

Council Agenda

Date: Thursday, 19th July, 2012
Time: 6.00 pm
Venue: Grand Hall, Congleton Town Hall, High Street, Congleton
CW12 1BN

The agenda is divided into two parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

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

1. **Apologies for Absence**
2. **Minutes of Annual Council Meeting - 16 May 2012** (Pages 1 - 14)
To approve the minutes as a correct record.
3. **Mayor's Announcements**
To receive such announcements as may be made by the Mayor.
4. **Declarations of Interest**
To provide an opportunity for Members to declare any personal and/or prejudicial interests in any item on the agenda.
5. **Public Speaking Time/Open Session**

In accordance with Council Procedure Rule 35 and Appendix 7 to the rules, a total period of 15 minutes is allocated for members of the public to speak at Council meetings.

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

Members of the public 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. It is not a requirement to give notice of the intention to make use of public speaking provision. However, as a matter of courtesy, a period of 24 hours notice is encouraged.

6. **Notices of Motion** (Pages 15 - 18)

To consider the attached Notices of Motion, which have been received in accordance with Procedure Rule 12.

7. **Recommendation from Cabinet - Shadow Health and Wellbeing Board Terms of Reference** (Pages 19 - 48)

To consider the recommendation of Cabinet and to approve the Shadow Health and Wellbeing Board Terms of Reference.

8. **Recommendation from the Standards Committee - Localism Act 2011, New Code of Conduct** (Pages 49 - 80)

To consider the recommendation of the Standards Committee.

9. **Recommendation from Constitution Committee - Proposed Amendment to Audit and Governance Committee's Terms of Reference and the Council's Procedure Rules** (Pages 81 - 88)

To consider the recommendation of the Constitution Committee.

10. **Recommendation from Constitution Committee - Notice of Motion on Changes to the Arrangements for Scheduled Committee Meetings** (Pages 89 - 92)

To consider the recommendation of the Constitution Committee.

11. **Recommendation from Licensing Committee - Skin Piercing Bye-laws** (Pages 93 - 106)

To consider the recommendation of the Licensing Committee.

12. **Report back from Strategic Planning Board on the Notice of Motion Relating to Community Levy Payments** (Pages 107 - 114)

To note the decision of the Strategic Planning Board.

13. **Capital Programme Approvals - Schemes over £1m** (Pages 115 - 120)

To approve virements and Supplementary Capital Estimates totalling £4.3m to the schemes as set out in the report.

14. **Additional Grant Funding** (Pages 121 - 126)

To approve additional service expenditure for 2012/2013, fully funded from unspent specific grant allocations from 2011/2012, as detailed in the Appendix to the report.

15. **Pay Policy Statement 2012/13 Update** (Pages 127 - 152)

To approve the updated Pay Policy Statement for 2012/13

16. **Overview and Scrutiny Annual Report 2011/12** (Pages 153 - 172)

To receive the Overview and Scrutiny Annual Report 2011/12.

17. **Questions**

In accordance with Procedure Rule 11, opportunity is provided for Members of the Council to ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities. Questions must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting.

At Council meetings, there will be a maximum question time period of 30 minutes. Questions will be selected by the Mayor, using the criteria agreed by Council. Any questions which are accepted, but which cannot be dealt with during the allotted period will be answered in writing. Questions must be brief, clear and focussed.

18. **Exclusion of Press and Public**

The report 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 matters may be determined with the press and public excluded.

The Committee may decide 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 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

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

19. **Recommendation from Staffing Committee - Senior Management** (Pages 173 - 182)

To consider the recommendation of the Staffing Committee.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Wednesday, 16th May, 2012 at Tatton Park - Knutsford

PRESENT

Councillor R West (Chairman)
Councillor G M Walton (Vice-Chairman)

Councillors C Andrew, Rachel Bailey(pm only), Rhoda Bailey, G Baxendale, D Bebbington, G Boston, D Brickhill, D Brown, L Brown, B Burkhill, P Butterill, R Cartledge, J Clowes, S Corcoran, H Davenport, W S Davies, R Domleo(am only), D Druce(pmonly), K Edwards, P Edwards, I Faseyi, J P Findlow, W Fitzgerald, R Fletcher, D Flude, H Gaddum, S Gardiner, L Gilbert, P Groves, J Hammond, M Hardy, A Harewood, P Hayes, S Hogben, D Hough, O Hunter, J Jackson, L Jeuda, M Jones, S Jones, F Keegan, A Kolker, W Livesley, J Macrae, D Mahon, D Marren, A Martin, M A Martin, P Mason, S McGrory(pm only), R Menlove, A Moran, B Moran, B Murphy, D Neilson, D Newton, P Nurse, M Parsons, P Raynes, M Sherratt, B Silvester, M J Simon, L Smetham, D Stockton, C G Thorley, A Thwaite, D Topping, G Wait, M J Weatherill, P Whiteley, S Wilkinson and J Wray

Apologies

Councillors Domleo(pm only) M Grant, P Hoyland, G Merry, H Murray and L Roberts, Rachel Bailey (am only), Druce (am only), McGrory(am only).

1 APOLOGIES FOR ABSENCE**2 DECLARATIONS OF INTEREST**

Councillors G Walton and D Flude declared a personal interest in the agenda items relating to appointment of Mayor and Deputy Mayor 2012/13 by virtue of being the persons nominated.

3 ELECTION OF MAYOR 2012/13

Council was requested to elect a Mayor for the Borough of Cheshire East for 2012/13, who would also act as Chairman of the Council for that period.

It was proposed by Councillor Macrae , seconded by Councillor Wilkinson, and :-

RESOLVED

That Councillor G Walton be elected Mayor of the Borough of Cheshire East for the year 2012/13 and Chairman of the Council for that period.

The Mayor completed his Declaration of Acceptance of Office and was then invested with the Chain of Office. The Mayor thanked the Council for electing him to this office and informed Members that his wife, Veronica Walton, was to be his Mayoress; she was then invested with the Chain of Office.

4 APPOINTMENT OF DEPUTY MAYOR 2012/13

Council was requested to appoint a Deputy Mayor of the Borough of Cheshire East, who would also act as Vice-Chairman of the Council for that period.

It was proposed by Councillor Thorley, seconded by Councillor Jackson, and

RESOLVED

That Councillor D Flude be appointed as Deputy Mayor of the Borough of Cheshire East for the year 2012/13 and Vice-Chairman of the Council for that period.

The Deputy Mayor thanked the Council for appointing her to this office.

5 APPOINTMENT OF MAYOR'S CHAPLAIN

The Mayor announced that his Chaplain for the forthcoming Municipal Year would be Rev Canon Michael Walter. He thanked Rev Canon Walter for attending the meeting and looked forward to his guidance during his term of office.

6 VOTE OF THANKS TO THE RETIRING MAYOR

Councillor Fitzgerald paid tribute to the retiring Mayor and Mayoress, Councillor West and Mrs West, for the dedicated work they had undertaken during their term of office and for the money they had raised for charity.

The Mayor presented Councillor West with his Past Mayor's medal. The Mayor's daughter, Carrie West, accepted the Past Mayoress's Medal on behalf of Mrs West, who was unable to attend the meeting.

Councillor West gave a speech of thanks.

7 ADJOURNMENT FOR LUNCH AND RECONVENING OF MEETING AT 2.30PM

At this point the meeting stood adjourned and was reconvened at 2.30pm, to consider the remaining items of business on the agenda.

8 DECLARATIONS OF INTEREST

The Mayor asked whether there were any declarations of interest relating to the remaining items of business on the agenda.

There were no further declarations of interest.

9 APOLOGIES FOR ABSENCE

It was noted that Councillors McGrory, Druce and Rachel Bailey had submitted apologies for absence for the morning session of the meeting, but were in attendance for the afternoon session and that Councillor Domleo had left the meeting.

10 MINUTES OF THE MEETING HELD ON 19 APRIL 2012

RESOLVED

That, subject to the addition of Councillors Mahon, S Jones, Kolker, Livesley and Marren to the list of those present and the addition of Councillor Bebbington to the list of apologies, the minutes be approved as a correct record.

11 PUBLIC SPEAKING TIME/OPEN SESSION

1. Mr John Mc Cann, representing the Diocese of Shrewsbury, used public speaking time to address Council regarding Home to School Transport. There were a number of issues, which the Diocese had drawn to the attention of the Cabinet, at its meeting on the 30th April. The Director had posed a number of questions to which answers were sought on the understanding that such answers may not be have been available at that meeting. He repeated the questions and indicated that the Diocese still sought answers.

He also stated that the Resolution passed at the Cabinet meeting represented a significant change in policy, which he considered should have been the subject of consultation and phased in.

Mr Mc Cann indicated that failure to have due regard to statutory guidance could leave the Council open to challenge. He urged the Council urged to reconsider the timing and impact that the introduction of this policy would have on students, their families and the schools.

2. Mrs Judie Collins used public speaking time to speak on behalf of KAFKA, the group which had been formed to fight for local services in Knutsford.

She referred to the democratic processes which had been gone through - a large petition, overview and Scrutiny, call ins. She felt that the problem was that the old administration did not take any action and she hoped that perhaps the new one would.

Over a month ago she had met with Senior Officers to discuss a number of issues and was still awaiting a response. She had attended a talk on Participatory Budgets and Localism in the preceding week, when it was pointed out that some Councillors believed that after voting them in, the public had no further right to opine. She stated that the Cheshire East Councillors representing Knutsford all had Cabinet support responsibilities, which she felt meant that they followed the party line, rather than listening to their constituents.

She stated that the new administration began without local elections and who knew what might have happened if the public had been able to vote. Much had been promised and she felt that there now needed to be a complete rethink on officers/public relationships.

3. Mrs Mabel Taylor, also speaking on behalf of KAFKA, stated that, as the Council would be well aware, she had previously spoken about the loss of social care services in Knutsford, and specifically about the way the closure of Bexton Court had been handled. It has been asserted by officers that full consultations had taken place with the public regarding the closure and mention has been made of the meeting at the Civic Centre, called to discuss the future of the Stanley Centre.

Officers maintained that Bexton Court was discussed at the meeting, but she claimed to have a list of people who would attest to the fact that it was not discussed. She, therefore, requested that all interested parties be advised as to where and when proper consultations would take place regarding the closure of Bexton Court.

4. Mrs Charlotte Peters Rock, also speaking on behalf of KAFKA, used public speaking time to congratulate the New Mayor, Cllr George Walton on his ascent to office.

She had made numerous statements in defence of the care of the disabled and elderly dementia sufferers and their family carers, refuting the claims made by Senior Council Officers, Portfolio Holders and by the retired Council Leader. She considered that they had rung on deaf ears, so having consulted Cheshire East Constitution for styles of speaking, she had chosen to present her views in song to the Council.

5. Honorary Alderman Terry Beard used public speaking time to ask a question regarding the cessation of the Dial-a-ride service in Crewe. He stated that the elderly and disabled relied on the service and asked what the Council was planning to put in its place.

12 **MAYOR'S ANNOUNCEMENTS**

The Mayor :-

1. Informed Members, that as this was the first business meeting of the new Municipal Year, he would like to share with them a little about the way in which he intended to fulfil his responsibilities as Chairman of Council meetings. He was intent upon ensuring that the meetings were well run and also that they afforded a fair opportunity for Members of the Council and members of the public to participate. He was confident that the officers of the Council would facilitate this in their preparations for meetings, but he would require Members of the Council to also play their part.
2. Informed Members that, since this was his first formal business meeting, he would not be able to report to them upon previous civic activities as Mayor. However they could be assured that he would give a good account of his engagements in the future.
3. Reported that Councillor Brian Silvester had asked him to pass on the good wishes of Cheshire East Council to Crewe Alexandra Football Club in the Division Two play-off semi final, with the hope that they would win through to Wembley, were successful in the final and would achieve a much deserved promotion to Division One. He was, of course, happy to do this and he had already sent a letter to the Club, which included his own good wishes.
4. Requested that Members note that his Civic Service would be held on Sunday 15 July, in Knutsford and his Charity Ball would take place on Friday 14 September, at Tatton Park.

13 **ELECTION OF LEADER OF THE COUNCIL**

Consideration was given to the election of Leader of the Council for the statutory four year term of office.

Three nominations were received as follows:-

Councillor Michael Jones

(Proposed by Cllr Fitzgerald and seconded by Cllr Groves).

Councillor Ken Edwards

(Proposed by Cllr Hogben and seconded by Cllr Nurse).

Councillor Arthur Moran

(Proposed by Cllr P Edwards and seconded by Cllr Parsons).

In accordance with the requirements of the Constitution, a secret ballot was conducted.

The result of the secret ballot was as follows:-

Councillor M Jones - 48 Votes
Councillor K Edwards – 14 votes
Councillor A Moran - 10 Votes
Unmarked – 1

RESOLVED

That Councillor Michael Jones be appointed Leader of the Council for a four year term of office.

Councillor Jones thanked the Council for appointing him to this office and paid tribute to the very effective Leadership of the Council, by Councillor Fitzgerald since 2008 and offered thanks and appreciation, on behalf of the Council, for his commitment to this work over the past 4 years.

14 APPOINTMENTS TO THE CABINET/LEADER'S ANNOUNCEMENTS

The Leader of the Council, Councillor Michael Jones, presented to Council information about executive functions in the forthcoming year, including the names, addresses and electoral divisions of those Members appointed to the Cabinet, as attached.

RESOLVED

That the information on executive functions in respect of the forthcoming year be noted.

15 POLITICAL REPRESENTATION ON THE COUNCIL'S COMMITTEES

Consideration was given to a report inviting the Council to determine political representation on the Council's Committees.

Documentation showing the proportional distribution of seats on Committees, amongst the political groups (Appendix 1 of the report) was also submitted.

RESOLVED

That the political group representation, as set out in Appendix 1 of the report and the methods, calculations and conventions used in determining this, as outlined in the report, be adopted.

16 APPOINTMENT OF MEMBERS TO COMMITTEES

Details of the political groups' nominations of Members to Committees were circulated at the meeting.

RESOLVED

That, the existing Committees, listed on the circulated Appendix, be appointed with their existing powers, together with the memberships as shown, subject to the following changes to the nominations from the Independent Group :-

Children and Families Scrutiny Committee – Delete Cllr Mahon and add Cllr Butterill.

Environment and Prosperity Committee – Delete Cllr Butterill and add Cllr Brickhill.

Audit and Governance Committee – Delete Cllr Moran and add Cllr Roberts.

Northern Planning Committee – Delete Cllr Roberts and add Cllr Mahon.

(An appendix, which includes all the approved appointments is attached to these minutes).

17 APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMEN

Consideration was given to the appointment of Chairmen and Vice-chairmen of the Council's decision making and other bodies.

The Political Group Leaders' nominations of Chairmen and Vice-chairmen of the Council's decision-making and other bodies was circulated at the meeting.

It was proposed by Councillor M Jones, seconded by Councillor Brown and:-

RESOLVED

That the Chairmen and Vice-chairmen of the Council's decision-making and other bodies, as listed in respect of the previous minute, as circulated at the meeting (and as attached to the minutes) be appointed.

18 APPOINTMENTS TO CHESHIRE FIRE AUTHORITY, CHESHIRE POLICE AUTHORITY AND CHESHIRE POLICE AND CRIME PANEL

Consideration was given to appointments to the Cheshire Fire Authority, the Cheshire Police Authority and the Cheshire Police and Crime Panel.

It was proposed by Councillor M Jones, seconded by Councillor Brown and :-

RESOLVED

1. That Councillors M Simon, J Weatherill, W Livesley, D Topping, G Merry, C Thorley, D Flude and D Brickhill be nominated to serve on the Cheshire Fire Authority.

2. That Councillors P Findlow, H Murray, and P Nurse be nominated to serve on the Cheshire Police Authority.
3. That Councillors P Findlow, H Murray, W Fitzgerald and P Nurse be nominated to serve on the Cheshire Police and Crime Panel.

19 APPOINTMENTS TO PANELS

Consideration was given to appointments to the Adoption Panel, Fostering Panel and Cheshire Admissions Forum.

It was proposed by Cllr M Jones and seconded by Cllr Brown and:-

RESOLVED

1. That Councillor G Wait be appointed to the Adoption Panel.
2. That Councillors R West and P Nurse be appointed to the Cheshire Admissions Forum.
3. That Councillor P Hoyland be appointed to the Fostering Panel.

(The Leader of the Council agreed to give further consideration to the appointment of an additional representative from the Labour group on the Adoption Panel).

20 RECOMMENDATION FROM THE CONSTITUTION COMMITTEE - PROPOSED COUNCIL GOVERNANCE ARRANGEMENTS

The recommendations of the Constitution Committee relating to proposed new Council Governance Arrangements were proposed by Cllr A Martin and seconded by Cllr Marren.

RESOLVED

That :-

- (1) with effect from the end of a shadow period of operation, which shall end no earlier than September 2012, the existing Overview and Scrutiny Committees will be dissolved and be replaced with two Overview and Scrutiny Committees with the names and provisional terms of reference set out in Appendix 1 of the submitted report;
- (2) with immediate effect Council establishes, initially in shadow form, up to nine Policy Groups, aligned with the Cabinet, with the provisional terms of reference set out in Appendix 2 of the submitted report;

- (3) the Leader will determine the size and cross party composition of the Policy Groups and invite the Political Groups to notify the Borough Solicitor of their nominations;
- (4) the consideration of the terms of reference of the two new Overview and Scrutiny Committees be referred to the Overview and Scrutiny Chairmen in the June/July cycle of meetings and the terms of reference thereafter be finalised by Council, following consideration by the Constitution Committee;
- (5) the consideration of the terms of reference of the new Policy Groups be referred to the shadow Policy Groups in the June/July cycle of meetings and thereafter be finalised by Council, following consideration by the Constitution Committee; and
- (6) the Borough Solicitor submit a further report to Council which will enable Council to formalise all remaining arrangements following the shadow period.

