functions as outlined in the Terms of Reference.

### **4.0 Wards Affected**

- 4.1 Crewe East
- 4.2 Crewe West
- 4.3 Crewe South
- 4.4 Crewe North
- 4.5 Crewe Central
- 4.6 Crewe St Barnabas.

### **5.0 Local Ward Members**

- 5.1 All Crewe members

### **6.0 Policy Implications including – Carbon Reduction - Health**

- 6.1 This initiative aligns with the first priority of the Sustainable Community Strategy “nurturing strong communities” and is part of Cheshire East’s stated drive to ensure that working locally is at the heart of what we do.
- 6.2 National policy is designed to decentralise government and give communities power to make a difference in their area. This initiative clearly aligns with this national drive.

### **7.0 Financial Implications (Authorised by the Director of Finance)**

#### **7.1 Town Centre Management**

- 7.1.1 Within the 5<sup>th</sup> September report to cabinet, section 10.7 described a new delivery model for town centre management. It is intended that from 1<sup>st</sup> April 2012, the work of the two Town Centre Managers will be re-focussed, dedicated to the two principle towns of Crewe and Macclesfield.
- 7.1.2 The Managers will support the delivery of specific programmes of events and activities linked to the local strategies and developments (including Macclesfield Economic Masterplan and All Change for Crewe initiatives). Management and financial support for Christmas lights and related events will also follow this model.

- 7.1.3 With the exception of Crewe and Macclesfield towns, from April 2012 it is proposed that Town Councils make arrangements for providing/ funding town centre management activity at their discretion; this could include Christmas lights and events, hanging baskets and street furniture.

## 7.2 Transfer Service

- 7.2.1 Paragraph 10.9 of the Cabinet report on 5 September referred to the work of this Committee, being consideration of the delivery of services in the relevant unparished area, in relation to those services or asset types being transferred or devolved to other Towns/ Parishes.
- 7.2.2 This involves consideration of the cost implications in the context of a potential “special expenses” levy in the unparished area, which would represent the cost of delivery and provide consistency across Cheshire East in respect of the financing of local services.
- 7.2.3 Previous work on the Local Service Delivery initiative has focussed largely on the transfer of services to Towns and Parishes and therefore – in a financial/ budgetary context - on the direct operating expenditure and income of facilities/ functions.
- 7.2.4 In reviewing the scenarios for Crewe and Macclesfield, it is also appropriate to incorporate costs of Town Centre Management (as outlined above) and also the Service Management and Support costs of the functions that Cheshire East will continue to deliver, on behalf of the towns’ residents.
- 7.2.5 Whilst the preparation of business planning and budget proposals will continue for a number of weeks, an early indication of the potential 2012/13 budgets for the range of services is shown in the table below, along with a calculation of a “special expense”, by way of illustration.

	Gross Expenditure £000	Gross Income £000	Net Operating Expenditure/ (Income) £000	Service Management & Support £000	Net Expenditure/ (Income) TOTAL £000
<b>Crewe</b>					
Public Conveniences	33	0	33	1	34
Allotments	9	-9	-1	0	-1
Markets	248	-275	-27	75	49
Town Centre Management	45	0	45	13	58
Christmas Lights/Trees	28	0	28	1	29
Street Furniture	1	0	1	0	1
Hanging Baskets	4	0	4	0	4
<b>TOTAL</b>	<b>368</b>	<b>-284</b>	<b>83</b>	<b>90</b>	<b>174</b>

Tax Base (2011/12 Band D Equivalents)

14,934.59

**Illustrative "Special Expense" Council Tax**

**£11.58**

Members are invited to consider the service levels and budgetary, along with the potential special expenses levy.

### **7.3 Special Expenses**

7.3.1 The legislative background set out below provides a description of a “special expenses” levy.

7.3.2 The Local Government Finance Act 1992 is the main piece of legislation relating to the setting of Council Tax and in respect of this matter, Sections 34 and 35 are most relevant, dealing with *“Additional calculations where special items relate to part only of area”*. Essentially this enables an additional element of Council Tax to be calculated and charged to “a part only of a billing authority’s area” - i.e. in *addition* to the “basic amount of tax” that would be charged across the whole of the Borough.

7.3.3 Most commonly, it is via this particular legislation that additional elements are calculated and charged in respect of Town and Parish precepts. As Members will be aware, in each case the calculation is simply the amount of Town/ Parish precept, divided by the Band D equivalent taxbase for the relevant Town/ Parish Council.

7.3.4 However, there are a few other circumstances where additional elements of Council Tax may be calculated and charged in this manner; as per Section 35 (1) (b) these relate to *“any expenses of the authority which are its special expenses”*. Section 35 (2) (d) is most relevant to circumstances involving unparished areas and an extract follows:

*“d) any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by ... a parish or community council ... are the authority’s special expenses”*

7.3.5 In effect this would enable the Borough Council to charge an additional amount of Council Tax to taxpayers in unparished areas, to cover the costs of providing services in *those* areas, that elsewhere (in parished areas) are provided by Town or Parish Councils.

7.3.6 Whilst considering this members of the committee may wish to taken in account the strategic importance of the towns of Crewe and Macclesfield and the wider benefit they make to residents outside of the boundaries of these towns and Cheshire East as a whole.

7.3.7 Members are reminded that the Charter Trustees of both Crewe and Macclesfield will continue to levy precepts in respect of funding their activities. The Council will need to be mindful of avoiding confusion in that regard and also of the need to communicate well the purpose of any special expense item of Council Tax.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Legal input is being given for all of the assets and services to be transferred. This report is for information and explains the background to special expenses levy. Any legal implications of a levy such as this will be covered at the next meeting when the recommendations to Cabinet are formulated.

## **9.0 Risk Management**

- 9.1 There is a potential risk that inconsistencies could occur where services are continued to be funded centrally. If services are continued to be delivered in this way then it will be important that the reasoning behind this is clearly communicated.
- 9.2 There is a risk that the charge on the people of Crewe is unclear given the potential for a special expense and a charter trustee level as well as the usual Council Tax. This is part of the reason for setting up this Local Delivery Committee and communication of the results for this committee's recommendations and the Council decision will be designed to give as much clarity as possible to residents.

## **10.0 Background and Options**

- 10.1 At its meeting on 19<sup>th</sup> July 2010, CEC Cabinet agreed a policy to transfer and devolve assets, functions and services to Town and Parish Councils in support of the localism agenda. The full report explains the rationale and approach to this major initiative but the key benefits are to demonstrate localism; provide services at a more efficient and economic level; improve the responsiveness of service delivery and enhance choice and control.
- 10.2 Crewe and Macclesfield however are unparished and have no local Council to represent the areas. In order to ensure that similar opportunities and choices are afforded to residents in these areas it has been necessary to set up specific committees to represent them and decide what level of local services should be provided and at what cost.
- 10.3 As part of Cheshire East Council's initiative to transfer and devolve services to Town and Parish Councils, Full Council agreed that Local Service Delivery Committees are required to represent the unparished areas in the Borough to determine the level of local services required by communities. This decision was taken in November 2010.
- 10.4 The list of such services in this area is attached within Appendix A, the report to Cabinet on 5<sup>th</sup> September 2011.

- 10.5 In order to be consistent with the overall Cheshire East policy unparished areas need an assessment of the cost of the relevant services and consideration by this local service delivery committee. This may result in a special expense levy on the CEC Council Tax bill. This is designed to be an equivalent to a precept for local services provided by a Town or Parish Council.
- 10.6 If and when a Town or Parish Council is established in these areas, the local service delivery committee will no longer be required.

**11.0 Access to Information**

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

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## Appendix A

### CHESHIRE EAST COUNCIL

#### REPORT TO: CABINET

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<b>Date of Meeting:</b>	5 <sup>th</sup> September 2011
<b>Report of:</b>	Vivienne Quayle – Head of Policy and Performance
<b>Subject/Title:</b>	Local Service Delivery – Transfer and Devolution to Town and Parish Councils
<b>Portfolio Holder:</b>	Cllr Rachel Bailey Cllr David Brown Cllr Jamie McCrae