21 RECOMMENDATION FROM STANDARDS COMMITTEE - STANDARDS REGIME UNDER THE LOCALISM ACT

The recommendations of the Standards Committee relating to the Standards Regime under the Localism Act were proposed by Cllr Hammond and seconded by Cllr Groves.

RESOLVED: That :-

- 1 the Council's existing model code of conduct for elected members and the procedure for the investigation of complaints under the code remain in force on an interim basis until the next meeting of the Council in July 2012, when further recommendations will be brought forward for the adoption of a new code of conduct;
- 2 the Audit and Governance Committee establish, on an ad-hoc basis, a Sub-committee with delegated powers to deal with standards issues, with effect from the next meeting of the Council in July 2012;
- 3 the draft terms of reference at Appendix (i) of the report submitted be adopted in respect of the Audit and Governance Sub-committee;
- 4 the Monitoring Officer be given delegated authority to undertake a recruitment process for up to three Independent Persons as required under Section 28(7) of the Localism Act 2011 once details of the transitional provisions have been received;
- 5 if necessary, in order to comply with statutory timescales, the Council's Urgency Sub-committee shall approve the provisional appointment of the Independent Persons subject to formal ratification by the Council at its July meeting; and

- 6 Members note that work is ongoing to draft a new standards code of conduct with a view to it being adopted across the Cheshire authorities which will include Town and Parish Councils and the Fire Authority.

22 **REAFFIRMATION OF COUNCIL'S CONSTITUTION**

Council was requested to reaffirm the provisions of the Council's Constitution.

It was proposed by Councillor A Martin, seconded by Councillor Marren and :-

RESOLVED

That the provisions of the Council's Constitution be reaffirmed.

23 **QUESTIONS**

The Following questions had been submitted in accordance with Procedure Rule 11:-

1. From Councillors G Merry, M Simon and J Weatherill

Sprinkler Systems in New Properties

In view of the recent highly successful sprinkler demonstration, conducted by Cheshire Fire and Rescue Services in conjunction with Wulvern Housing, is this Council prepared to follow the lead taken by the Welsh assembly in asking all developers to consider fitting all new properties with sprinkler systems when finalising the new Local Plan 2015 -2030.

Response from Councillor D Brown:

Fire Safety regulations come under building regulations and there have been many policies covering them.

There are considerable considerations to be taken into account before we simply imply all new homes should be fitted with them.

The matter of fire safety within new dwellings has been the responsibility of the Building Control service and I think that the Local Plan is the best way to introduce planning considerations for securing a requirement for sprinklers.

Supplementary question

Councillor Simon stated that the recent demonstration in Crewe, had demonstrated how effective sprinkler systems could be and requested the Leader to lobby MPs to require the installation of them in all new buildings.

The Leader confirmed his support and undertook to do so.

2. From Councillor S Hogben

Meeting Rooms with Microphones and Webcams

The leak of a confidential report that was considered in private by the meeting of the Council on 19th April is regrettable. The maintenance of confidentiality, however, must depend on more than the integrity of officers and members.

It has been drawn to my attention that in the past the Committee Suite at Westfields and the Council Chamber at Crewe were equipped with microphones and other devices to facilitate live broadcasts of council meetings held there. Other locations may have been similarly equipped. Can users of such council premises be assured that this equipment has been removed, and that the proceedings of private meetings held in these locations, including councillor briefings and political group meetings, are not being monitored remotely by third parties who may not be subject to appropriate codes of conduct?"

Response from Councillor D Brown

It is confirmed that there is no recording equipment or other devices to facilitate live broadcasts in the Committee Suite in Westfields. With regard to the Council Chamber in the Municipal Buildings, webcasting has previously been delivered from that building as part of Planning Inquiries. However, on any such occasion this has been properly managed and no third party would have access to record any meeting without prior approval from the Council. The equipment installed for the hearing last year is out of action and has been for some time. No such equipment exists in meeting rooms in any other Corporate Building.

As the Mayor stated earlier in the meeting, Council meetings are not for recording. It is upon all Councillors to keep confidential items confidential and not to leak them to the Press.

No such equipment exists in meeting rooms in any other Corporate Building.

Supplementary question

Cllr Hogben asked what steps were being taken in respect of the handling of private meetings to avoid confidential information being inadvertently disclosed, particularly in respect of Policy Groups.

Cllr Brown undertook to look at this issue. He stated that the Council had a process for marking up and numbering confidential papers and that he agreed that every step should be taken to maintain confidentiality and that what was discussed in private should remain private.

24 RECOMMENDATION FROM THE CONSTITUTION COMMITTEE - DELEGATED POWERS RELATING TO DEVELOPMENT MANAGEMENT

The recommendations of the Constitution Committee regarding delegated powers relating to development management were proposed by Cllr A Martin and seconded by Cllr Marren.

RESOLVED

That approval be given to the function of dealing with applications for Certificates of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961 being added to the functions delegated to the Strategic Planning Board and the Board's Terms of Reference within the Constitution be amended accordingly.

25 RECOMMENDATION FROM CONSTITUTION COMMITTEE - CREWE COMMUNITY GOVERNANCE REVIEW

The recommendations of the Constitution Committee relating to the Crewe Community Governance Review were proposed by Cllr A Martin and seconded by Cllr Marren.

At its meeting on 22 March 2012, the Committee had recommended to Council that:

- a Crewe Parish Council should be created;
- there should be 16 members representing 6 wards mirroring the Borough Wards;
- the electors from the unparished part of Leighton Borough Ward should be asked whether they would prefer to be included in the proposed parish of Crewe or the existing parish of Leighton; and
- elections should take place as soon as practicably possible.

Council, at its meeting on 19 April 2012, had deferred consideration of the recommendations of the Constitution Committee on the draft recommendation for the Crewe Community Governance Review in order that advice received from Counsel on some aspects of the Review could be taken into consideration. The matter was considered further by the

Community Governance Review Sub-Committee on 27 April 2012, in the light of advice received from Counsel.

Having considered the advice of Counsel, the Sub-Committee had confirmed its support for the original recommendations of the Constitution Committee to Council but asked that further consideration be given to budgetary and precepting arrangements and to the transitional arrangements for the period leading up to parish elections.

Since the Sub-Committee's meeting, further advice had been sought and received from Counsel, which was summarised in the minutes of the Constitution Committee.

RESOLVED

That :-

(1) the reaffirmed recommendations of the Constitution Committee, previously made to Council on 19 April 2012 be approved, namely:

- a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a Parish Council for the unparished area of Crewe and that Parish Council be advised to consider its designation as a Town Council;
- b. that the Parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that, subject to recommendation c. below, the unparished part of Leighton (Polling District 1FJ4) be incorporated into the St Barnabas parish ward, and that each ward should have the number of Parish Councillors as follows:

St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- c. that the electors of the unparished part of the Borough ward of Leighton be asked whether they would prefer to be included within the proposed parish of Crewe or within the existing parish of Leighton;
- d. that elections to the Crewe Parish Council should be held as soon as is practicably possible and should thereafter be synchronised with the ordinary date of Parish Council elections; and

- e. that these proposals form the basis of a second stage of public consultation and that the Boundary Commission be informed of the proposals.
- (2) the proposed arrangements for the Stage 2 consultation process, as set out in paragraph 4.2 of the report to the Community Governance Review Sub-Committee on 27th April 2012, be approved, subject to the dates being altered in line with paragraph 4 below;
- (3) the proposed consultation with the electors for the unparished part of Leighton be conducted by means of a formal ballot;
- (4) the indicative timetable proposed by the Sub-Committee for the latter stages of the Review be approved as follows and the project plan be amended accordingly:
- | | |
|---|---|
| 28 th May 2012 | Publish Notice of Stage 2 consultations |
| 11 th June – 2 nd July 2012 | Stage 2 public consultations |
| | Postal Ballot in unparished part of Leighton Borough Ward |
| 20 th September 2012 | Constitution Committee |
| 11 th October 2012 | Council makes final decision and approves Order |
| 1 st April 2013 | Order comes into effect |
| 4 th April 2013 | Elections to new parish council |
- (5) it be noted that Gresty Brook (Polling District 1GM2) in the Crewe South Borough Ward is already located within the parish of Shavington and accordingly does not form part of this Review; and
- (6) the Community Governance Review Sub-Committee be asked to consider the detailed arrangements for setting a budget and precepting and the extent and timing of the transfer of assets to the new Parish Council, to enable the relevant provisions to be included in the Order.

The meeting commenced at 11.00 am and concluded at 5.05 pm

Councillor G Walton CHAIRMAN

COUNCIL – 19 JULY 2012
NOTICES OF MOTION

1 Proposed by Cllr G Baxendale

Armed Forces Community Covenant

“The Council’s formal signing of the Community Covenant scheme which clearly demonstrates its commitment and support to the Armed Services is to be welcomed. However, this Motion seeks to ask the Cabinet to take responsibility for the development of a detailed Action Plan, based on the Scheme, which will outline, by Service area, the practical support that the Council can provide to those currently serving in the Armed Services, their families and those that have served in the past.”

2 Proposed by Cllr A Moran and Seconded by K Cllr Edwards

Right to Speak at Meetings

“That visiting Members to all Cabinet meetings, Committees and Sub Committees have the right to speak once on each separate item on the agenda before the debate proper commences. This will apply to all items on the agenda including part 2 items.”

3 Proposed by Cllr B Murphy and Seconded by Cllr M Parsons

Corporate Communications Function

“This Council calls for an immediate all-party inquiry into the Council’s corporate communications function with particular reference to:

- its purpose, relevance and value-for-money
- overall cost, budgetary provision/resource allocation and cost effectiveness
- political impartiality and support for members
- the corporate culture it seeks to foster
- its policies/protocols for media relations, publications, communication technology, corporate ID, corporate communications/marketing, and internal communications.”

4 Proposed by Cllr D Brickhill and Seconded by Cllr P Edwards

Consultants

“No outside consultants (other than clerical staff) shall be employed by the Council without their specific instruction.”

5 Proposed by Cllr D Brickhill and Seconded by Cllr A Moran

Road Maintenance

“That all pre planned road maintenance (except pothole filling) is to be carried out on an equal expenditure basis per Ward in direct proportion to the electorate in that Ward, unless the relevant parish councils resolve that they are satisfied with the state of their roads. A monthly report to all Councillors is to be published by 15th of each month by the Highways Department showing the work done in the previous month and the work to be done in the next month.”

6 Proposed by Cllr A Moran and seconded by Cllr D Brickhill

Notices of Motion

“That all Motions that are referred by Council to a Committee or Cabinet must be put on the agenda for the next meeting of that body or brought back to the next Council meeting for vote on a final decision.”

7 Proposed by Cllr D Brickhill and Seconded by Cllr S Hogben

Location of Strategic Planning Board Meetings

“That when the Strategic Planning Board agenda contains a majority of items from the south of the Borough, the meeting will be held in Crewe or Sandbach.”

8 Proposed by Cllr B Murphy

Confidentiality

“In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality.”

9 Proposed by Cllr B Murphy

Suspension of Employees Accused of Misconduct

“In the light of apparent inconsistencies in the use of suspension for disciplinary offences, this Council calls for a review of its practices in this respect with particular reference to the criteria used to determine whether or not suspension is appropriate.”

10 Proposed by Cllr G Boston and Seconded by Cllr L Jeuda

Quality Care Commission Report – Learning Disability Services

On the 25th June 2012 the Care Quality Commissions (CQC) published the results of its damning National Review Report in to Learning disability services. It found over 50% of services inspected did not comply with CQC regulations and 27 of those services had safeguarding concerns identified. In addition findings showed that *“some assessment and treatment services are admitting people for long spells of time, and discharge arrangements are taking too long to arrange.”*

Given that CQC have recommended:

- Commissioners need to urgently review the care plans for people in treatment and assessment services and identify and plan move on arrangements to the next appropriate service and care programme.
- Commissioners also need to review the quality of advocacy services being provided, particularly in those locations where we identified non-compliance with the standards.

Motion

“That Members are advised of any Cheshire East people placed in any of the services that have safe guarding issues and those people have their placements reviewed as a matter of urgency.

That Members are advised how many people are currently in treatment and assessment services and the length of time they have been there.

That Members are advised of the steps being taken to *“urgently review the care plans for people in treatment and assessment services and identify and plan move on arrangements to the next appropriate service and care programme.”*

That Members are advised when the review of the quality of advocacy services being provided, particularly in those locations where CQC identified non-compliance with the standards, will take place.”

11 Proposed by Cllr G Boston and Seconded by K Edwards

Planning

“Cheshire East Council recognises and accepts that the decisions in relation to planning applications submitted to the Northern and Southern Planning committees and to the Strategic Planning Board should be left to the detailed consideration and decision by the members both individually and collectively of those Committees.

Those Committees are in a quasi judicial position and need to approach those decisions in an objective and fair manner in relation to considering how to decide such applications. Whilst recognising the right of individual councillors who are not on planning committee to express personal views, this Council rejects and deplores public comment from any Councillors especially the Leader of the Council who ought to be more careful with his comments, that might imply that decisions have been taken by the Council weeks or even months before the Planning Committees or Planning Board have met.

Council also agrees as a matter of urgency that all Members who have not already done so attend planning training whether or not they sit on the planning committee to ensure that in future inexperienced Elected Members whatever their role do not inadvertently compromise the Council."

12 Proposed by Cllr L Jeuda and Seconded by Cllr G Boston

Benefit Awareness

A recent report by the WRVS, Ageing across Europe, has found that older people in the United Kingdom have the highest rates of loneliness and isolation than in Germany, the Netherlands and Sweden. Many older people are living in poverty and this affects their life expectancy and risk of social isolation. Given that £2.8million in Pension Credit goes unclaimed every year in the UK, whilst 1.8 million older people are living in poverty demands urgent action.

Motion

"This Council undertakes to conduct a campaign aimed at older people making them aware of benefits they are entitled to.

At the same time Cheshire East to provide additional funding to those organisations currently struggling to meet the demand for Benefits advice."

13 Proposed by Cllr D Druce

South Macclesfield Development Area

"This Council supports the development of South Macclesfield Development Area which would deliver many regeneration and wider benefits including a new link road connecting Congleton Road and Leek Road."

COUNCIL – 19 JULY 2012**EXTRACT FROM CABINET MINUTES 25 JUNE 2012****KEY DEC 12/13-2 SHADOW HEALTH AND WELLBEING BOARD TERMS OF REFERENCE**

Consideration was given to the revised Terms of Reference for the Shadow Health and Wellbeing Board, taking into account previous concerns raised in respect of member representation and the voting rights of Board members.

The initial draft Terms of Reference had been reviewed against those of a number of other Local Authorities and revisions made following an analysis of emerging best practice. The Leader confirmed that the opposition group would nominate the opposition member on the Board and that he would be happy to abide by their decision. It was also confirmed that the Terms of Reference would be considered again prior to the Board assuming its statutory functions in April 2013.

RESOLVED

1. That Cabinet and Council support the Shadow Health and Wellbeing Board's Terms of Reference.
2. That Cabinet and Council support the recommendation to further review the Board's Terms of Reference in advance of the Board assuming its statutory functions, taking account of Board priorities expressed within the Joint Health and Wellbeing Strategy which will be finalised in the autumn following a period of consultation.

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Alterations as agreed by Cabinet – Highlighted in blue

**Draft Terms of Reference:
Cheshire East Shadow Health and Wellbeing Board**

1. Context

- 1.1 The full name shall be the Cheshire East Shadow Health and Wellbeing Board.
- 1.2 The Shadow Board is established and will be reviewed prior to the board assuming its statutory responsibilities in April 2013. This review will include the revised terms of reference.
- 1.3 The development of the Shadow Board was a requirement of the Health White Paper 'Equity and Excellence - Liberating the NHS'. This progressed as the Health and Social Care Act and received Royal Assent on the 27/3/12.

2. Purpose

- 2.1 To act as the Shadow Cheshire East Health and Wellbeing Board between September 2011 and 31st March 2013.
- 2.2 The Shadow Board must provide advice assistance and support for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.
- 2.3 The Shadow Board may encourage those involved in arranging the provision of Health-Related Services to work closely with the Shadow Board.
- 2.4 The Shadow Board may encourage those involved in arranging for the provision of any Health or Social Care services or Health Related services to work closely together.

3. Objectives

- 3.1 To provide strong local leadership for the improvement of the health and wellbeing of its population.
- 3.2 To monitor the implementation and performance of the health and wellbeing targets.
- 3.3 To lead on the production of a Joint Strategic Needs Assessment (JSNA).
- 3.4 To lead on the Joint Health and Wellbeing Strategy (JHWS) link to the JSNA.

- 3.5 To support the joint commissioning plans to meet the needs identified by the JSNA and the priorities outlined within the JHWS.
- 3.6 To maximise the opportunities for joint working and integration of services and make the best use of existing opportunities, and processes to prevent duplication or omission.