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#### 1.0 Report Summary

- 1.1 Cheshire East Council (CEC) is committed to delivering services tailored to its individual communities. In July 2010 the Cabinet approved that further work and discussion would take place to progress the transfer of the following assets and services to Town and Parish Councils where that made sense to both parties.
- Civic Halls
  - Community Halls
  - Allotments
  - Public Conveniences
  - Markets
  - Other services (hanging baskets, Christmas lights & Trees, Britain in bloom street furniture including benches and planters)
  - Possible “other assets” on a case by case basis (see Appendix B)
- 1.2 There were a number of other types of assets originally included for discussion and these are not being proposed for transfer at this stage. These are play areas, footpaths, parks, ponds and ditches.
- 1.3 During the last year CEC has been in negotiations with participating local councils about the potential transfers and on the implications for both parties. In consultation with all Town and Parish Councils it was established that the eight Town councils and eighteen of the larger parishes were ready to discuss potential transfers of assets or services. Working closely with Towns and Parishes is an on-going way of working not a one-off project and it should be emphasised that all parishes are welcome to discuss ideas for service delivery or transfer of assets as they arise. This report contains proposals to transfer assets where discussions around the implications are at an advanced stage. This does not preclude other activities being progressed nor new ideas coming forward.

- 1.4 A clear distinction is made between those services that are non statutory (transferred functions) and those that are statutory (devolved functions).
- 1.5 It is important that the special circumstances in the un-parished areas of Crewe and Macclesfield and the newly parished Wilmslow are considered. This is included in Section 10.8 – 10.10 of the report.
- 1.6 The report sets out the current proposals on the transfer of assets and services to be transferred starting from April 2012. It is recognised that a smooth transfer is desirable to all parties and it is therefore proposed that whilst April 2012 is the aspirational date for completion, that it might be some way into the financial year before the actual transfer takes place for more complex assets where this is agreed by both parties.
- 1.7 The report also covers the financial implications, risks, staffing issues and legal implications. In principle assets will be transferred at a nominal value or long term lease with responsibility for the on- going running costs (or surplus) being covered by the Town or Parish Council.
- 1.8 The extent of the transfers and functions means that the background information involved is necessarily detailed and complex. It is important though to continually focus on the overall benefit and driver for this initiative which is about local people choosing what services they pay for, each locality running services in the way that makes sense to that locality and ultimately continuing to build strong communities across Cheshire East with all forms of government working together, reducing duplication and working in partnership to make a difference in Cheshire East.

## **2.0 Decision Requested**

- 2.1 Cabinet are asked to give delegated authority to the Strategic Director (Places and Organisational Capacity), Section 151 officer and the Monitoring Officer to finalise agreed legal and financial terms for a package of transfers (or leases) of the assets and functions contained in Appendix A with a view to transfer taking place by April 2012 or as soon as possible following that date where that is agreed by both parties.

The legal terms will include those points listed in section 10.12. Both parties will be expected to complete negotiations in a reasonable timeframe. It is anticipated that Civic Halls and Community Centres would be by freehold transfer for disposal at a nominal value and that, in negotiation, both parties will agree on either a transfer or a lease arrangement for the Markets and Public Conveniences with allotments likely to be transferred by way of a long lease.

- 2.2 Cabinet are asked to note the contents of Appendix B. At this stage these assets are not approved for transfer but will be reviewed on a case by case basis as part of the overall package to transfer. Such decisions to be delegated to the relevant portfolio holder (s). An initial analysis of these assets indicates that a number of them will not be suitable for transfer.
- 2.3 Cabinet are asked to approve the transfer of “other services” as listed in section 10.4 of the report.
- 2.4 Cabinet are asked to note the potential overall financial implications of the implementation of this policy and also note that there will be a potential impact on precept levels and Cheshire East’s budget.
- 2.5 Cabinet are asked to note the new delivery model for Town Centre Management (10.7)
- 2.6 Cabinet are asked to note the position in the un-parished areas of Crewe and Macclesfield and the newly parished Wilmslow as detailed in section 10.8 – 10.10.
- 2.7 Cabinet are asked to note the position on additional support costs in property and legal services funded from the Ear Marked Reserve.
- 2.8 Cabinet are asked to note that the terms of transfer and implications will be discussed with both the District Valuer and the External Auditor to ensure their relevant feedback is reflected in the agreements.
- 2.9 Cabinet are asked to formally recognise and thank the joint officer/member working group for their work which has been instrumental in achieving the progress to date.

In line with recommendations within this report and the fact that the negotiations are at an advanced stage it is felt that the group should no longer continue in its current form and therefore be dissolved.

### **3.0 Reasons for Recommendations**

- 3.1 This is an ambitious programme of service and asset transfer designed to maximise the local focus of service delivery and to give each Town and Parish Council an increasingly important role in deciding what should be delivered in its locality and how this is best delivered. Further transfer and devolution will continue and be part of the way Services consider options for delivery moving forward.

### **4.0 Wards Affected**

- 4.1 All

**5.0 Local Ward Members**

5.1 All

**6.0 Policy Implications including – Carbon Reduction  
- Health**

6.1 This initiative aligns with the first priority of the Sustainable Community Strategy “nurturing strong communities” and is part of Cheshire East’s stated drive to ensure that working locally is at the heart of what we do.

6.2 National policy is designed to decentralise government and give communities power to make a difference in their area. This initiative clearly aligns with this national drive.

**7.0 Financial Implications (Authorised by the Director of Finance)**

7.1 The financial implications are detailed, complex and uncertain as they are dependent on results of negotiations with Town and Parish Councils and the changing costs and implications over time.

7.2 The financial implication from an asset value perspective is that the assets being proposed for transfer amount to approximately £6m in total with a further £5m worth of assets being requested by Town and Parishes outside the categories of service delivery listed at section 1.1

The proposal is to transfer the Civic and Community Halls for a nominal value (£1) and either transfer for nominal value or agree a long term lease for other asset categories. This is subject to further discussion with the District Valuer and external auditors. Appropriate formal valuations will be necessary.

7.3 The overall on-going revenue implication of this initiative is a saving of up to £450k per annum. The savings assumptions have already been factored into the medium term financial plans of the authority given the in principle support for this project in July 2010. There will be additional support services cost savings arising out of the transfers once complete which can not be quantified until negotiations with Towns and Parishes are finalised.

7.4 In 2009/10 an ear marked reserve of £625k was set aside to support the localism agenda of Cheshire East. Consideration should be given to allocating a proportion of this to support the transfer of assets to Town and Parish Councils who are involved in the first phase of transfers.

The balance thereafter will then remain to support future transfer or devolution of services

- 7.5 It should be noted that transferring the package of services proposed will result in some Town Councils requiring an increase in their level of precept. However, part of the benefit of this initiative is that the Town Councils can focus on energising the services in their area, in consultation with local people, and can join up these services with their existing initiatives and either generate more income or tailor the services more effectively to bring an overall reduction in cost.
- 7.6 A great deal of work and discussion has taken place within Town Councils and with Cheshire East to understand the cost drivers and also look for ways of reducing the impact on local taxation. Clearly this is a matter for each individual Town or Parish Council and many have undertaken their own consultation to establish whether residents would be prepared to pay for the services that are being proposed to transfer.
- 7.7 In a number of cases the inclusion of the Market function as part of the overall package of assets to transfer will help to mitigate some of the costs associated with other transferred assets

Any debts associated with the function at the point of transfer will need to be discussed with the relevant parties and agreement reached as to how best to recover them.

Equally some Councils have asked for additional assets to transfer to help mitigate the financial effects. Initial analysis suggests that these will not all be appropriate for transfer. These are included at Appendix B and recommendation 2.2.

- 7.8 It should be noted that the impact of harmonisation of staff terms and conditions across Cheshire East may increase the cost of running some of the facilities being proposed for transfer. This relates to Civic and Community Halls where the current shift arrangements are not subject to enhancements whereas the new proposals may increase staffing costs at these venues. There are also potential residual costs for any staff where transfer under TUPE is not relevant but their post is no longer necessary as a result of the transfers.
- 7.9 A need for up to £200k was originally identified in the report to Cabinet in July 2010 for additional project management and legal resources to support this initiative. To date, the programme has been managed within existing resources. At this crucial stage and throughout the project additional resource will be required in property and legal services to ensure the appropriate controls and assistance are put in place to allow a smooth transfer. This will be funded from the ear marked reserve.

- 7.10 The issue of the condition of the asset on transfer has been raised by all the Town Councils taking part in this initiative. There may be some negotiation on the condition of assets at transfer that could result in a capital cost to the council; A position will need to be reached that is acceptable to both parties.

**8.0 *Legal Implications (Authorised by the Borough Solicitor)***

- 8.1 It is imperative that we get the legal process for transfer right. The legal basis for the transfer comes from our general well being powers. Details of Terms of transfer are contained in Section 10.12 of the report.