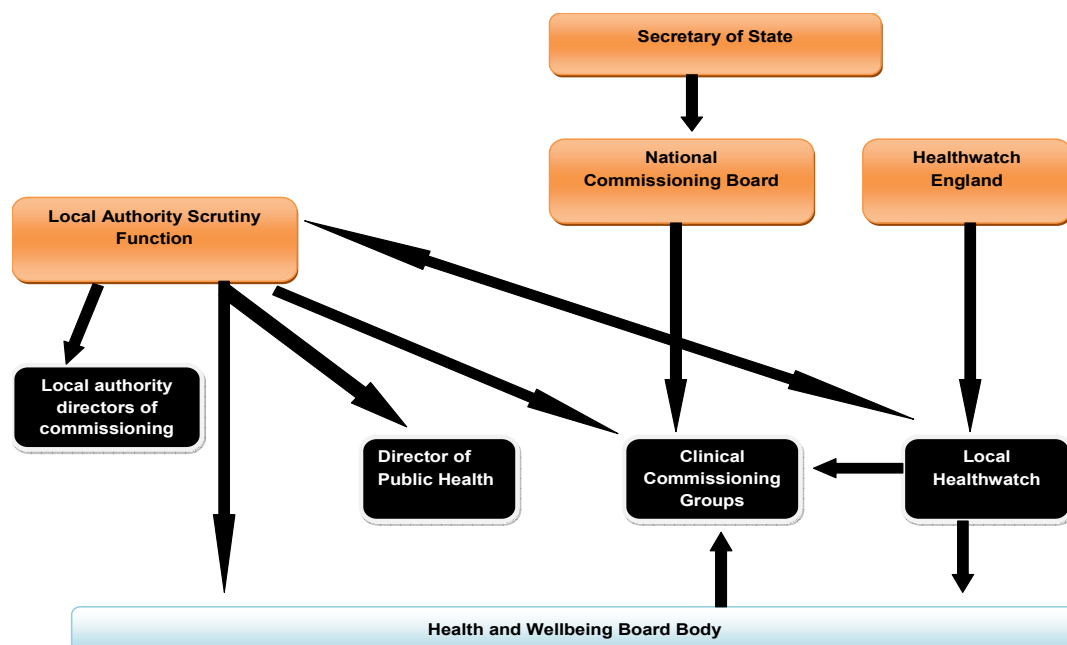
4. Roles and Responsibilities

- 4.1 To work together effectively to ensure the delivery of the JSNA and JHWS.
- 4.2 To work within the Shadow Board to build a collaborative partnership to key decision making that embeds health challenge, issue resolution and provides strategic leadership.
- 4.3 To participate in board discussions to reflect the views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery.
- 4.4 To champion the work of the Shadow Board in their wider networks and in community engagement activities.
- 4.5 To ensure that there are communication mechanisms in place within the partner organisation to enable information about the priorities and recommendations of the Shadow Board to be effectively disseminated.
- 4.6 To promote any consequent changes to strategy, policy, budget and service delivery within their own partner organisations to align with the recommendations and priorities of the Shadow Board.

5. Accountability

- 5.1 The Shadow Board carries no formal delegated authority from any of the statutory bodies.**
- 5.2 Core Members bring responsibility and accountability to their individual duties and to their role on the Shadow Board.**
- 5.3 The Shadow Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, who will act in accordance with their respective powers and duties.**
- 5.4 The Council's Core Members will ensure that they keep the wider Council advised of the work of the Shadow Board.
- 5.5 The Shadow Board will report to Full Council and to both NHS Clinical Commissioning Groups (CCG's) by ensuring access to meeting minutes and presenting papers as required.

- 5.6 The Shadow Board will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Wellbeing Overview & Scrutiny Committee. Decisions taken and work progressed by the Board will be subject to scrutiny by this committee. The model below demonstrates Scrutinys function and is taken from Health Places Councils leading on public health NLGN May 2012.



- 5.7 The Shadow Board will provide information to the public through publications, local media, wider public activities and by publishing the minutes of its meetings on the Council's website once Terms of Reference have been approved.

6. Membership

- 6.1 The core membership of the Shadow Board will comprise the following:

- Portfolio Holder – Health & Adult Social Care [Chairman],
- Portfolio Holder – Children & Families,
- Opposition Party Member (Currently advised by the Leader)¹
- The Chief Executive of the Council [not statutory member - for shadow board only],
- The Director of Public Health,
- The Director of Children, Families and Adults²
- Accountable Officer of the NHS South Cheshire Clinical Commissioning Group
- Chair. GP Lead of the NHS South Cheshire Clinical Commissioning Group
- Accountable Officer of the NHS Eastern Cheshire Clinical Commissioning Group

¹ From April 2013 the main opposition Member will be selected by the party group

² The Statutory Director holding two statutory roles for both Children and Adults Services will nominate an appropriate Head of Service to attend to support this dual function

- Chair. GP Lead of the NHS Eastern Cheshire Clinical Commissioning Group
 - A designated representative from HealthWatch (LINKs will fulfil this role until Health Watch is established).
 - Associate Member of the National Health Commissioning Board (NHCB)
- (The above would be Core Members of the Board with Associate Members being considered, once the Board's sub structure has been fully determined).

6.2 The Core Members through a majority vote have the authority to approve individuals as Associate Members of the Shadow Board. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting "AGM". Associate Members will assist the board in achieving the priorities agreed within the Joint Health and Wellbeing Strategy and may indeed be chairs of sub structure forums where they are not actual core members of the Board.

6.3 Each Core Member has the power to nominate a single named substitute. Should a Substitute Member be required, advance notice of not less than 2 working days should be given to the Council. The Substitute Members shall have the same powers and responsibilities as the Core Members.

7. Frequency of Meetings

7.1 The Shadow Board will meet no less than six times per year including an AGM.

7.2 Additional meetings of the Shadow Board may be convened with agreement of the Chairman.

8. Agenda and Notice of Meetings

8.1 Any agenda items or reports to be tabled at the meeting should be submitted to the council's Democratic Services no later than seven working days in advance of the next meeting. No business will be conducted that is not on the agenda.

8.2 Democratic services will circulate and publish the agenda and reports at least five working days prior to the next meeting. ~~Exempt or Confidential Information shall only be circulated to Core Members.~~

9. Annual General Meeting

9.1 The Shadow Board shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all Core Members present at the meeting.

9.2 The Shadow Board will approve the representative nominations by the partner organisations as Core Members.

10. Quorum

- 10.1 Any full meeting of the Shadow Health and Wellbeing Board shall be quorate if the following are represented – NHS Eastern CCG, NHS South CCG, LINKs / Health Watch, Portfolio Holder, Officer of Cheshire East.
- 10.2 Failure to achieve a quorum within thirty minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall render the meeting adjourned until the next scheduled meeting of the Shadow Board.

11. Procedure at Meetings

- 11.1 Meetings of the shadow Board are not open to the public but papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website **[once the terms of reference have been accepted]**. The Board will meet in public once it assumes its statutory responsibilities in April 2013.
- 11.2 Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.
- 11.3 With the agreement of the Shadow Board, the Shadow Board can set up subgroups to consider distinct areas of work.
- 11.4 The subgroup will be responsible for arranging the frequency and venue of their meetings.
- 11.5 Any recommendations of the subgroup will be made to the Shadow Board who will consider them in accordance with these terms of reference.

12. Expenses

- 12.1 The partnership organisations are responsible for meeting the expenses of their own representatives.

13. Conflict of Interest

- 13.1 At the commencement of all meetings all Core Members shall declare any Conflicts of Interest.
- 13.2 Following the declaration of a Conflict of Interest the Member can decide to:-
- Remain for all or part of the meeting,
 - Participate in the meeting,
 - Vote at the meeting,
 - Leave the meeting.

14. Conduct of Core Members at Meetings

- 14.1 Board members will agree to adhere to the seven principles outlined in the Board Code of Conduct when carrying out their duties as a Board member.

15. Review

15.1 The above terms of reference will be reviewed at the last meeting of the financial year or earlier if necessary.

15.2 Any amendments shall only be included by unanimous vote.

June 2012

Definition

Exempt Information

Which is information falling within any of the descriptions set out in Part I of Schedule 12A to the Local Government Act 1972 subject to the qualifications set out in Part II and the interpretation provisions set out in Part III of the said Schedule in each case read as if references therein to “the authority” were references to “Shadow Board” or any of the partner organisations.

Confidential Information

Information furnished to, partner organisations or the Shadow Board by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court are to be discussed.

Conflict of Interest

You have a Conflict of interest if the issue being discussed in the meeting affects you, your family or your close associates in the following ways;

- *The issue affects their well being more than most other people who live in the area.*
- *The issue affect their finances or any regulatory functions and*
- *A reasonable member of the public with knowledge of the facts would believe it likely to harm or impair your ability to judge the public interest.*

Associate Members

Associate Member status is appropriate for those who are requested to chair sub groups of the board.

Health Services

Means services that are provided as part of the health service.

Health-Related Services *means services that may have an effect on the health of individuals but are not health services or social care services.*

Social Care Services

means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970

CHESHIRE EAST COUNCIL

REPORT TO: Cabinet

Date of Meeting:	25/6/2012
Report of:	Lorraine Butcher, Strategic Director – Children, Families and Adults Services
Subject/Title:	Report in relation to Shadow Health and Wellbeing Board's Terms of Reference
Portfolio Holder:	Cllr. Janet Clowes Portfolio Holder Health & Wellbeing

1.0 Report Summary

- 1.1 Cabinet received a full report on the Cheshire East Shadow Health and Wellbeing Board's Terms of Reference in November 2011 [Appendix 1]. This was then presented and debated at full Council on 15 December 2011.
- 1.2 Full Council raised a number of concerns in respect of the proposed Terms of Reference and these primarily related to member representation on the board [addressed in 3.2] and voting rights of board members [addressed in 3.3].
- 1.3 The draft Terms of Reference took account of the current information from the proposed Health & Social Care Bill and guidance provided centrally on the role and expectations of the Health and Wellbeing Board.
- 1.4 The current Cheshire East Shadow Health and Wellbeing Board is now in formal shadow year. The board will assume its statutory functions from April 2013 following the royal assent of the Health & Social Care bill on the 27th March 2012.
- 1.5 The Health and Wellbeing Board's focus is to develop a clear vision and sense of collective purpose that will ensure collaborative system transformation through strong, inspirational leadership. The board will:
 - Lead – through building relationships between health and local communities
 - Collaborate – through working together to better affect and increase life expectancy
 - Engage – through emphasising that one agency can not resolve the challenges we face in addressing and improving the health and wellbeing of our communities

- 1.6 The role of the Board is primarily one of influencing system change to achieve improvements in the health and wellbeing of the population of Cheshire East. The Board will not have power over the resources of the Council or the respective CCGs. Organisations respective powers and duties take precedence here, and this should assure the Council that decisions about its resources remain with the Council.
- 1.7 This report will explain the subsequent review and revised terms of reference for the board in its shadow year which will then be further reviewed in late autumn in preparation for the board assuming its statutory powers in April 2013.

2.0 Decision Required

- 2.1 That Cabinet and Council support the shadow Health and Wellbeing Board's Terms of Reference.
- 2.2 That Cabinet and Council support the recommendation to further review the Board's Terms of Reference in advance of the Board assuming its statutory functions taking account of Board priorities expressed within the Joint Health and Wellbeing Strategy which will be finalised in the autumn following a period of consultation.

3.0 Reasons for Recommendations

- 3.1 The Board's initial draft Terms of Reference have been reviewed against a number of other terms of reference– Buckinghamshire, Leicestershire, Warwickshire, Lincolnshire, Croydon, Coventry Oldham, and Stockport. This analysis can be found in appendix 2.
- 3.2 The number of Council Members in most authorities is three, with Coventry having a member of the opposition party on the Board; this is in line with the current CEC shadow HWB arrangements and shows our awareness of the pattern of emerging good practice. The role and responsibility of members is outlined in **all** Terms of Reference and these are similar in all cases.
- 3.3 Voting arrangement - The Health and Social Care Bill [2012] does not specify voting arrangements and leaves it open to local determination. When the Board becomes statutory [April 2013] a local constitutional change will be required to account for the board being a formal subcommittee of the Council with both member and officer representation.

Lincolnshire is one of two authorities to have a section stating voting arrangements, they state that:

- Each Core member and substitute member shall have one vote

- Where possible decisions will be reached by consensus. In exceptional circumstances and where decisions cannot be reached by consensus of opinion, voting will take place and decisions agreed by a simple majority. The Chairman will have a casting vote.
- Decisions of the Shadow Board will be as recommendations to the partners organisations

These arrangements could be considered by our shadow Health and Wellbeing Board, **but any consideration should not detract from the emphasis on collaborative whole system benefit to its decision making**. Focusing on accountability to 'Place' and 'Local Population', and to what works, with reference to the highest evidence based interventions.

3.4 General observations:

- The majority of authorities included in this analysis have a section that looks at conflict of interest and conduct at meetings. Cheshire East's initial draft did not have either of these arrangements. We have also made no comments about reviewing these Terms of Reference which is important given that from April 2013 the Board will assume its statutory responsibilities. Board membership may need to be further shaped to support the work of the Board to address the priorities within the Joint Health and Wellbeing Strategy. The role of Core Membership and that of Associated Membership could be explored once the sub structure for the board has been fully determined.
- A useful addition to many of the Terms of Reference is a sub structure. This work has commenced but has not been concluded as yet but will be following the consultation on the Joint Health and Wellbeing Strategy. Currently the Board has agreed that the Joint Strategic Needs Assessment Steering Group and the Ageing Well Programme Board will be a part of this arrangement. However we would also anticipate that the Children's Trust, the Local Safeguarding Children and Adults Boards would also be part of this structure. Consideration will also be given to developing provider forums to support the board with its priorities.
- We have included outcomes expected as have a few others, however the majority of councils include these within their aims or objectives, therefore this is about getting our language right within the revised Terms of Reference.
- Communications is only featured in one authority's Terms of Reference. This could be included, and links to the Board's communication strategy, when completed could be added.

- Another noted good practice was the inclusion of links to other policies such as the Joint Strategic Needs Assessment in the introduction to the Terms of Reference.
- Oldham state that the Board will be independently scrutinised by the Health and Wellbeing Select Group of the Borough Council, our revised Terms of Reference will emphasis this role and note that it will be undertaken by the Health and Wellbeing Overview and Scrutiny Committee.

3.5 The revised terms of reference based on analysis of the emerging best practice includes the following: **[Note that these Terms of Reference can be viewed in full at appendix 3]**

Heading	Content summary
Context	Explaining the origins of the HWB.
Purpose	Explaining the main roles and expectations of the Board within the Health and Social Care Bill.
Objectives	Provide strategic leadership Monitor health and wellbeing targets Ensure production of the JSNA Ensure production of JHWS Ensure joint work on integration of services and systems
Roles and Responsibilities	Describes how the Board members will work collectively to achieve its purpose and objectives.
Accountability	<p>The Shadow Board carries no formal delegated authority from any of the statutory bodies.</p> <p>Core Members bring responsibility, accountability to their individual duties and to their role on the Shadow Board.</p> <p>The Shadow Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, who will act in accordance with their respective powers and duties.</p> <p>The Council's Core Members will ensure that they keep the wider Council advised of the work of the Shadow Board.</p> <p>The Shadow Board will report to Full Council and to both NHS Clinical Commissioning Groups (CCG's) by ensuring access to meeting minutes and presenting papers as required.</p> <p>The Shadow Board will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Wellbeing Overview & Scrutiny Committee. Decisions taken and work progressed by the Board will be subject to scrutiny by this committee.</p>

Membership	<p>Portfolio Holder – Health & Adult Social Care [Chairman], Portfolio Holder – Children & Families, Opposition Party Member The Chief Executive of the Council [not a statutory board member, involvement for shadow year], The Director of Public Health, The Director of Children, Families and Adults (+1)¹ Accountable Officer of the NHS South Cheshire Clinical Commissioning Group Chair. GP Lead of the NHS South Cheshire Clinical Commissioning Group Accountable Officer of the NHS Eastern Cheshire Clinical Commissioning Group Chair. GP Lead of the NHS Eastern Cheshire Clinical Commissioning Group A designated representative from HealthWatch (LINKs will fulfil this role until HealthWatch is established). Associate Member of the National Health Commissioning Board (NHCB)</p> <p>¹ Due to the Statutory Director holding two statutory roles for both Children's and Adults Services, they will nominate an appropriate Head of Service to attend to support this dual function.</p> <p>The above would be Core Members of the Board with Associate Members being considered once the Board's sub structure has been fully determined.</p>
Frequency of meetings	<p>The Shadow Board will meet no less than six times per year including an AGM.</p> <p>Additional meetings of the Shadow Board may be convened with agreement of the Chairman.</p>
Agenda and Notice of Meetings	<p>Any agenda items or reports to be tabled at the meeting should be submitted to the Council's Democratic Services no later than seven working days in advance of the next meeting. No business will be conducted that is not on the agenda.</p> <p>Democratic services will circulate and publish the agenda and reports at least five working days prior to the next meeting. Exempt or Confidential Information shall only be circulated to Core Members.</p>
Annual General meeting	<p>The Shadow Board shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all Core Members present at the meeting. The Shadow Board will approve the representative nominations by the partner organisations as Core Members.</p>

Quorum	<p>Any full meeting of the Shadow Health and Wellbeing Board shall be quorate if attended by a representative from NHS Eastern Clinical Commissioning Group, NHS South Clinical Commissioning Group, LINKs / Health Watch, Portfolio Holder, and an Officer of the Council [CFA Directorate] or their representative.</p> <p>Failure to achieve a quorum within thirty minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall render the meeting adjourned until the next scheduled meeting of the Shadow Board.</p>
Procedure at meetings	<p>Meetings of the shadow Board are not open to the public but papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website [once the terms of reference have been accepted]. The Board will meet in public once it assumes its statutory responsibilities in April 2013.</p> <p>Only the Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak only at the invitation of the Chairman.</p> <p>With the agreement of the Shadow Board, the Shadow Board can set up subgroups to consider distinct areas of work.</p> <p>The subgroup will be responsible for arranging the frequency and venue of their meetings.</p> <p>Any recommendations of the subgroup will be made to the Shadow Board who will consider them in accordance with these terms of reference.</p>
Expenses	<p>The partnership organisations are responsible for meeting the expenses of their own representatives.</p>
Conflict of Interest	<p>At the commencement of all meetings all Core Members shall declare any Conflicts of Interest.</p> <p>Following the declaration of a Conflict of Interest the Member can decide to:-</p> <ul style="list-style-type: none"> • Remain for all or part of the meeting, • Participate in the meeting, • Vote at the meeting, • Leave the meeting.
Conduct of Core Members at Meetings	<p>Board members will agree to adhere to the seven principles outlined in the Board Code of Conduct when carrying out their duties as a Board member – Nolan Principles [Selflessness, Integrity, Objectivity, accountability, Openness, honesty, leadership]</p>

Review	<p>The above terms of reference will be reviewed at the last meeting of the financial year or earlier if necessary.</p> <p>Any amendments shall only be included by unanimous vote.</p>
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4.0 Wards affected

All

5.0 Local Ward Members

All

6.0 Policy Implications

6.1 The health and wellbeing of the residents of Cheshire East is everyone's business, and as such implications for future policy development, service redesign and budget setting should account for the impact on the health and wellbeing of our population and indeed the future priorities of the Health and Wellbeing Board once this is formally constituted from April 2013.