- 8.2 The Council can dispose of any land for less than the best consideration that can be obtained in reliance on the Local Government Act 1972 general disposal consent (England) 2003 if:

(a) it considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects of the whole or any part of its area, or all or any persons resident or present in its area:

- a. The promotion or improvement of economic well-being;
- b. The promotion or improvement of social well-being;
- c. The promotion or improvement of environmental well-being;

(b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2m; and all other conditions and requirements of the Consent are satisfied.

(c) All other conditions and requirements of the consent are satisfied

- 8.3 As more fully reported to cabinet on 19<sup>th</sup> July 2010:

(a) In transferring assets the Council must behave prudently to fulfil its fiduciary duty

(c) The Monitoring Officer will require to be satisfied that the councils to which services are wished to be devolved have the ability to assume the obligations on the Council's behalf lawfully and effectively. Publications such as "The Guidance note: service delegations to parish and town councils" written for the Commission of Rural Communities and National Association of Local Councils, will help all the parties to understand the benefits and challenges of transfer along with their respective responsibilities going forward.

- 8.4 The Council will also need to comply with any new requirements in the Localism Bill once it becomes an Act, and in particular new provisions dealing with Assets of Community Value (also known as the Community Right to Buy). Under the current proposals Councils will be required to maintain a list of Assets of Community Value ie land and buildings considered to be of Local Community benefit. Local organisations will be able to nominate assets for inclusion in the list and any future disposals will need to follow a process designed to give the opportunity for Community groups to acquire the asset to safeguard its long term availability for community use.
- 8.5 It will be necessary to advertise the potential disposal of any open space within assets desired to be transferred.
- 8.6 If the Council does retain the freehold of any land, then it will remain responsible for the condition of the land/buildings on it under the relevant statutes such as the Defective Premises act 1992.

## **9.0 Risk Management**

- 9.1 There are a number of significant risks arising from this project. The main risk is that a smooth transfer cannot be achieved and the service to the public is adversely affected. This can be mitigated by ensuring that appropriate support is put in place between the two parties, using short shadow periods where relevant; strong head of terms agreements in place at transfer; detailed negotiations and openness between both parties; detailed planning by individual Town and Parish Councils; on-going support from Cheshire East on key support functions that are unfamiliar to Towns and Parishes. It will not be possible to offer legal support services, however, as there is a potential conflict of interest. Other services could be offered on a chargeable basis.
- 9.2 There is a risk that Cheshire East will not have the capacity to support this project to the level required given the extensive detailed work involved in the next 6 months. This can be mitigated by extra resource from the Ear Marked reserve. (see 7.9).
- 9.3 There is a risk that individual Town and Parish councils do not have the capability and/or capacity to deliver the new functions and that this affects service delivery or safety. Cheshire East Council is supporting Town and Parishes to ensure that transfer is successful and this is a matter for each individual Council. However, many Councils have taken advice from external parties, examined examples of successful transfers in other Towns and have been working for some time on their business plans in relation to the transfers to mitigate this risk.

- 9.4 A further risk is that the financial savings are not achieved in the short or longer term. This can be mitigated by ensuring that the support services costs in Cheshire East, post transfer are included in efficiency reviews and the business planning process. Once the services are transferred the Towns and Parishes have an opportunity to make further efficiencies and it will be for each Council to put arrangements in place. This is well understood by the Towns and Parishes.
- 9.5 There are HR risks in terms of the staff transferring and appropriate arrangements being put in place. These are being managed by the project manager and the HR team.
- 9.6 There are other risks around failure to fully capture all the detailed implications e.g. Cheshire East services remaining in transferred venues, Cheshire East's reduction in venues and possible additional costs arising, short term effect on the balance sheet and writing down the asset value. These are being raised as they arise and dealt with appropriately. Cross functional working within the authority is strong on this project and, the detailed heads of terms will cover significant areas.

## **10.0 Background and Options**

### **Overview and Benefits**

- 10.1 This initiative is part of a range of activities designed to strengthen local communities. It recognises that Towns and Parishes are the tier of government closest to the community and that Cheshire East respects and values the important role that local Councils already play in the Community.
- 10.2 There are a number of different aspects to this general philosophy:
- Firstly, there are those services where Cheshire East is minded to no longer fund and where the service is capable of being delivered by local Councils.
  - Secondly, there are those individual situations recognising the hugely diverse nature of Cheshire East where on a case by case basis it makes sense for local Councils to deliver services or hold assets.
  - Thirdly, there are some local services which Cheshire East has statutory responsibility to deliver but would be happy to see delivered by local Councils.
  - Fourthly, there will be circumstances linked to any of the first three items where Cheshire East no longer proposes to deliver a service or function and the local Council is unable or unwilling to deliver it. This provides opportunity for other community options to be considered as a potential solution. All of this strongly links to the localism ideology of central government and Cheshire East's commitment to implement a local way of working.

- 10.3 This report is concerned with a group of services falling into the first category above, possible services/assets within the second and briefly commenting on the current devolution pilot relevant to the third point above.

### **Transferred Services**

- 10.4 The Services being proposed for transfer are:

Civic Halls  
Community Halls  
Allotments  
Public Conveniences  
Markets  
Other services (hanging baskets, Christmas lights & Trees,, Britain in bloom street furniture including benches and planters)

The asset related services are listed by Local Council in Appendix A. There are also a number of other assets/services listed in Appendix B where local Councils have asked for transfer. Initial analysis of the assets in Appendix B suggest that a number of them will not be suitable for transfer.

The services in the list above and at Appendix A will be transferred to the local councils who will have full responsibility for the asset and service delivery. Relevant financial implications will be reflected in each council's precept . Local Councils have considered the implications and have indicated that they are in a position to formally negotiate the transfer. Their decisions are in principle and subject to final legal agreement.

- 10.5 Public Conveniences. In the majority of cases public conveniences can transfer to Towns and Parish Councils. Through legacy contracts, a range of automatic toilets with expensive buy-out terms are in place. These will need to be considered as part of a separate review.
- 10.6 Parks and Play Areas. A number of councils have expressed an interest in taking on the ownership and maintenance of parks and play areas. This is closely linked to devolving grounds and park maintenance services and it is felt more appropriate to include this in discussions on devolution. This timescale allows a phased approach which would seem sensible in any event.

#### 10.7 Town Centre Management

The town centre management across Cheshire East provides a valuable service to local towns through supporting events, engaging with retailers and providing a co-ordination point into the Council for local town and parish councils. It is anticipated that, in time, the function is transferred to local areas and parishes/town councils pick up both the activity and provide the funding through local precepts.

The new delivery model is to focus town centre management on our two principle towns, Macclesfield and Crewe to support the Macclesfield Economic Masterplan and All Change for Crewe initiatives. Operational from 1<sup>st</sup> April 2012, one of the two posts will be dedicated to each town to deliver specific programmes of events and activities linked to the local strategies. Support for Christmas events and Christmas lights will follow the model outlined above. 2011 will be the final year for providing dedicated support for Christmas lights and activities in all town centres apart from Crewe and Macclesfield.

The current model does not take account of the fact that some town councils already provide dedicated town centre management not funded through Cheshire East Council. There is a strategic case for dedicating scarce Cheshire East resources on our two largest town centres. The remaining towns and local areas will in some areas continue to deliver their own town centre management functions such as Congleton and Middlewich. In those areas where Cheshire East support is currently provided such as Poynton and Wilmslow, discussions will commence to build up local provision prior to 1<sup>st</sup> April 2012 and where necessary fund through local means.

The delivery model outlined above could also continue to deliver town centre management functions across the remaining towns and parishes if local areas wish to commission the Council to provide the service and fund through local means. Negotiations will commence in the Autumn to determine the level of interest in this option so the Council can align resources appropriately by 1<sup>st</sup> April 2012.

#### **Un-parished and Newly Parished Areas**

- 10.8 The relevant assets and services including in this initiative in Crewe and Macclesfield (un-parished) and Wilmslow (newly parished) are not currently included in the proposed transfer as the un-parished areas have no power to run these services or obtain assets through the Charter Trustees. In Wilmslow, the Town Council is too new to take on these functions by April 2012.

- 10.9 In order to present a similar opportunity and approach in the un-parished areas, the Council has set up Local Delivery Committees who will recommend the local service levels for this suite of services and review the financial implications. An option is to raise a special expenses" levy through CEC to ensure that local people pay for the level of local services they receive. The committees have recently been constituted and will be able to meet during the Autumn in line with the business planning process to enable decisions to be taken. The introduction of a special expense levy is unlikely to be necessary based on the current financial analysis. Once the figures have been discussed the cabinet may wish to set a de-minimus level so that a tax is not levied if the revenue to be generated is marginal.
- 10.10 One of the new Parish Councils, Wilmslow Town Council, formed in May 2011 has assets in its area that are relevant to this transfer. Clearly they have not had time to consider the opportunity afforded through this policy in the short time of their existence so it is proposed that negotiations are carried out with this council and transfers implemented where appropriate in April 2013. It is expected, however that the new parishes are treated consistently in April 2012 with regard to the more minor services e.g. Christmas lights, street furniture, hanging baskets.