6.2 The NHS Operating Framework for 2012/13 describes the Health and Wellbeing Board's primary responsibility as to 'provide local systems leadership across health and social care and public health...'. Establishing a collaborative decision making approach of this Board is essential to achieving whole system accountability for the improvement of the health and wellbeing of Cheshire East citizens. This requires the delivery of integrated care services and effective integrated commissioning approaches to achieve the maximum benefits for people, families and communities within the collective resources of the health and social care organisations.

7.0 Financial Implications

7.1 None to note in respect of the terms of reference themselves.

7.2 Shadow Board carries no formal delegated authority from any of the statutory bodies in respect of resource decision making. Therefore the process for making decisions around resource allocation remains within Board members' respective individual organisation's powers and duties.

7.3 The Shadow Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, who will act in accordance with their respective powers and duties.

8.0 Legal Implications

- 8.1 The Health and Social Care Act 2012 requires the Local Authority to establish a Health and Wellbeing Board for its area. Mandatory membership includes at least one local Councillor (nominated by the Council's Leader) the Directors of Adult Social Services, Children's Services and Public Health, a representative of the Local Healthwatch Organisation and a representative of each Clinical Commissioning Group. The Local Authority may also nominate such other individuals as they consider appropriate.
- 8.2 Once established in April 2013 the Board will be Committee of the Local Authority but regulations under the Act may modify some of the normal requirement of the Local Government Act 1972. The Board has a number of duties under the Act but specifically is tasked with a duty to encourage integrated working in the provision of health and social care services.

9.0 Risk Management

- 9.1 Corporate risks have been determined in respect of Health Partnerships, and this is reported to the Corporate Risk Management Group. Failure to establish a strong collaborative Board will impact on the health and wellbeing of Cheshire East citizens and indeed the councils own objectives within the Sustainable Communities Plan and Budget Book for 2012/13.
- 9.3 The NHS Clinical Commissioning Groups are required to seek formal authorisation during this year. Having an effective HWB with agreed terms of reference will be a requirement. Evidence of such will need to be supplied as part of this process including the terms of reference.
- 9.2 The Health and Wellbeing Board has established a Risk Register with responsible Board members owning specific risks. The Board has determined that they would wish to review these quarterly. This discipline will assist the Board in the management of issues of challenge.

10.0 Background and Options

- 10.1 The Health and Social Care Act 2012 has initiated a number of significant changes that will affect the local health and social care landscape. This includes the establishment of the Cheshire East Health and Wellbeing Board, the NHS Clinical Commissioning Groups and the transfer of Public Health responsibilities from the PCT to the Local Authority. When enacted, the Authority will have a greater role to play in setting policy, providing leadership and commissioning activity that will contribute to improved health outcomes for the population of Cheshire East with NHS Clinical Commissioning Groups.

The Joint Health and Wellbeing Strategy will be the mechanism by which the needs identified in the Joint Strategic Needs Assessment are met, setting out the agreed priorities for collective action by the key commissioners, the local

authority, the NHS Clinical Commissioning Groups and the NHS Commissioning Board.

The key legislative changes are summarised as:

- i. Clinically led commissioning – the Bill puts clinicians in charge of shaping services, enabling NHS funding to be spent more effectively. Supported by the newly established **NHS Commissioning Board**, new **NHS Clinical Commissioning Groups** which will directly commission services for their populations.
- ii. Ensure provider regulation to support innovative services – enshrining a fair playing field in legislation for the first time, this will enable patients to be able to choose services which best meet their needs – including from a charity or independent sector provider, as long as they meet NHS costs. Providers, including NHS Trusts, will be free to innovate to deliver quality services. **Monitor** will be established as a specialist regulator to protect patient's interests.
- iii. A greater voice for patients – the Bill establishes **Healthwatch**, a patient and public organisation, both locally and nationally, to drive involvement across the NHS and local government.
- iv. New focus for Public Health – The Bill establishes a new body **Public Health England**, to drive improvements in the public's Health.
- v. Greater accountability locally and nationally – the Bill sets out clear roles and responsibilities, whilst retaining the Minister's ultimate responsibility for the NHS. The Bill limits micro-management and gives local authorities a new role to join up local services through the **Health and Wellbeing Board** with key other stakeholders.
- vi. Streamlined arms-length bodies – the Bill removes unnecessary tiers of management, releasing resources to the frontline.

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

Appendix 1 add weblink to Cabinet / Council report 2011

[http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000239/M00003670/\\$ADocPackPublic.pdf](http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000239/M00003670/$ADocPackPublic.pdf) (Electronic version only).

Appendix 2 TOR Analysis document

Appendix 3 Cheshire East revised Shadow Health and Wellbeing Boards Terms of Reference







Appendix 4 Nolan Principles

Name: Lucia Scally

Designation: Head of Service – Integrated Strategic Commissioning & Safeguarding

Tel No: 01260-375414

Email: lucia.scally@cheshireeast.gov.uk

Council	Intro	Aims Purpos e	Role	Membership	Meeting Frequency	Conduct	Accountabilit y/Governance	Review	Quorum/ Standing Orders	Voting	Expenses	Conflict	out co me s	Comms & Engageme nt
Cheshire East _ Conservative  Board draft ToR.doc	Yes	Yes	Yes	3 x portfolio holder, Labour Group Leader	Yes	Yes	Yes	No	Yes in A	Yes to be decided	No	No	Yes in	Yes in
Buckinghamshire - Conservative  HWB_ToR.PDF	No	Yes	Yes	2 by portfolio holder	Yes Meeting arrangement s	No	Yes	Yes	No	No	No	Yes	No	No
Leicestershire- Conservative – Lib Dem main opp  leics_health_wellbei ng_board_t...	Yes	Yes	Yes	3 x portfolio holders	No	No	No	No	Yes	Not establis hed	No	No	Yes	yes
Warwickshire - Conservative  03b Draft Terms of Reference S...	No	Yes		Leader and relevant portfolio holders x2	No	Code of conduct attached	yes	No	No	No	No	Yes	No	No
Lincolnshire – Conservative http://www.lincolnsire.gov.uk/residents/community-and-living/health/healthier-	Yes	Yes	Yes	3 x portfolio holder	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
Croydon - Conservative  Croydon shadow health and well...		Yes		1 x council member as chair										
Coventry - Labour 	No	Yes	Yes	Yes Council Leader Portfolio	Yes	Yes	Yes	Yes	No	No	No	No	No	No

Analysis of TOR for HWB May 2012

Eight Terms of Reference from local authorities have been analysed to determine effectiveness and good practice and comparison with Cheshire East's first draft Terms of reference.

Number of Council Members

As shown on the table above, most authorities have 3 Council Member representatives, with Coventry having a member of the opposition on the Board; this is in line with CEC shadow HWB arrangements currently showing awareness of the pattern of emerging good practice. The role and responsibility of members is outlined in **all** Terms of Reference and these are similar in all cases.

Voting arrangements

The Health and Social Care Bill does not specify voting arrangements and leaves it down to local determination.

When the Board becomes statutory [April 2013] a local constitutional change will be required to account for the board being a formal subcommittee of the Council with both members and officers representation.

Lincolnshire is the one of two authorities to have a section stating voting arrangements, they state that:

- Each Core member and substitute member shall have one vote
- Where possible decisions will be reached by consensus. In exceptional circumstances and where decisions cannot be reached by consensus of opinion, voting will take place and decisions agreed by a simple majority. The Chairman will have a casting vote.
- Decisions of the Shadow Board will be as recommendations to the partners organisations

Terms of Reference Analysis

These arrangements could be considered by our shadow HWB, **but any consideration should not detract from the emphasis on collaborative whole system benefit to its decision making**. Focusing on accountability to 'Place' and 'Local Population', and to what works, with reference to the highest evidence based interventions.

General observations

- The majority of authorities included in this analysis have a section that looks at conflict of interest and conduct at meetings. Cheshire East's initial draft doesn't have either of these arrangements. We have also made no comments about reviewing those Terms of Reference which is important given that from April 2013 the board will assume its statutory responsibilities. Board membership may need to be further shaped to support the work of the board to address the priorities within the Joint Health and Wellbeing Strategy. The role of Core Membership and that of Associated Membership could be explored once the sub structure for the board has been fully determined.
- A useful addition to many of the Terms of Reference is a sub structure. This work has commenced but has not been concluded as yet but will be following the consultation on the Joint Health and Wellbeing Strategy. Currently the board has agreed that the Joint Strategic Needs Assessment Steering Group and the Ageing Well Programme Board will be a part of this arrangement. However we would also anticipate that the Childrens Trust, the Local Safeguarding Children and Adults Boards would also be part of this structure.
- We have included outcomes expected as have a few others, however the majority of councils include these within their aims or objectives, therefore this is about getting our language right within the revised terms of reference.
- Communications is only featured in one authorities Terms of Reference. This could be included, and links to the boards communication strategy, when completed added.
- Another noted good practice was the inclusion of links to other things such as the Joint Strategic Needs Assessment in the introduction to the Terms of Reference.
-
- Oldham state that the board will be independently scrutinised by the Health and Wellbeing Select Group of the Borough Council, our revised terms of reference will emphasis this role and note that it will be undertaken by the HWB Scrutiny committee.

Diane Taylor

Partnerships Manager – Children's Trust & Shadow Health and Wellbeing Board

**Draft Terms of Reference:
Cheshire East Shadow Health and Wellbeing Board**

1. Context

- 1.1 The full name shall be the Cheshire East Shadow Health and Wellbeing Board.
- 1.2 The Shadow Board is established and will be reviewed prior to the board assuming its statutory responsibilities in April 2013. This review will include the revised terms of reference.
- 1.3 The development of the Shadow Board was a requirement of the Health White Paper 'Equity and Excellence - Liberating the NHS'. This progressed as the Health and Social Care Act and received Royal Assent on the 27/3/12.

2. Purpose

- 2.1 To act as the Shadow Cheshire East Health and Wellbeing Board between September 2011 and 31st March 2013.
- 2.2 The Shadow Board must provide advice assistance and support for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.
- 2.3 The Shadow Board may encourage those involved in arranging the provision of Health-Related Services to work closely with the Shadow Board.
- 2.4 The Shadow Board may encourage those involved in arranging for the provision of any Health or Social Care services or Health Related services to work closely together.

3. Objectives

- 3.1 To provide strong local leadership for the improvement of the health and wellbeing of its population.
- 3.2 To monitor the implementation and performance of the health and wellbeing targets.
- 3.3 To lead on the production of a Joint Strategic Needs Assessment (JSNA).
- 3.4 To lead on the Joint Health and Wellbeing Strategy (JHWS) link to the JSNA.
- 3.5 To support the joint commissioning plans to meet the needs identified by the JSNA and the priorities outlined within the JHWS.

- 3.6 To maximise the opportunities for joint working and integration of services and make the best use of existing opportunities, and processes to prevent duplication or omission.

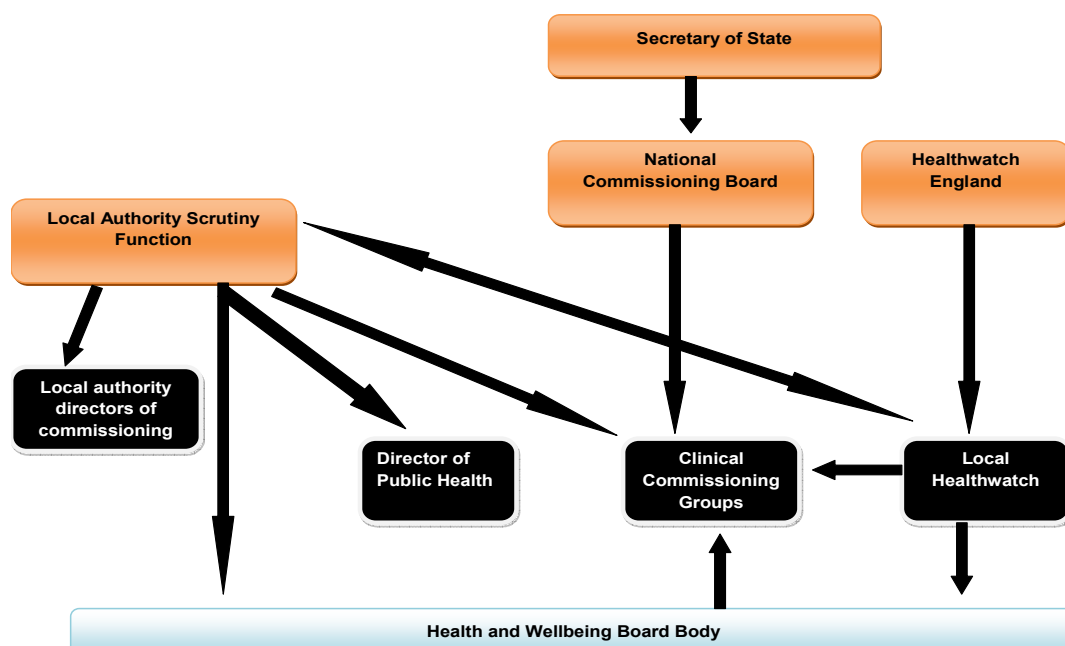
4. Roles and Responsibilities

- 4.1 To work together effectively to ensure the delivery of the JSNA and JHWS.
- 4.2 To work within the Shadow Board to build a collaborative partnership to key decision making that embeds health challenge, issue resolution and provides strategic leadership.
- 4.3 To participate in board discussions to reflect the views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery.
- 4.4 To champion the work of the Shadow Board in their wider networks and in community engagement activities.
- 4.5 To ensure that there are communication mechanisms in place within the partner organisation to enable information about the priorities and recommendations of the Shadow Board to be effectively disseminated.
- 4.6 To promote any consequent changes to strategy, policy, budget and service delivery within their own partner organisations to align with the recommendations and priorities of the Shadow Board.

5. Accountability

- 5.1 The Shadow Board carries no formal delegated authority from any of the statutory bodies.**
- 5.2 Core Members bring responsibility and accountability to their individual duties and to their role on the Shadow Board.**
- 5.3 The Shadow Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, who will act in accordance with their respective powers and duties.**
- 5.4 The Council's Core Members will ensure that they keep the wider Council advised of the work of the Shadow Board.
- 5.5 The Shadow Board will report to Full Council and to both NHS Clinical Commissioning Groups (CCG's) by ensuring access to meeting minutes and presenting papers as required.
- 5.6 The Shadow Board will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Wellbeing Overview & Scrutiny Committee. Decisions taken and work progressed by the Board will be subject to scrutiny by this committee.

The model below demonstrates Scrutinys function and is taken from Health Places Councils leading on public health NLGN May 2012.



- 5.7 The Shadow Board will provide information to the public through publications, local media, wider public activities and by publishing the minutes of its meetings on the Council's website once Terms of Reference have been approved.

6. Membership

- 6.1 The core membership of the Shadow Board will comprise the following:

- Portfolio Holder – Health & Adult Social Care [Chairman],
- Portfolio Holder – Children & Families,
- Opposition Party Member
- The Chief Executive of the Council [not statutory member for shadow board only],
- The Director of Public Health,
- The Director of Children, Families and Adults (+1)¹
- Accountable Officer of the NHS South Cheshire Clinical Commissioning Group
- Chair. GP Lead of the NHS South Cheshire Clinical Commissioning Group
- Accountable Officer of the NHS Eastern Cheshire Clinical Commissioning Group
- Chair. GP Lead of the NHS Eastern Cheshire Clinical Commissioning Group
- A designated representative from HealthWatch (LINKs will fulfil this role until Health Watch is established).
- Associate Member of the National Health Commissioning Board (NHCB)

¹ Due to the Statutory Director holding two statutory roles for both Children's and Adults Services, they will nominate an appropriate Head of Service to attend to support this dual function.

- 6.2 The Core Members through a majority vote have the authority to approve individuals as Associate Members of the Shadow Board. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting “AGM”. Associate Members will assist the board in achieving the priorities agreed within the Joint Health and Wellbeing Strategy and may indeed be chairs of sub structure forums where they are not actual core members of the Board.
- 6.3 Each Core Member has the power to nominate a single named substitute. Should a Substitute Member be required, advance notice of not less than 2 working days should be given to the Council. The Substitute Members shall have the same powers and responsibilities as the Core Members.

7. Frequency of Meetings

- 7.1 The Shadow Board will meet no less than six times per year including an AGM.
- 7.2 Additional meetings of the Shadow Board may be convened with agreement of the Chairman.

8. Agenda and Notice of Meetings

- 8.1 Any agenda items or reports to be tabled at the meeting should be submitted to the council’s Democratic Services no later than seven working days in advance of the next meeting. No business will be conducted that is not on the agenda.
- 8.2 Democratic services will circulate and publish the agenda and reports at least five working days prior to the next meeting. Exempt or Confidential Information shall only be circulated to Core Members.

9. Annual General Meeting

- 9.1 The Shadow Board shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all Core Members present at the meeting.
- 9.2 The Shadow Board will approve the representative nominations by the partner organisations as Core Members.

10. Quorum

- 10.1 Any full meeting of the Shadow Health and Wellbeing Board shall be quorate if the following are represented – NHS Eastern CCG, NHS South CCG, LINKs / Health Watch, Portfolio Holder, Officer of Cheshire East.
- 10.2 Failure to achieve a quorum within thirty minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall

render the meeting adjourned until the next scheduled meeting of the Shadow Board.