### **Devolution of statutory services**

- 10.11 This report describes and requests decisions on transfer of assets and services. For some months a devolution pilot has been in place in the Congleton Town Council area. Early indications are that this pilot has led to successful ways of working and more local input into the service delivery in the locality. Decisions will soon be required on formally taking devolution forward, and consideration will need to be given to different types of delegation schemes, their set-up and the implications for the local councils and how the delegation is managed and monitored.

Devolution will be subject to a separate cabinet report.

### **Property Transfer - Legal Terms**

- 10.12 Every transfer will be effected by a legal agreement. These will be drawn up by the Borough Solicitor in conjunction with the Assets team. The following are the general principles/terms:
- There is a presumption that the transfer of assets will protect community use of the assets
  - There is a further presumption that no car parking will transfer unless it is essential to the on going operation of the facility

- The transfer will take place for a nominal value (£1) and the Town or Parish Council will be wholly responsible for the service and the asset save insofar as the Council chooses to take back leases of accommodation within the asset or enter into joint use arrangements or has residual legal responsibilities under contracts or legislative provisions.
- The agreement will secure an overage mechanism for the Council if there is a future planning permission which enhances the value of an asset or the Town or Parish Council sells the asset within a period of up to 25 years.
- Where Cheshire East services will remain in a transferred asset e.g. (libraries) it will only be responsible for general outgoings and repair and maintenance of the premises it occupies and may pay a service charge; no rental or occupancy charge will be due. Appropriate access and operational arrangements will be agreed.

### **HR Issues – Staff Transfer and TUPE**

- 10.13 The general principle of transfer will be that TUPE applies and that staff will transfer to the relevant Town or Parish Council. Provision TUPE lists have been provided to the local Councils and staff affected are aware of the proposals. Formal processes will need to be put in place to ensure a fair and smooth transfer. There are likely to be some individual instances where the transfer is subject to negotiation e.g. where a member of staff spans several relevant transferring assets but not a significant proportion at one particular asset. There may be residual costs arising where TUPE does not apply but a post is no longer required as a result of transfer. HR advice, good practice and negotiation will be used to resolve such issues.

### **Options for Assets and Services not transferred to Local Councils**

- 10.14 Where local councils decide not to take over the services proposed for transfer within this initiative, the future of such facilities needs to be determined. This will depend on the nature of the asset and the reason it has not been transferred. In some cases, this is because the facility is not well used and does not constitute value for money in which case it makes sense to cease it. In others it may be that the function is seen as important by the community but that a different delivery model will be required e.g. through the establishment of a social enterprise models where a number of local organisations would resource and run facilities. This is now under consideration and will form part of the usual budget and policy setting processes within the council. There should be few assets and functions in this position as Town and parish councils have, in the main, indicated a desire to take them over.

## **Transitional Funding**

- 10.15 An ear marked reserve of £625k was set outside at the inception of Cheshire East to support local working. Part of this fund will be made available to those Towns and Parishes councils taking on major transfers based on the number, scale and complexity of the packages of assets and functions they are taking on. Such allocations will be discussed on the basis that they can only be claimed based on evidence that the expenditure is specifically supporting the transition, and that the Councils can demonstrate that their own reserves cannot be applied to support the transfers.
- 10.16 It is also recommended that the remaining CEC fund is kept under review as further services and functions are considered for devolution and / or transfer. An additional allocation is also proposed for the two Parish Councils (Holmes Chapel and Prestbury) participating in minor transfers of public conveniences, based on the fact they have very little funding to refurbish facilities and would be unable to undertake them without this support which would part fund the total cost of renovation.

## **11.0 Next Steps**

- 11.1 There has been a tremendous amount of energy and commitment by the Town and Parish Councils into this initiative which is to be welcomed and supported. Clearly this is a challenging task for both Cheshire East and individual Towns and Parishes. The CEC Town and Parish Working Group which includes senior representatives across the Borough and two Cheshire East Councillors (who are also Town Councillors) has been instrumental in achieving huge progress and their contribution should be formally recognised.

Inline with recommendations within this report and due to the fact that the negotiations are at an advanced stage is felt that the group should no longer continue in its current form and therefore be dissolved

- 11.2 There is vast potential to work with this critical layer of local government and develop their role as a key provider of local services in partnership with other third parties, as part of the Council's commitment to transforming services and ensuring they are delivered at the right level and in the most effective way. This goes beyond the running of local venues and may include the wider provision of preventive services and community wellbeing.
- 11.3 A number of Town and parish councils have already registered an interest in the delivery of further services in future years either independently or through the development of a Community Trust or Social Enterprise. These should be considered post implementation of this first phase of this project.

- 11.4 Once the decisions requested by cabinet are clear, a fully detailed project plan will be drawn up to ensure that the phasing of transfers and the necessary steps to transfer are explicit. Local councils need sufficient information to set a realistic budget for 2012/13 and raise the necessary precept and key milestone dates will form part of the plan.

## **12.0 Access to Information**

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

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List of assets to transfer by individual areas					
Town / Parish Council	Town and Civic Halls	Community Halls	Markets	Public Conveniences	Allotments
Audlem Toliets				Cheshire Street (Already Transferred)	
Alsager	Alsager Civic Hall, Lawton Rd, Alsager		Alsager Outdoor Market (located on carpark at rear of Civic Hall)	Crewe Road, Alsager	Cedar Avenue
					Coronation Avenue
					Talke Road
					Lawton Road
Middlewich	Middlewich Civic hall		Outdoor	leadsmithy street	Booth Lane
				Southway	
				France Hayhurst Pavilion	
Sandbach	Sandbach Town Hall, Highstreet,		Indoor Market, retail units and Market store	Town centre, Sandbach	
			Outdoor Market		
Knutsford	Civic Hall, Toft Rd (Transfer is subject to a separate exercise to find an operator)	St Johns Wood	Indoor market	Bexton Rd	Warren Avenue
				King Street	Mereheath Lane
				Northwich Road	Sparrow Lane
Bollington					Harrop Rd
	Civic Hall				
Nantwich	Nantwich Civic Hall, Market Street, Nantwich	The Gables, Beam Street, (There are specific issues with this Asset that will need further negotiation)	Nantwich indoor and Outdoor Markets, Market street,	Barony Park toilets, Barony Road, (currently Closed)	Welshman's Lane
				Snow hill, Snow Hill carpark,	Brookfields, Brookfield Lane
				Nantwich Market, Market Street,	Brookfields 1, Brookfield lane
Poynton					Coppice Road
Disley		Disley Community Centre			
Holmes Chapel				London Rd	
Prestbury				The Village Rd	
Willaston					Crewe Road
Wistaston					Wistaston Green
Adlington					Meadowside
Shavington					Gresty Lane
Alderly Edge					Ashbrook Road
					Beech Close
					Chorley Hall Lane
					Heyes Lane
Congleton	Linked to Devoultion Pathfinder- asset due to transfer as part of the project				

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Town and Parish Councils-Other Assets Including Land		
	For Review and Possible Portfolio Holder Decision	Requested but not Proposed to Transfer
Alsager	Alsager Office, Lawton Rd	
Middlewich	Victoria Buildings, Middlewich street	
	Brine Pump	
	Land of Rutland Drive	
	Fountain Fields- Bowling Green & Pavillion	
	Playing Fields, Wych House lane	
Sandbach	Disused (fenced off) playground, junction of Princess Drive	Scotch Common (Car Park)
	Wilkinson House London Road Elworth	Small Common (Car Park) <b>This needs further consideration as the TC have commented that this could jeopardis the transfer of the Town Hall complex</b>
	Closed Highway end of Milbrook way	
	Land South of and adj to Sandbach Station (currently container Storage	Sandbach enterprise Centre
Knutsford	Town Council Offices, Toft Road	
Bollington	Town Hall	
Nantwich	Brookfield Hall, (Portacabin occupied by town Council) Brookfield lane, Nantwich	
Poynton with Worth	Land between London Road / Dickens Lane / and Poynton Brook	Vernon infants School
	London Rd North Depot	
	Anson Road Depot	
	Garages off Barnby Road	
	Scout Hut off Coppice Road	
	Land behind Petre Bank Cottages on Middlewood Road	
Disley	Ballcourt ( Multi use games area) Station Approach	

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