11. Procedure at Meetings

- 11.1 Meetings of the shadow Board are not open to the public but papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website **[once the terms of reference have been accepted]**. The Board will meet in public once it assumes its statutory responsibilities in April 2013.
- 11.2 Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.
- 11.3 With the agreement of the Shadow Board, the Shadow Board can set up subgroups to consider distinct areas of work.
- 11.4 The subgroup will be responsible for arranging the frequency and venue of their meetings.
- 11.5 Any recommendations of the subgroup will be made to the Shadow Board who will consider them in accordance with these terms of reference.

12. Expenses

- 12.1 The partnership organisations are responsible for meeting the expenses of their own representatives.

13. Conflict of Interest

- 13.1 At the commencement of all meetings all Core Members shall declare any Conflicts of Interest.
- 13.2 Following the declaration of a Conflict of Interest the Member can decide to:-
 - Remain for all or part of the meeting,
 - Participate in the meeting,
 - Vote at the meeting,
 - Leave the meeting.

14. Conduct of Core Members at Meetings

- 14.1 Board members will agree to adhere to the seven principles outlined in the Board Code of Conduct when carrying out their duties as a Board member.

15. Review

- 15.1 The above terms of reference will be reviewed at the last meeting of the financial year or earlier if necessary.

15.2 Any amendments shall only be included by unanimous vote.

June 2012

Definition

Exempt Information

Which is information falling within any of the descriptions set out in Part I of Schedule 12A to the Local Government Act 1972 subject to the qualifications set out in Part II and the interpretation provisions set out in Part III of the said Schedule in each case read as if references therein to “the authority” were references to “Shadow Board” or any of the partner organisations.

Confidential Information

Information furnished to, partner organisations or the Shadow Board by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court are to be discussed.

Conflict of Interest

You have a Conflict of interest if the issue being discussed in the meeting affects you, your family or your close associates in the following ways;

- *The issue affects their well being more than most other people who live in the area.*
- *The issue affect their finances or any regulatory functions and*
- *A reasonable member of the public with knowledge of the facts would believe it likely to harm or impair your ability to judge the public interest.*

Associate Members

Associate Member status is appropriate for those who are requested to chair sub groups of the board.

Health Services

Means services that are provided as part of the health service.

Health-Related Services *means services that may have an effect on the health of individuals but are not health services or social care services.*

Social Care Services

means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970

Cheshire East Shadow Health and Wellbeing Board Member Code of Conduct

1. Selflessness

Members of the Cheshire East Health and Wellbeing Board should act solely in terms of the interest of and benefit to the public/patients of Cheshire East. They should not do so in order to gain financial or other benefits for themselves, their family or their friends

2. Integrity

Members of the Cheshire East Health and Wellbeing Board should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their duties and responsibilities as a Board member

3. Objectivity

In carrying out their duties and responsibilities members of the Cheshire East Health and Wellbeing Board should make choices based on merit and informed by a sound evidence base

4. Accountability

Members of the Cheshire East Health and Wellbeing Board are accountable for their decisions and actions to the public/patients of Cheshire East and must submit themselves to whatever scrutiny is appropriate

5. Openness

Members of the Cheshire East Health and Wellbeing Board should be as transparent as possible about all the decisions and actions that they take as part of or on behalf of the Board. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

6. Honesty

Members of the Cheshire East Health and Wellbeing Board have a duty to declare any private interests relating to their responsibilities and duties as Board members and to take steps to resolve any conflicts arising in a way that protects the public interest and integrity of the Cheshire East Health and Wellbeing Board

7. Leadership

Members of the Cheshire East Health and Wellbeing Board should promote and support these principles by leadership and example

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CHESHIRE EAST COUNCIL

REPORT TO: COUNCIL

Date of Meeting: 19 July 2012

Report of: Borough Solicitor / Monitoring Officer

Subject/Title: Localism Act - Code of Conduct

1.0 Report Summary

- 1.1 At their meeting on 18 June 2012, Members of the Standards Committee considered two reports setting out the detailed requirements of the Localism Act 2011 to have a Member Code of Conduct together with a process for the investigation of complaints. This report updates Full Council following the meeting and makes a number of recommendations to adopt the revised documents to come into force with immediate effect. A separate report makes recommendations as to the changes to be made to the terms of reference of the Audit and Governance Committee.

2.0 Decision Requested

That Members approve:

- 2.1 The new Code of Conduct for Elected Members of Cheshire East Council at Appendix 1 of the report;
- 2.2 The procedure relating to investigation of complaints under the new Code of Conduct at Appendix 2 of the report together with the criteria to be used to evaluate complaints at Appendix 3;
- 2.3 The appointment of 4 new Independent Persons as required by Section 28 of the Localism Act 2011, namely Mr Peter John Bryant, Mr Robert Fousert, Mrs Sheila Margaret Roberts and Mr Roger Pomlett for a period of three years expiring 31 December 2015; and
- 2.4 That all Members complete the new Register of Interest Forms within 28 days of the Council meeting.

3.0 Reasons for Recommendations

- 3.1 To comply with the provisions of the Localism Act which requires the Council to adopt a Code of Conduct and to have appropriate procedures in place to investigate any breaches with effect from July 2012.

- 3.2 The Act specifically requires that the Council to appoint at least one Independent Person to help it discharge its duty to promote and maintain high standards of conduct.

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 The Act places a statutory duty upon the Council to promote and maintain high standards of conduct amongst its own Elected Members and any co-opted Members. Strong ethical governance is critical to the corporate governance of the authority and also supports the Council's decision making processes across the organisation.

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

- 7.1 Final cost of implementation of the new legislation is dependent upon local arrangements approved by the Council together with the number of complaints received. However it should be noted that the Act intends that the new procedure should be cheaper and more effective. Accordingly it is anticipated that costs will be met from existing resources.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Localism Act is being implemented over a phased period of time. The provisions in relation to the replacement of the current standards regime were brought into force with effect from 1 July 2012; however regulations which define the new "disclosable pecuniary interest" were only made on 6 June 2012 which has resulted in delays in finalising the Council's arrangements. As an interim measure the Council's existing Code of Conduct was extended until the July Council meeting.
- 8.2 The Act requires that the Council not only adopts a Code of Conduct but also has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct. There is also a specific requirement to appoint an Independent Person to have involvement in the process.

9.0 Risk Management

- 9.1 If the Council fails to adopt an effective Code of Conduct together with an appropriate process for the investigation of complaints which is not only fit for purpose but robust and transparent then there are risks to the Council, not only from a reputational management view point, but also to the integrity of the Council's corporate governance and decision making processes as a whole.

10.0 Background and Options

- 10.1 The Localism Act was enacted in November 2011; however its implementation is being phased over a period of time. With effect from 1 July 2012 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct expected of Members whenever they act in their official capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 It should be noted that the Borough Council is also responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.
- 10.3 At their meeting on 18 June 2011 Members of the Standards Committee received 2 reports which set out in detail the new requirements of the Code. The reports together with the minutes from the meeting of the Standards Committee are attached at Appendix 4 for background information. Members are requested to note that the original Appendices to these reports are not enclosed with the Council Agenda, since a number have been subsequently amended upon the recommendation of the Committee and are now enclosed in new appendices to this report as the final versions recommended for approval.

11.0 Code of Conduct

- 11.1 At their June meeting Members considered a draft Code of Conduct which had been circulated with a view to it being adopted as a standard across the Cheshire authorities, to include Town and Parish Councils and the Fire Authority. The draft had been written to:
- Be consistent with the Nolan principles
 - Balance for the desire for "light touch regulation" with some clearer guidance to Members as to what they may or may not do
 - Include the obligations set out in the CLG text
 - Reflect an initial draft Code produced by the Cheshire Fire Authority based on the current 2007 Model Code of Conduct and the relevant Standards for England guidance
 - Include those behaviours that Members should seek to uphold as set out in the LGA template

- 11.2 After detailed discussion Members resolved that:
“Subject to a minor alteration to the wording of paragraph 5(a) changing “as” to “where”, the substitution of “courtesy” for “respect” in paragraph 7(a) and the inclusion of explanatory notes in respect of confidentiality and bullying, that the draft Code of Conduct set out in Appendix 4 of the report be recommended for approval and adoption by Full Council on 19 July 2012.
- 11.3 A copy of the Code amended as requested by the Standards Committee is attached at Appendix 1 to the report for Member’s approval and adoption at full Council.
- 11.4 Members are also asked to note that the Constitution Committee was invited to recommend that an amendment be made to the Council’s Constitution which would require a Member to withdraw from a meeting having declared a pecuniary interest. This is the subject of a separate recommendation from the Constitution Committee.

12.0 Procedure for complaints under the new Code

- 12.1 The Standards Committee also considered a new procedure for the investigation of complaints that a member is in breach of the new Code of Conduct.
- 12.2 The procedure which the Committee is now recommending for adoption by Full Council provides as follows:-
- An initial assessment of the complaint by 3 Members plus the Independent Person within 21 days
 - The subject member will be notified a complaint has been received and provided with a copy
 - The Panel may either take no action / refer to the Group Leader for informal action / refer to police or other regulatory agency / refer for local resolution / refer for external investigation
 - There is no right of appeal against the decision of the initial assessment panel
 - Under the local resolution option the complainant and subject member plus up to 3 witnesses and a supporter may attend before an ad hoc panel of 3 Elected Members together with the Independent Person
 - The local resolution panel will attempt to resolve issues without the need for a formal investigation and hearing
 - Matters may be referred from the local resolution panel for formal investigation should it become apparent that issues are more serious or complex
 - Any external investigation should be concluded within 8 weeks where practicable. If the investigation finds evidence of failure to comply with the Code of Conduct the Standards hearing sub committee will conduct a hearing to determine the complaint.

- 12.3 An amended procedure for investigations is set out at Appendix 2 to the report. Members are also asked to approve the criteria to be used at the initial assessment meeting at Appendix 3 which helps determine which of the available options the panel should consider. This is based on the criteria used previously when assessing complaints under the current code.

13.0 Independent Person

- 13.1 The Act requires that the authority appoints 1 or more Independent Person: whose:
- Whose views must be sought and taken into account by the authority before it makes a finding that any Member has failed to comply with the Code of Conduct or impose any sanction
 - Whose views may be sought on whether to investigate a complaint and how to deal with a particular allegation
 - In addition any Member against whom an allegation has been made (including a Town and Parish Councillor) may consult him or her regarding the allegation.
- 13.2 The Act itself prevented any Member who has been a member or co-opted Member of Cheshire East Council in the last 5 years from being appointed as an Independent Person. This meant that current or past Independent Members of the Council's Standards Committee were prevented from undertaking this new role. However transitional regulations have meant that persons who previously have been Independent Members may stand in recognition of the loss of skill and expertise which would otherwise occur. If the appointment is made after 24 July 2012 then the appointment may only be for 12 months.
- 13.3 At the May Council meeting delegated authority was given to undertake a recruitment process for up to 3 Independent Persons as required under Section 28(7) of the Localism Act 2011.
- 13.4 Interviews were held on 4 July 2012. Councillor Hammond chaired the interview panel together with the existing Chair and Vice Chair of the Standards Committee, Nigel Briers and David Sayer. The panel interviewed a number of excellent candidates and were unanimously of the view that they would wish to recommend that Council appoints 4 of the candidates to this new role. This includes an existing Independent Member who has solid experience and will provide continuity together with 3 additional candidates with excellent credentials who will provide a geographical balance across the Borough and a gender balance. The new process does involve the Independent Person at a number of points and a pool of 4 is considered to be advantageous.
- 13.5 Full Council must approve the appointment of the new Independent Persons and it is accordingly recommended that Mr Peter John Bryant, Mr Robert Fousert, Mrs Sheila Margaret Roberts and Mr Roger Pomlett be appointed to the role of Independent Person under Section 27 of the Localism Act 2011 for a period of three years expiring 31 December 2015.

14.0 Register of Interests

- 14.1 Members will note that in adopting the new Code of Conduct the former definitions of “personal” and “prejudicial interests” will no longer be in force. Under the new Code regulations require Members to declare any disclosable pecuniary interests. The Act requires that Members must register their interests “28 days after election”. Unfortunately there is now some controversy since it appears there may have been a drafting error in the regulations so that transitional provisions have not been properly enacted. The DCLG has indicated that nevertheless it hopes Councillors will voluntarily sign the new local Register of Interests ahead of re election. In the interests of good governance it is intended to request Members to complete new register forms and Members are asked to note the position.

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

Name: Caroline Elwood
Designation: Borough Solicitor
Tel No: 01270 685882
Email: caroline.elwood@cheshireeast.gov.uk

Cheshire East Council**CODE OF CONDUCT FOR MEMBERS –2012**

Cheshire East Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members.

The Code has been adopted under section 27 of the Localism Act 2011 and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.

A General obligations

Whenever you are acting as a member or co-opted member of this authority you must act in accordance with the following obligations:

Selflessness

- 1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

Integrity

- 2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Objectivity

- 3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

Accountability

- 4 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.

Openness

- 5 (a) You must be open and transparent where possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.

(b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted. (see footnote)

Honesty

- 6 (a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Section B below.

(b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

Respect for others

- 7 (a) You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.

(b) You must not do anything which may cause your authority to breach any equality laws.

(c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.

(d) You must not bully any person, including other councillors, officers of the authority or members of the public. (see footnote)

Leadership

- 8 You must promote and support high standards of conduct when serving as member or co-opted member of the authority, by leadership and example, championing the interests of the community.

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Gifts and Hospitality

- 9 You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority. The Monitoring Officer will place your notification on a public register of gifts and hospitality.

Notes

“Confidential Information” should not be disclosed except in limited circumstances, for example :

- You have the consent of the person authorised to give it
- You are required by law to do so
- The disclosure is made on a confidential basis to a third party in order to obtain professional advice
- You have satisfied yourself that the disclosure is in the public interest

“Bullying” may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour and includes “cyber bullying”. It may happen once or be part of a pattern of behaviour. It can be contrasted with the legitimate challenges a member may make in challenging policy or scrutinising performance. You may challenge others as to why they hold their views but must take care to raise issues in the appropriate forum. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack.

B Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority’s monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse’s or civil partner’s, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority’s monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority’s register, then you must disclose the interest to any meeting of the authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a ‘sensitive interest’*.

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

*A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Extract from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

- The following categories are Disclosable Pecuniary Interests
- "M" denotes the relevant Elected Member

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).

(1) 1992 c. 52.

Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Complaints under the New Code – Procedure

Making a Complaint

1. Complaints must be submitted to the Councils Monitoring Officer using the Councils standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will be advised that there has been a complaint and will be provided with a copy of the complaint form. Under no circumstances must the Subject Member contact the Complainant direct regarding any issues raised in the complaint.

Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Standards Assessment Panel within 21 days of receipt for an initial assessment
5. After consulting the Independent Person the Panel will determine whether to;
 - **Take no action**
 - **Refer the matter to the relevant Group Leader for informal action** (NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
 - **Refer the matter for Local Resolution**
 - **Refer the matter for formal investigation by an external investigator**
 - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant and Subject Member will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

Local Resolution

9. The Complainant and Subject Member will be advised that the Initial assessment panel have concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring a Supporter and up to three witnesses each to accompany them before an ad hoc panel of three elected members together with the Independent Person. The Supporter will not represent the Subject Member but will be able to confer with him or her.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. The Panel will announce their decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Councils website and reported to the next meeting of the Audit and Governance Committee.
16. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

External Investigation

17. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
18. The report of the independent investigator should incorporate the following:-

- **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
- **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.
- **Complainants details and any relevant background**
- **Summary of facts and evidence gathered**- A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities
- **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings** – Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
- **Schedule** - a list of witnesses interviewed and copies of relevant documents

19. A copy of the draft report will be circulated to the subject member and complainant to check for factual accuracy.
20. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

External Investigation – No Evidence of Failure to comply

21. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct the Monitoring Officer will review the report in consultation with the Independent Person.
22. If satisfied with the conclusions the Complainant, Subject Member and the Town or Parish Clerk (if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.
23. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearings sub committee for a formal hearing of the issues.

External Investigation – Evidence of Failure to comply

24. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearings sub committee who will conduct a hearing to determine if the subject member has failed to comply with the provisions of the Code and if so what sanction is appropriate.
25. The Hearings sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and subject member.
26. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
27. The Hearings sub committee will announce their decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Councils website and reported to the next meeting of the Audit and Governance Committee.
28. Meetings of the Hearings sub committee will be subject to the normal rules for publication of agendas and access to information.
29. There is no right of appeal from the decision of the Standards Hearings sub committee.

Independent Person

30. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

Membership of Panels / sub committees

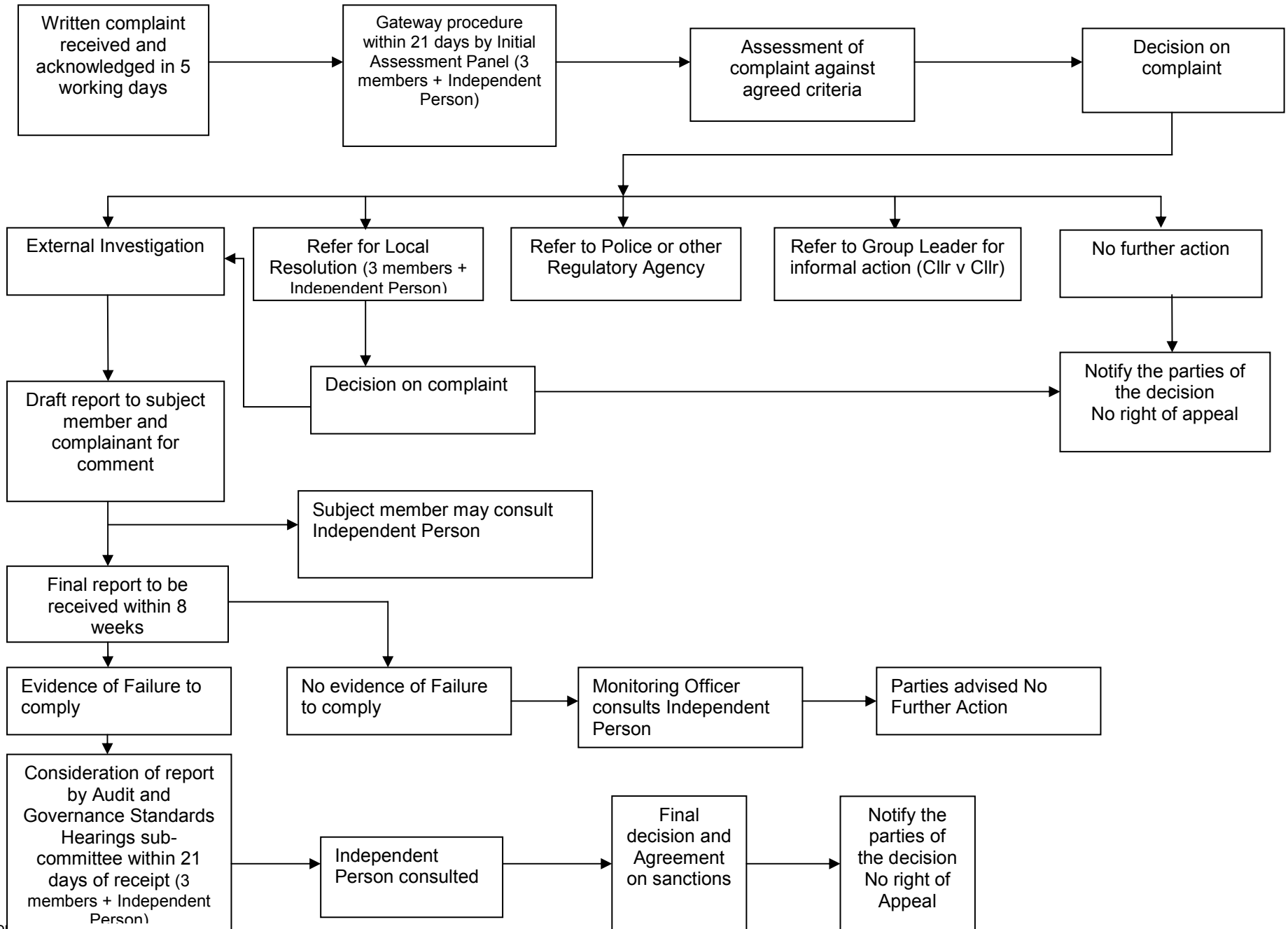
31. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any hearings sub committee.

Vexatious Complaints

32. The Council will maintain a list of vexatious or repeated complaints and will report any concerns regarding abuse of the process to the Audit and Governance Committee.

July 2012

Procedure for Complaints



ASSESSMENT CRITERIA**Initial Tests**

Before any assessment of a complaint begins, the Initial Assessment Panel must be satisfied that the complaint meets the following tests:

- It is a complaint against one or more named Members of Cheshire East Council or a Town or Parish Council within Cheshire East Borough;
- The named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code and the complainant will be informed that no further action will be taken in respect of the complaint.

If the above tests are met the Panel will have regard to the following criteria:

1. **Adequate information** – The Panel will want to be satisfied that it has sufficient information to decide whether the complaint should be referred for investigation or other action;
2. **Timescale** – The Panel will take into account when the events subject to the complaint took place and will not normally investigate or pursue other action if the events occurred more than 12 months prior to the complaint being submitted (except if it decides there are exceptional circumstances);
3. **Seriousness of the complaint** – The Panel will not normally refer a matter for investigation or other action if it is considered trivial, malicious, politically motivated or tit-for-tat;
4. **Public Interest** - If the complaint relates to an ex-Member of Cheshire East or one of its Town/Parish Councils who is now a Member of another Authority the Panel may refer the matter to that Authority for consideration. If the Member has resigned, is seriously ill or has died the Panel will only refer the matter for investigation or other action if it considers that the public interest will be served by so doing. If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or has been investigated by other regulatory authorities it is unlikely to be referred for investigation or other action unless it

is evident that public interest will be served by further action being taken.

The Panel has the option to make the following decisions on any complaint ;

- **That No Further Action be Taken in respect of the matter**
- **That the Matter be Referred to the Group Leader for Informal Action** – this will normally be only where the complaint relates to Cheshire East Councillors and will not generally be appropriate if the complaint is from a member of the public
- **That the Matter is Referred for Local Resolution** – this enables less serious complaints to be resolved speedily and cost effectively. The matter may subsequently be referred for formal investigation should it become apparent that the issues are more serious than was originally anticipated
- **That the Matter is Referred for Formal Investigation by an External Investigator-** this enables the most serious allegations to be thoroughly investigated. In most cases the Investigator will be expected to complete his investigation and produce a written report within 8 weeks of the referral.
- **That the Matter is Referred to the Police or other relevant Regulatory Agency** – this would be appropriate where it appears a criminal offence or breach of regulations may have taken place and in particular any failure to declare a Pecuniary Interest under s 30 -31 of the Localism act 2011

**Cheshire East Council
July 2012**

CHESHIRE EAST COUNCIL

REPORT TO: STANDARDS COMMITTEE

Date of Meeting: 18 June 2012
Report of: Borough Solicitor / Monitoring Officer
Subject/Title: Localism Act 2011 – New Code of Conduct

1.0 Report Summary

- 1.1 The report asks Members to approve and recommend to Full Council the adoption of a new Code of Conduct as required by the provisions of the Localism Act 2011.

3.0 Decision Requested

- 2.1 That subject to consideration of those issues raised in paragraph 12 the Standards Committee recommends to Council that the draft Code of Conduct at Appendix 4 of the report is recommended for adoption by Full Council on 19 July 2012.

5.0 Reasons for Recommendations

- 3.1 To comply with the provisions of the Localism Act 2011 which requires the Council to adopt a Code of Conduct and to have appropriate procedures in place to deal with any breaches with effect from July 2012.

6.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The Act places a statutory duty upon the Council to promote and maintain high standards of conduct amongst its own elected Members and any co-opted Members. Strong ethical governance is critical to the corporate governance of the Authority and also supports the Council's decision making processes across the organisation.

7.0 Financial Implications

- 7.1 Final cost of implementation of the new legislation will depend on the local arrangements approved by the Council. However it should be noted that the Act intended that the new procedure should be cheaper and more effective. Accordingly it is anticipated that costs will be met from existing resources.

8.0 Legal Implications

- 8.1 The Localism Act 2011 was enacted in November 2011 but its implementation is being phased in. The provisions in relation to the replacement of the current Standards Regime are due to be brought in to force with effect from 01 July 2012. Draft regulations are now available which define the new “Disclosable Pecuniary Interests” which in future Members will be expected to register.

9.0 Risk Management

- 9.1 It is important for the corporate governance of the Council that it expects the highest standards of conduct from Elected Members. If the Council fails to adopt a Code of Conduct which is fit for purpose then there are risks to the Council from a reputational management viewpoint and also to the integrity of the Council’s corporate governance and decision making process.

10.0 Background

- 10.1 The Localism Act 2011 was enacted on 15 November 2011. Under the Act the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. All Town and Parish Councils within the area are under the same duty for their Town or Parish Members.
- 10.2 The Nationally prescribed Model Code of Conduct for Members is abolished however, Cheshire East Council itself and all Town and Parish Councils within the Borough must adopt a Code of Conduct which sets out the conduct expected of Members when acting in their capacity as an Elected Member.
- 10.3 Any Local Code must be consistent with the Nolan principles of
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 10.4 Authority’s have been waiting for the regulations to be made by the Secretary of State which would define the new “Disclosable Pecuniary Interests”. Failure to register or disclose such interests will become a criminal offence. Once this category of interest is known the Council needs to consider what other pecuniary interests and / or non pecuniary interests they require Members to

register and disclose. The register can then be finalised and any relevant provision in the Local Code confirmed.

- 10.5 On 16 May 2012 Annual Council agreed that the current Code of Conduct for Members would continue on an interim basis until the new Code is adopted under the Act. This transitional arrangement was agreed as the next Full Council meeting is scheduled on 19 July shortly after the Act's anticipated implementation date of 1 July 2012.

11.0 Draft Code of Conduct

- 11.1 At the previous meeting of the Issues and Ideas Working Group on 14 May 2012 Members considered the two documents produced by the Department of Communities and Local Government and the Local Government Association. In addition on 17 May 2012 the National Association of Local Councils (NALC) issued a template Code for Parish Councils. NALC is recommending that Parish Councils do not adopt the LGA Code. Copies of the various documents are attached as follows:

- illustrative text produced by DCLG (Appendix 1)
- the Model Code of Conduct produced by the LGA (Appendix 2)
- the NALC draft for Town and Parish Councils (Appendix 3)

- 11.2 Members will be aware that work has been ongoing to draft a new standard Code of Conduct with a view to it being adopted across the Cheshire Authorities to include Town and Parish Councils and the Fire Authority. This draft is attached at Appendix 4 and has been written to:

- be consistent with the Nolan principles and develop these into Member obligations
- Balance "light touch regulation" with some clearer guidance to Members as to what they may or may not do
- Include the obligations set out in the CLG text
- reflect an initial draft Code produced by the Cheshire Fire Authority based on the current 2007 Model Code of Conduct and the relevant Standards for England's guidance
- Include those behaviours that Members should seek to uphold as set out in the LGA template.

- 11.3 At the time of writing the report the regulations on "Disclosable Pecuniary Interests" are issued only in draft form but have been included as an appendix. This may require further amendment.

12.0 Issues to consider

- 12.1 In order to reflect requirements within the current Code of Conduct "confidential information" is referred to at paragraph 5 (openness paragraph) and a supplementary paragraph 7 "respect for others" has been included. Both these items are seen as important issues to capture within any Code which the Council could be recommended to adopt.

- 12.2 Paragraph 5 of the Council's current Code of Conduct provides that Members must not bring their Office or the Authority into disrepute while acting in their official capacity. None of the draft Codes refer to the topic of "disrepute" and experience suggests that complaints under this heading have often been based upon wider dissatisfaction about a Council decision or action rather than necessarily specific allegations about the behaviour of a Member. This requirement has not been included in the current Cheshire Code.
- 12.3 There is no requirement in the Act for a Member to withdraw from a meeting during an item of business where they have a pecuniary interest in that item or have disclosed such an interest although participation in the discussion or voting will be a criminal offence. Under Section 31(10) of the Act the Council may agree to provide under the rules of conduct in the Constitution that Members should be excluded from meetings where they have a disclosable pecuniary interest. This would prevent any perception that Members were able to influence meetings through their continued presence. Members may wish to consider whether this is a recommendation they would wish to make.
- 12.4 The rules of conduct in the Constitution (Standing Orders) could also require Members to disclose registered interests at meetings as this is not required in all circumstances under the Localism Act. If this was the case then these requirements should be referred to in the Local Code.
- 12.5 There is also no requirement in the Act for Members to keep their Register of Members Interests up to date. At present Members must notify changes to their Register of Interests within 28 days. Again this could be included as a requirement in Standing Orders.
- 12.6 The draft regulations do not require Members to disclose any gifts or hospitality. This was a requirement of previous codes and it is recommended that this provision should be in any new code. Accordingly Paragraph 9 of the Local Code states that members should declare within 28 days any gifts or hospitality received with a value in excess of £100.
- 12.7 Subject to consideration of these issues and to receipt of the relevant regulations as referred to above, Members are requested to recommend to Full Council that the Code of Conduct at Appendix 4 of the report is recommended for adoption by Full Council.

13.0 Access to Information

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

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CHESHIRE EAST COUNCIL

REPORT TO: STANDARDS COMMITTEE

Date of Meeting: 18 June 2012
Report of: Borough Solicitor / Monitoring Officer
Subject/Title: Localism Act 2011 – Procedure for Complaints
under the new Code

1.0 Report Summary

- 1.1 The report asks Members to approve and recommend to Full Council the adoption of a new procedure for investigating complaints under the Council's new Code of Conduct as required by the Localism Act 2011.

4.0 Decision Requested

- 4.1 That the procedure relating to the investigation of complaints under the new Code of Conduct at Appendix 1 of the report together with the criteria used to evaluate complaints at Appendix 3 is recommended for adoption by the Council on 19 July 2012.
- 4.2 That members recommend that the Constitution Committee at its meeting on the 5 July 2012 approve the Terms of Reference set out at Appendix 4 for formal adoption by the Council on 19 July 2012

7.0 Reasons for Recommendations

- 3.1 To comply with the provisions of the Localism Act 2011 which requires the Council to have in place appropriate procedures to deal with any breaches of the new Code of Conduct with effect from July 2012.

8.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Strong Ethical Governance, including a robust and transparent policy for investigation of alleged breaches of the Code of Conduct, are critical to the Corporate Governance of the Council and also underpin the Council's decision making processes as a whole.

7.0 Financial Implications

- 7.1 Costs of investigating breaches are dependent upon the number of complaints received which are referred for investigation, however at the moment it is anticipated that costs will be met from existing resources.

8.0 Legal Implications

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime are due to be brought into force with effect from 01 July 2012. The Act requires that the Council not only adopts a Code of Conduct but has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct.

9.0 Risk Management

- 9.1 If the Council fails to adopt an appropriate process for the investigation of complaints which is not only fit for purpose, but robust and transparent, then there are risks to the Council not only from a reputational management viewpoint but also to the integrity of the Council's Corporate Governance and decision making processes as a whole.

10.0 Background

- 10.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct which is expected of Members whenever they act in their capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 The Borough Council is also responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.
- 10.3 A suggested draft procedure is set out at Appendix 1 which provides for:-
- An initial assessment of the complaint by 3 Members plus the Independent Person within 21 days
 - The Panel may either Take No Action/ refer to the Group Leader for Informal Action / refer to Police or other regulatory agency / refer for Local Resolution / refer for External Investigation
 - There is no right of appeal against the decision of the initial assessment panel
 - Under the Local Resolution option the Complainant and Subject Member plus up to one witness each would attend before an ad hoc panel of 3 Elected Members together with the Independent Person

- The Local Resolution Panel will attempt to resolve issues without the need for a formal investigation and Hearing
- Matters may be referred from the Local Resolution Panel for formal investigation should it become apparent that issues are more complex or serious
- Any external investigation should be concluded within 8 weeks where practicable. If the investigation finds evidence of failure to comply with the Code of Conduct the Standards Hearing sub committee will conduct a Hearing to determine the complaint

10.4 Members are requested to approve the policy set out at Appendix 1. A flow chart summarising the procedure is attached at Appendix 2 for Members assistance.

11.0 Standard Documents

11.1 Any Complainants will be asked to complete the Council's standard complaint form setting out in sufficient detail why the Complainant considers there has been failure to comply with the relevant Code of Conduct. This is the Council's current procedure and allows consistency of information to be placed before the initial assessment panel.

11.2 Complainants and Subject Members will also be asked to complete a standard form prior to the Local Resolution of any complaint. This is to allow basic information to be exchanged between the Complainant and Subject Member and for the panel itself to have sufficient information prior to the Local Resolution meeting. It should be noted that the Complainant and Subject Member may both appear before the Panel and bring one witness each.

11.3 Members are also asked to approve at Appendix 3 the criteria to be used at the Initial Assessment meeting which helps determine which of the available options the panel should consider. This is based on the criteria used previously when assessing complaints under the current code.

12.0 Terms of Reference

12.1 Members are asked to approve the Terms of Reference at Appendix 4 of

- Audit and Governance Committee
- the Initial Assessment Panel
- the Local Resolution Panel
- the Hearing sub committee

Constitution Committee at its meeting on 5 July 2012 will be asked to recommend that the Council approves their formal adoption.

12.2 Members are asked to note that if a Member has sat on a Local Resolution panel which subsequently refers the matter for external investigation then he or she should not subsequently sit on any Hearings sub committee.

13.0 Independent Person

13.1 The Act requires that the Authority appoints 1 or more Independent Persons whose:

- Views must be sought and taken into account by the Authority before it makes a finding that any Member has failed to comply with its Code of Conduct or impose any sanction
- Views may be sought on whether to investigate a complaint and how to deal with a particular allegation
- In addition any Member against whom an allegation has been made (including a Town and Parish Councillor) may consult him or her regarding the allegation

13.2 The Act itself prevents any person who has been a Member or a co-opted Member of Cheshire East Council in the last 5 years from being appointed as an Independent Person. Accordingly current or past Independent Members of the Council's Standards Committee are prevented from being Independent Persons for the same Council under the 2011 Act. However draft regulations are now available setting out transitional arrangements which will enable the Council to have the option to appoint persons who have previously been Independent Members as the new Independent Persons in view of the loss of skill and expertise which would otherwise occur.

13.3 At the May Council meeting the Monitoring Officer was given delegated authority to undertake a recruitment process for up to 3 Independent Persons as required under Section 28(7) of the Localism Act 2011 once details of the transitional provisions had been received.

13.4 Accordingly a job description and person specification and has been drafted in order to recruit up to 3 Independent Persons. The closing date is for applications is 25 June 2012 with interviews scheduled for the week commencing 2 July 2012.

13.5 Full Council must approve the appointment of the new Independent Persons. At Annual Council on 16 May 2012 Council indicated that if necessary in order to comply with statutory timescales the Council's urgency sub committee should approve the provisional appointment of Independent Persons subject to formal ratification by Full Council at the July meeting. Given the lateness of the regulations being made this may not be necessary.

14.0 Summary

Members are asked to note and approve the proposed procedure for the investigation of complaints under the new Code of Conduct and note that this procedure will apply to any complaints against Town and Parish Councillors as well as Cheshire East Councillors.

15.0 Access to Information

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

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Council – 19 July 2012

Extract from Minutes of Standards Committee 18 June 2012

Localism Act 2011: Code of Conduct

At the previous meeting of the Issues and Ideas Working Group held on 14 May 2012, Members considered two draft Codes of Conduct produced by the Department of Communities and Local Government (DCLG) and the Local Government Association (LGA). In addition, on 17 May 2012 the National Association of Local Councils (NALC) had issued a template code for Parish Councils, a copy of which was provided for Members' information.

To ensure consistency across Cheshire, and in line with preferences expressed by Members at the last meeting, a draft Code of Conduct based on the DCLG illustrative text had been developed and adapted to include behaviours Members were expected to uphold (that were part of the Model Code) but which had not been explicitly defined in the illustrative text e.g. maintaining confidentiality and respect for others. Equally, the requirement not to bring a Members' office into disrepute had not been included as it was considered that this had, in the past, been used as a way of reflecting a complainant's wider dissatisfaction with an issue rather than address alleged breaches of the Code of Conduct.

The Borough Solicitor drew Members attention to a number of changes from the Model Code not present in the draft, most noticeably in respect of declaration of interests. It was reported that the Regulations in respect of disclosable pecuniary interests had now been published, which would replace the need to declare personal and prejudicial interests. Although the Regulations prescribed these interests, it did not stipulate that Councillors should withdraw from the meeting room whilst the matter was debated/voted upon and it was suggested that the Committee may wish to recommend to Constitution Committee/Council that this requirement be included in the Council's Procedure Rules.

Opposing views were expressed about whether Members should withdraw from the meeting when the item was first called or when the vote was taken. Having considered the arguments put forward, it was recommended that a requirement to withdraw from the meeting should be at the point an item was called.

The debate then turned to issues relating to confidentiality, bullying and respect. It was suggested that, due to the need to maintain confidentiality, it was not always possible for Members to be open at all time and a minor change to the wording of paragraph 5(a) Confidentiality, changing 'as' to 'where' possible would be appropriate. A request was also made for explanatory notes to be included in the Code which defined these three behaviours; the Monitoring Officer suggesting that the definitions drawn up by Standards for England in respect of confidentiality and bullying (with the addition of the phrase 'cyber bullying' to cover abuse of electronic

communications) could be added for clarity. A further alteration, changing the word 'respect' to 'courtesy' would, Members felt, be self explanatory and negate the need for further addendums to the Code.

RESOLVED: That -

- a) Subject to a minor alteration to the wording of paragraph 5(a), changing 'as' to 'where', the substitution of 'courtesy' for 'respect' in paragraph 7(a) and the inclusion of explanatory notes in respect of confidentiality and bullying; the draft Code of Conduct set out in appendix 4 of the report be recommended for approval and adoption by full Council on 19 July 2012; and
- b) Constitution Committee be invited to recommend to Council on 19 July 2012, an amendment to the Council's Constitution which would require a Member to withdraw from a meeting having declared a pecuniary interest.

Minute 5: Investigation of Complaints Procedure

Principal authorities would, under the Localism Act, be responsible for investigating complaints that a member of the Borough Council or a Town/Parish Councillor in their area had breached their Code of Conduct. This would require the authority to have in place a procedure for dealing with complaints.

As a result of discussions by both the Committee and the Issues and Ideas Working Group, it has been agreed that responsibility for standards matters should transfer to the Audit and Governance Committee, which Council had approved on 16 May 2012 i.e.

That the Audit and Governance Committee establish, on an ad-hoc basis, a Sub-Committee with delegated powers to deal with standards issues, with effect from the next meeting of the Council in July 2012

The Terms of Reference for the Committee, now submitted, suggested the formation of three sub-committees to deal with complaints; an Initial Assessment Panel to determine the validity of the complaint against agreed criteria, a Local Resolution Panel to determine/resolve minor breaches of the Code and a Hearings Sub-Committee to consider reports from an Investigative Officer should an external investigation been deemed necessary. A draft procedure together with an explanatory flowchart and the assessment criteria to be followed were presented to Members by the Borough Solicitor.

In general, the proposals found favour with the Committee; however the following matters were debated:

- i) Notification of complaint: Members considered that the Subject Member, against whom the complaint had been made, should be notified of the fact and provided with a copy of the complaint form BUT that s/he should

- be directed not to make contact with the Complainant until such time as the complaint process had been concluded.
- ii) It was felt that permitting only one witness to attend a hearing was too restricted and whilst the procedure should be managed, Subject Members should be permitted to bring no more than 3 witnesses plus a supporter if required.
 - iii) The present procedure did not allow for the right of review by the Complainant or Subject Member following the making of a decision. Contrasting opinions were expressed as to whether this option should be made available; the Committee deciding on balance that, as the new process was designed to be more steam-lined than at present, it should not be included.
 - iv) Where no evidence of failure to comply with the Code was found, it was requested that the Monitoring Officer maintain a record of complaints received so as to identify vexatious complainants at an early stage.
 - v) For consistency, it was agreed that a decision notice should be published following a meeting of the Local Resolution Panel.

RESOLVED: That –

- a) Subject to the inclusion of the amendments listed above, the procedure relating to the investigation of complaints under the new Code of Conduct at Appendix 1 of the report together with the criteria used to evaluate complaints set out in appendix 3 be recommended for adoption by the Council on 19 July 2012; and
- b) Constitution Committee, at its meeting on 5 July 2012, be invited to approve the Terms of Reference set out in appendix 4 for formal adoption by Council on 19 July 2012.

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COUNCIL MEETING – 19TH JULY 2012**Extract from the Minutes of the Constitution Committee Meeting on 5th July 2012****71 LOCALISM ACT 2011: PROPOSED AMENDMENT TO AUDIT AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE AND THE COUNCIL'S PROCEDURE RULES**

The Committee considered the proposed adoption of additional terms of reference for the Audit and Governance Committee to enable responsibility for ethical standards and conduct issues to be transferred from the Standards Committee in line with the requirements of the Localism Act 2011. The proposed terms of reference were set out in the Appendix to the report and included the establishment of three ad hoc panels and sub-committees to consider, at different stages, alleged breaches in the Member Code of Conduct. The membership of the bodies would be drawn from a pool of 15 members comprising the members of the Audit and Governance Committee and five others.

The Borough Solicitor advised that a revised Member Code of Practice, together with proposed assessment criteria and procedure rules for the new bodies, would be submitted to Council for approval alongside the proposed terms of reference.

The Committee was also asked to consider a proposed amendment to the Council's Constitution which would require a Member to withdraw from a meeting after declaring a disclosable pecuniary interest.

RESOLVED

That

- (1) the terms of reference set out in the Appendix to the report be recommended for formal adoption by full Council on 19th July 2012, the sub-committee and panels to operate under the procedures approved and adopted by Council;
- (2) the proposed pool of 15 Members be constituted on the basis of political proportionality and the political groups be invited to submit nominations to the five additional places as appropriate; and
- (3) Council be recommended to agree that the Council Procedure Rules be amended to require a Member who declares a disclosable pecuniary interest in an item of business to withdraw from the meeting at the appropriate juncture, the Borough Solicitor being authorised to make such changes to the Constitution as she considers appropriate to give effect to the wishes of Council.

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 5th July 2012
Report of: Borough Solicitor and Monitoring Officer
Subject/Title: Localism Act 2011: Proposed Amendment to Audit and Governance Committee's Terms of Reference and the Council's Procedure Rules

1.0 Report Summary

- 1.1 The report asks the Constitution Committee to approve and recommend to full Council the adoption of additional terms of reference for the Audit and Governance Committee to enable responsibility for ETHICAL standards and conduct issues to be transferred from the Standards Committee in line with the requirements of the Localism Act 2011.
- 1.2 The Committee is also invited to recommend to Council an amendment to the Council's Constitution which would require a Member to withdraw from a meeting having declared a pecuniary interest.

2.0 Recommendation

- 2.1 That the terms of reference set out in the Appendix to the report be recommended for formal adoption by full Council on 19th July 2012, the sub-committee and panels to operate under the procedures approved and adopted by Council.
- 2.2 Council be recommended to approve that the Council Procedure Rules be amended to require a Member who declares a pecuniary interest in an item of business to withdraw from the meeting at the appropriate juncture.

3.0 Reasons for Recommendations

- 3.1 To comply with the provisions of the Localism Act 2011 which requires the Council to have in place appropriate procedures to deal with any breaches of the new Code of Conduct with effect from July 2012.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

- 6.1 Strong Ethical Governance, including a robust and transparent policy for investigation of alleged breaches of the Code of Conduct, is critical to the corporate governance of the Council and also underpins the Council's decision making processes as a whole.

7.0 Financial Implications

- 7.1 Costs of investigating breaches are dependent upon the number of complaints received which are referred for investigation, however at the moment it is anticipated that costs will be met from existing resources.

8.0 Legal Implications

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime are due to be brought into force with effect from 1 July 2012. The Act requires that the Council not only adopts a Code of Conduct but has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct.

9.0 Risk Management

- 9.1 If the authority fails to adopt the new arrangements, then there are risks to the Council not only from a reputational management viewpoint but also to the integrity of the Council's Corporate Governance and decision making processes as a whole.

10.0 Background

- 10.1 Under the Localism Act 2011, the Council has a statutory duty to promote and maintain high standards of conduct by both its elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct which is expected of Members whenever they act in their capacity as an elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 The Borough Council is also responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.
- 10.3 Local authorities are no longer required, under the Act, to appoint a Standards Committee to deal with matters concerning standards and

conduct issues. Following consideration of the matter by the Standards Committee, Council agreed at its meeting on 19 May 2012 that responsibility for standards and conduct should be transferred from the Standards Committee to the Audit and Governance Committee.

10.4 The decision of Council (as extracted) was as follows: That

i) the Audit and Governance Committee establish, on an ad-hoc basis, a sub-committee with delegated powers to deal with standards issues, with effect from the next meeting of the Council in July 2012; and

ii) the draft terms of reference at Appendix 9i) of the report submitted be adopted in respect of the Audit and Governance sub-committee.

11.0 Terms of Reference

11.1 The Regulations, which underpin much of the new procedure, had not been published when the initial report was submitted to Council, resulting in the terms of reference being in draft form only. Since that time, the Regulations have come forward, which has enabled the Standards Committee, at its meeting on 18 June 2012, to finalise its recommendations on the future of the standards regime. The draft terms of reference submitted to Council in May have therefore been amended to reflect the current position.

11.2 The Committee is invited to approve the Terms of Reference set out in the Appendix to the report in respect of the Audit and Governance Committee and its three sub-committees i.e.

- the Initial Assessment Panel
- the Local Resolution Panel
- the Hearing sub-committee

for formal adoption by Council. The procedures under which the sub-committees will operate will be the subject of a separate report to Council.

12.0 Withdrawal from Meetings

12.1 There is no requirement in the Act for a Member to withdraw from a meeting during an item of business where they have a pecuniary interest in that item or have disclosed such an interest although participation in the discussion or voting will be a criminal offence. Under Section 31(10) of the Act, a Council may agree to provide under the rules of conduct in the Constitution that Members should be excluded from meetings where they have a disclosable pecuniary interest. This would prevent any perception that Members were able to influence meetings through their continued presence.

- 12.2 Having considered the matter at its meeting on 18 June 2012, the Standards Committee was supportive of this approach and agreed that Council be asked to support an amendment to the Constitution to this end.

13.0 Access to Information

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

Name: Caroline Elwood
Designation: Borough Solicitor
Tel No: 01270 685882
Email: caroline.elwood@cheshireeast.gov.uk

TERMS OF REFERENCE AUDIT AND GOVERNANCE COMMITTEE

The Committee is responsible for:

- Promoting high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity)
- Ensuring that Members receive advice and training as appropriate on the Members Code of Conduct
- Granting dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority

The Committee will appoint three ad-hoc sub committees / panels as follows:

Initial Assessment Panel

3 Members plus Independent Person. The panel is responsible for:

- Receiving and determining whether to refer for investigation or other appropriate action, any written complaints regarding alleged misconduct and breach of the Code of Conduct by any Borough Councillor or Town or Parish Councillor within Cheshire East.

Local Resolution Panel

3 Members plus Independent Person. The panel is responsible for:

- The hearing and determination of complaints referred to it by the Initial Assessment Panel that there has been a breach of the Code of Conduct by any Borough Councillor or any Town or Parish Councillor within Cheshire East. The panel will act in consultation with the Independent Person.
- Matters may be referred for external investigation should the panel consider it appropriate due to the complexity of the matter or if serious issues emerge.

Hearing Sub Committee

3 Members plus Independent Person. The sub committee is responsible for:

- Consideration of the written report of the external investigator in relation to a complaint that a Borough Councillor or Town or Parish Council Member has broken the Code of Conduct and the determination of any appropriate action in consultation with the Independent Person.

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COUNCIL MEETING – 19TH JULY 2012**Extract from the Minutes of the Constitution Committee Meeting on 5th July 2012****67 NOTICE OF MOTION ON CHANGES TO THE ARRANGEMENTS FOR SCHEDULED COMMITTEE MEETINGS**

The Committee considered the following motion, proposed by Councillor D Brickhill and seconded by Councillor P Edwards, which had been referred by Council to the Committee for consideration:

“That meetings set out in the Council diary shall not be changed either by timing or location unless:

All Members have been consulted and there is no relevant business in which case the meeting is cancelled.

All Members are consulted and more than 60 agree to the change.”

Councillor Brickhill attended the meeting and spoke in relation to the motion.

The Committee procedure rules currently provided that where it was necessary to cancel or change the arrangements for a scheduled meeting, the chairman of the committee in question could agree this following consultation with the relevant group spokesmen on the committee. Any such changes would then be notified to all members of the Council.

The introduction of a procedure whereby all Members of the Council had to be consulted before a committee meeting could be changed or cancelled, and which would require more than 60 Members to agree any such change, would make the operation of the Council’s committee system unwieldy, cumbersome and unresponsive to any genuine need for change. Members felt, however, that it would be reasonable and appropriate for all members of the committee concerned to be consulted. It was also felt that any cancellation should allow sufficient time for public notice to be given.

RESOLVED

That Council be recommended to approve a change to the Committee Procedure Rules to provide that a scheduled meeting of a decision-making body may be cancelled or changed by the Chairman following consultation with the whole membership of that body, provided that such cancellation or change takes place at least five clear working days before the scheduled date of the meeting to enable sufficient public notice to be given.

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 5th July 2012
Report of: Democratic and Registration Services Manager
Subject/Title: Notice of Motion on Changes to the Arrangements for Scheduled Committee Meetings

1.0 Report Summary

- 1.1 This report invites the Committee to consider the following Motion, proposed by Councillor D Brickhill and seconded by Councillor P Edwards, which has been referred by Council to the Committee for consideration:

“That meetings set out in the Council diary shall not be changed either by timing or location unless:

All Members have been consulted and there is no relevant business in which case the meeting is cancelled.

All Members are consulted and more than 60 agree to the change.”

2.0 Recommendation

- 2.1 That the Committee consider the Motion and offer its advice to Council.

3.0 Reasons for Recommendations

- 3.1 To enable Council to consider the Committee’s views on the matter.

4.0 Wards Affected

- 4.1 None

5.0 Local Ward Members

- 5.1 None

6.0 Policy Implications (including carbon reduction and health)

- 6.1 None

7.0 Financial Implications (authorised by Director of Finance and Business Services)

- 7.1 None

8.0 Legal Implications (authorised by Borough Solicitor)

- 8.1 Any changes to the current arrangements for changing meetings would require an amendment to the Constitution.

9.0 Risk Management

- 9.1 There may be a risk in securing a sufficient response from Members in time to enable meeting arrangements to be changed, which could impact on the Council's ability to operate flexibly and efficiently. Many Members may choose not to respond because they are not directly affected by the proposed changes.

10.0 Background and Options

- 10.1 Committee Procedure Rule 26 provides that meetings of committees and sub-committees will be set out in the calendar of meetings approved by the Council under Council Procedure Rule 1.1. There will be a presumption against alterations to the date, time and venue for meetings. When it is necessary to alter the date, time and/or venue of a meeting, or to arrange a special meeting, the Monitoring Officer will consult the Chairman and Spokesmen of the relevant Committee or Sub-Committee before any action is taken. The Chairman of the Committee or Sub-Committee will then determine the matter. Any changes to the arrangements of scheduled meetings, and the details of any special meetings, are notified to all Members of the Council.
- 10.2 The introduction of a procedure whereby all Members of the Council have to be consulted on any change in the meeting arrangements for a scheduled committee meeting, and which would require at least 60 Members to agree any such change, could make the operation of the Council's committee system unwieldy, inflexible and inefficient. Under current arrangements, not only the Chairman and Vice-Chairman but also the spokesmen of other political groups represented on the Committee must be consulted and they will no doubt wish to take soundings from their colleagues on the Committee. It is then for the Chairman to determine the matter. All Members of the Council are then be notified immediately of any changes or cancellations and the reason for them. Where it is necessary to convene a special or ad hoc meeting of a relatively small body such as a sub-committee or working group, it is normally the practice to consult all Members of the body on the proposed arrangements.

11.0 Access to Information

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

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Designation: Democratic Services Officer

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COUNCIL - 19 JULY 2012**EXTRACT FROM LICENSING COMMITTEE MINUTES – 16 JANUARY 2012****BYELAWS RELATING TO ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS**

The Committee considered a report regarding proposed draft byelaws relating to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.

Byelaws dealing with the regulation of such activities were in force in the Crewe and Congleton areas of the Borough as a result of original adoptions made by the predecessor district councils. There were no byelaws in force in the Macclesfield area. The adoption of a set of byelaws in relation to the Borough of Cheshire East as a whole would ensure a consistent approach to regulation across the Borough and would assist in reducing the risk of blood borne disease transmission.

RESOLVED

- (a) That, subject to consultation, the Borough Solicitor, or an officer acting on her behalf, be authorised to submit the draft byelaws attached as an appendix to the report to the Department of Health for provisional approval; and
- (b) That, subject to provisional approval being received from the Department of Health, the following resolutions be recommended to Council:
 - 1. That the byelaws relating to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis attached as an appendix to the report be approved and authorisation be provided for the affixing of the common seal of the Council to the byelaws; and
 - 2. That the Borough Solicitor, or officer acting on her behalf, be authorised to carry out the relevant statutory procedures in relation to the making of the byelaws and to apply to the Secretary of State for confirmation of the byelaws.

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CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of Meeting: 16 January 2012
Report of: Head of Community Services
Subject/Title: Byelaws Relating to Acupuncture, Tattooing, Semi-Permanent Skin Colouring, Cosmetic Piercing and Electrolysis

1.0 Report Summary

- 1.1 The report provides background in relation to byelaws regarding the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis and asks the Licensing Committee to make recommendations to Council in relation to a set of draft byelaws.

2.0 Decision Requested

- 2.1 The Licensing Committee is requested:
- 2.1.1 Subject to consultation, to authorise the Borough Solicitor, or an officer acting on her behalf, to submit the draft byelaws attached as an appendix to this report, to the Department of Health for provisional approval; and
- 2.1.2 Subject to provisional approval being received from the Department of Health, to recommend the following resolutions to Council:
- (a) that the byelaws relating to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis attached as an appendix to this report be approved and authorisation be provided for the affixing of the common seal of the Council to the byelaws; and
 - (b) that the Borough Solicitor, or officer acting on her behalf, be authorised to carry out the relevant statutory procedures in relation to the making of the byelaws and to apply to the Secretary of State for confirmation of the byelaws.

3.0 Reasons for Recommendations

- 3.1 At the meeting of Council on 13th October 2011 Council resolved that sections 14 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') be adopted and shall apply to the Borough of Cheshire East with effect from 1 December 2011.
- 3.2 Section 14(7) of the 1982 Act provides the power to make byelaws relating to acupuncture. Section 15(7) of the 1982 Act provides the power to make byelaws

relating to tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.

- 3.3 Paragraph 4.4.10 of Chapter 4 of the Council's Constitution provides that the functions of "making, amending, revoking, re-enacting, adopting or enforcing byelaws..." are functions of the Full Council.

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 The making of byelaws in relation to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis is requested in order to further the promotion of public health. It is suggested that the byelaws would provide safeguards to reduce the risk of blood borne disease transmission.

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

- 7.1 There will be costs of approximately £1,300 (exclusive of VAT) associated with the publication of the notice of the Council's intention to apply for confirmation of the byelaws. These costs would be met from existing budget provision within the Public Protection and Health Service.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 14(7) of the 1982 Act provides that a local authority may make byelaws for the purpose of securing – (a) the cleanliness of premises registered under section 14 (i.e. in relation to acupuncture) and fittings in such premises; (b) the cleanliness of persons so registered and persons assisting persons so registered in their practice; and (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the practice of acupuncture.
- 8.2 Section 15(7) of the 1982 Act provides that a local authority may make byelaws for the purpose of securing - (a) the cleanliness of premises registered under section 15 (i.e. in relation to tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis) and fittings in such premises; (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered; and (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered under section 15.

- 8.3 The procedure for making byelaws under sections 14 and 15 of the 1982 Act is prescribed by section 236 of the Local Government Act 1972 ('the 1972 Act'). Section 236 of the 1972 Act provides that once the common seal of the Council has been affixed to byelaws and at least one clear calendar month before applying to the Secretary of State for confirmation, the Council is required to publish notice of its intention to apply for confirmation in one or more local newspapers circulating in the area to which the byelaws are to apply. A copy of the byelaws must also during this period be held on deposit for inspection by members of the public at the Council's offices. At the conclusion of the notice period the Council may apply to the Secretary of State for the confirmation of the byelaws. Once byelaws have been confirmed copies must be sent to the proper officer of every parish or community council, or in the case of a parish not having a council, to the chairman of the parish meeting.
- 8.4 Paragraph 4.4.10 of Chapter 4 of the Council's Constitution provides that the functions of "making, amending, revoking, re-enacting, adopting or enforcing byelaws..." are functions of the Full Council.
- 8.5 Consideration has been given to the application of the 'public sector equality duty' (as per section 149 Equality Act 2010) to the decision requested within paragraph 2.0 above. It is suggested that the decision requested would have a neutral impact in terms of its impact on those individuals with 'protected characteristics.'

9.0 Risk Management

- 9.1 It is suggested that the byelaws would provide safeguards to reduce the risk of blood borne disease transmission.

10.0 Background and Options

- 10.1 As Members will recall, Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Local Government Act 2003) contains provisions in relation to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.
- 10.2 Members will also be aware that on 13th October 2011 Council resolved to readopt sections 14 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') so that the provisions apply to the Borough of Cheshire East with effect from 1 December 2011.
- 10.3 Section 14(7) of the 1982 Act provides the power to make byelaws relating to acupuncture. Section 15(7) of the 1982 Act provides the power to make byelaws relating to tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. At the present time the following byelaws are in force within the Borough as a result of original adoptions made by the predecessor district councils:
- (a) Byelaws for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis made by Crewe and Nantwich Borough Council on 29th January 2007 and confirmed by the Secretary of State for Health on 16th August 2007;

- (b) Byelaws relating to ear-piercing and electrolysis made by Congleton Borough Council on 7th August 1986 and confirmed by the Secretary of State for Social Services on 7th November 1986;
- (c) Byelaws relating to tattooing made by Congleton Borough Council on 7th August 1986 and confirmed by the Secretary of State for Social Services on 7th November 1986;
- (d) Byelaws relating to acupuncture made by Congleton Borough Council on 7th August 1986 and confirmed by the Secretary of State for Social Services on 7th November 1986.

- 10.4 It is proposed that a set of byelaws in relation to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis be made in relation to the Borough of Cheshire East as a whole. As referred to above, such byelaws are currently in force in the Crewe and Congleton areas of the Borough. However, there are currently no byelaws in force in the Macclesfield area dealing with the regulation of such activities.
- 10.5 It is suggested that the adoption of the set of draft byelaws attached within the appendix would be beneficial in ensuring a consistent approach to regulation across the Borough and will assist in reducing the risk of blood borne disease transmission. The draft byelaws are based on the model byelaws relating to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis produced by the Department of Health in February 2007 and, if made, would repeal the existing byelaws referred to in paragraph 10.3 above.
- 10.6 For the reasons set out above it is proposed that consultation on the proposed byelaws is carried out by way of publication of the proposals on the Council's website and direct correspondence with individuals and businesses currently registered with the Council. In the event that no substantive responses are received it is proposed that the Borough Solicitor be authorised to submit the draft byelaws to the Secretary of State for provisional approval. If substantive consultation responses are received these would be reported to a future meeting of the Licensing Committee for consideration. The Committee is further requested to recommend to Council that, if provisional approval is received, the byelaws be made and authorisation given for an application for confirmation by the Secretary of State.

11.0 Access to Information

Byelaws for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis made by Crewe and Nantwich Borough Council on 29th January 2007 and confirmed by the Secretary of State for Health on 16th August 2007.

Byelaws relating to ear-piercing and electrolysis made by Congleton Borough Council on 7th August 1986 and confirmed by the Secretary of State for Social Services on 7th November 1986;

Byelaws relating to tattooing made by Congleton Borough Council on 7th August 1986 and confirmed by the Secretary of State for Social Services on 7th November 1986;

Byelaws relating to acupuncture made by Congleton Borough Council on 7th August 1986 and confirmed by the Secretary of State for Social Services on 7th November 1986.

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

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Designation: Commercial Team Leader

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APPENDIX

CHESHIRE EAST BOROUGH COUNCIL

BYELAWS

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Cheshire East Borough Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
- (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
- (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—
 - (i) immediately after use; and
 - (ii) at the end of each working day.
- (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
- (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

- (a) an operator shall ensure that—
 - (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—
 - (aa) is clean and in good repair and, so far as is appropriate, is sterile;
 - (bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

- (ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;
 - (iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
 - (iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;
 - (v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.
- (b) a proprietor shall provide—
- (i) adequate facilities and equipment for—
 - (aa) cleansing; and
 - (bb) sterilization, unless only pre-sterilized items are used.
 - (ii) sufficient and safe gas points and electrical socket outlets;
 - (iii) an adequate and constant supply of clean hot and cold water on the premises;
 - (iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

- (a) shall ensure that an operator—
- (i) keeps his hands and nails clean and his nails short;
 - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
 - (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);
 - (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
 - (v) does not smoke or consume food or drink in the treatment area; and
- (b) shall provide—
- (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
 - (ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

- (a) the client is bleeding or has an open lesion on an exposed part of his body;
or
- (b) the client is known to be infected with a blood-borne virus; or
- (c) the operator has an open lesion on his hand; or
- (d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis that were made by Crewe and Nantwich Borough Council on the 29th January 2007 and were confirmed by Secretary of State for Health on 16th August 2007 are revoked.

7.The byelaws relating to ear-piercing and electrolysis that were made by Congleton Borough Council on the 7th August 1986 and were confirmed by the Secretary of State for Social Services on 7th November 1986 are revoked.

8. The byelaws relating to tattooing that were made by Congleton Borough Council on the 7th August 1986 and were confirmed by the Secretary of State for Social Services on 7th November 1986 are revoked.

9. The byelaws relating to acupuncture that were made by Congleton Borough Council on the 7th August 1986 and were confirmed by the Secretary of State for Social Services on 7th November 1986 are revoked.

The COMMON SEAL of)
CHESHIRE EAST BOROUGH)
COUNCIL was hereunto affixed)
on the day of 2012)
in the presence of:)

AUTHORISED SIGNATORY

The foregoing byelaws are hereby confirmed by the Secretary of State for Health on _____ and shall come into operation on _____

Member of the Senior Civil Service

Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

The references in paragraph 1(1) in the definition of “premises” to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) do not apply to acupuncture.

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.***

*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).***

*The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument.***

*The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a dentist **applies only to acupuncture (see section 14(8) of the Act).***

COUNCIL MEETING – 19 JULY 2012**EXTRACT FROM STRATEGIC PLANNING BOARD MINUTES – 2 MAY 2012****NOTICE OF MOTION - COMMUNITY INFRASTRUCTURE LEVY**

The Board considered a report on the Notice of Motion submitted to Council on 23 February 2012 regarding the operation of the Community Infrastructure Levy.

The motion, which had been proposed by Councillor D Brickhill, was as follows:

1. At least 80% of all money raised by community levy payments by developers must be spent in the same town or parish council area as the actual development.
2. The remaining 20%, if any, must be spent in the same district as the actual development, where 'district' means the appropriate area of one of the three previous district councils that made up Cheshire East.
3. The planning department shall consult the parish or town council on how the money should be spent and, if necessary, fully explain at a planning Committee meeting why the parish's recommendations cannot be implemented.
4. The planning department shall provide to the parish or town council full accounts on how the money was spent.

The Strategic Planning and Housing Manager explained to the Board that the Community Infrastructure Levy (CIL) was a system of planning charges which the Council would be able to levy on developers undertaking most new building projects in the Borough. The money raised would be used to fund a wide range of infrastructure that was needed to support new development in the area, such as new road schemes, schools, community services, sports and leisure facilities and green infrastructure necessary to support development.

Whilst acknowledging the purpose of the Motion, the Strategic Planning and Housing Manager considered that it pre-empted the key questions which would need to be addressed as part of developing the CIL. Notwithstanding this, he confirmed that the issues raised would be taken into account during this process. To facilitate this, an amendment to the motion was moved and seconded.

RESOLVED: That the Board -

- a) notes that the operation of the Community Infrastructure Levy will be considered alongside the preparation of the Local Plan and that the points made in the Notice of Motion will be raised and considered at the appropriate time;

- b) notes that the Infrastructure Plan, Charging Schedule and other matters relating to the operation of the Levy will be subject to full consultation and Independent Examination, as prescribed by the Community Infrastructure Regulations;
- c) that the Community Infrastructure Levy Charging Schedule must be approved by a full meeting of Council; and
- d) that any decision on the operation of the Levy in Cheshire East is premature at the present time and therefore no further action is necessary at this juncture.

CHESHIRE EAST COUNCIL

Strategic Planning Board

Date of Meeting: 2 May 2012
Report of: Strategic Planning & Housing Manager
Subject/Title: Notice of Motion – Community Infrastructure Levy

1.0 Report Summary

- 1.1 This report responds to a Notice of Motion put to the Full Council on 23 February regarding the operation of the Community Infrastructure Levy.

2.0 Recommendation(s)

- 2.1 That the Board notes that the operation of the Community Infrastructure Levy will be considered alongside the preparation of the Local Plan.
- 2.2 That the Board notes that the Infrastructure Plan, Charging Schedule and other matters related to the operation of the Levy will be subject to full consultation and Independent Examination, as prescribed by the Community Infrastructure Regulations.
- 2.3 That the Board notes that the CIL Charging schedule must be approved by a full meeting of the Council
- 2.4 That any decision on the operation of the Levy in Cheshire East is premature at the present time and therefore no further action is necessary at this juncture.

3.0 Reasons for Recommendation(s)

- 3.1 The Community Infrastructure Levy (CIL) is prepared according to a process governed by regulation. It is also directly linked to the preparation of the Local Plan. It would not be appropriate to pre-judge this process in advance

4.0 Wards Affected

- 4.1 All wards will be affected by the operation of CIL

5.0 Local Ward Members

- 5.1 All members

6.0 Policy Implications

- 6.1 The report clarifies how the Council's policy on CIL will be developed alongside the Local Plan.

7.0 Financial Implications

- 7.1 None directly from this report. However CIL will be an important mechanism for ensuring that all new development pays its fair share in meeting the costs of necessary new infrastructure.

8.0 Legal Implications

- 8.1 The Community Infrastructure Levy was brought in by Part 11 of the Planning Act 2008. The Community Infrastructure Levy Regulations 2010, which govern the charge, came into force on 6th May 2010 (now amended by the CIL Amendment Regulations 2011). Further changes and clarifications are proposed in the CIL Amendment Regulations 2012. The CIL regulations serve to limit the scope of current Planning Obligations (s.106 agreements) and will severely restrict their use after April 2014.

9.0 Risk Management Implications

- 9.1 The Council needs to ensure that the impacts of new development are properly reflected within the Infrastructure Plan and Charging schedule. Details of the operation of CIL need to be considered systematically as part of the statutory process – and not in isolation

10.0 The Community Infrastructure Levy

- 10.1 The Community Infrastructure Levy (CIL) is a system of planning charges that the Council will be able to levy on developers undertaking most new building projects in the Borough. The money raised can be used to fund a wide range of infrastructure that is needed to support new development in the area. 'Infrastructure' has a broad definition in the Planning Act and can apply to many projects including new road schemes, schools, community services, sports and leisure facilities and green infrastructure necessary to support development.
- 10.2 The Levy differs from S.106 agreements in that it is applied more widely and consistently; most forms of development will attract the charge which is levied by floor area. Currently it is estimated that across the country only about 6% of new developments contribute to S.106 agreements. In Contrast CIL will be applied universally (with a few notable exceptions) with the potential for different rates to apply in different areas and to different types of development.
- 10.3 The Levy and the types of development liable to pay will be set out in an adopted Charging Schedule. The Charging Schedule must specify the Charging Authority (Cheshire East); the Levy rate (pounds per square metre); an Ordnance Survey map for differential rates (if they differ geographically) and an overall explanation of the proposed Levy.

- 10.4 Before adoption of the Charging Schedule, the Council must consult on a Preliminary Draft Charging Schedule. All comments from interested parties will then be taken into account before a Draft Charging Schedule is produced for a final round of consultation and independent examination.
- 10.5 In setting a Levy for the Borough, the Council must aim to strike what appears to be an appropriate balance between funding the total cost of infrastructure required to support development of its area, and the potential effects (taken as a whole) of the imposition of the Levy on the economic viability of development: Two key pieces of evidence are required to inform the production of this Charging Schedule.
- **Viability Assessment:** This document will assess the viability of the local development industry and market in Cheshire East and is required to ensure that the introduction of a levy charge does not put at risk the overall development of the Borough. It will provide information about differences in economic viability across different geographical areas and different uses of development in the Borough. It will provide advice on the rates that could be set and the potential for 'differential rates' as a result of differences in economic viability.
 - **Infrastructure Development Plan:** This document sits alongside the new Local Plan and will support its implementation. It will identify the new infrastructure items or general types of infrastructure required to support new development during the plan period. This will include a sum total cost of necessary infrastructure and will assist in setting the Levy amount, having regard to other sources of available funding. The Infrastructure Development Plan can be amended over time as new projects arise and more is known about the likely location of future development. This document does not prioritise infrastructure projects but instead provides evidence of the overall cost.
- 10.6 The Council must appoint an independent examiner to assess the Draft Charging Schedule. The Council must demonstrate that the Draft Charging Schedule complies with the Planning Act and CIL Regulations; the proposed Levy rate(s) are informed by and consistent with appropriate available evidence; and an appropriate balance has been struck in the funding of infrastructure without putting at risk the overall development of the area. The examiner can approve, modify or reject the Draft Charging Schedule. Whilst the examiner's recommendations are no longer binding, the Council will need strong and cogent reasons not to adopt them.
- 10.7 Local authorities are required to spend the levy's funds on the infrastructure needed to support the development of their area and it is our role to decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development. The levy can be used to increase the capacity of existing

infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

- 10.8 Using new powers introduced in the Localism Act the Government will require charging authorities to allocate a “meaningful proportion” of levy revenues raised in each neighbourhood back to that local area. This is intended to ensure that where a neighbourhood bears the brunt of a new development, it receives sufficient money to help it manage those impacts. More detail will be set out in Regulations.
- 10.9 The Levy is imposed at the time planning permission is granted and is paid on commencement of development, or by instalments (at the Council’s discretion). The Levy will be index linked to account for inflation over time. Liability to pay the Levy is the responsibility of the landowner at the time of the planning permission. If the land is sold after planning permission is granted, the liability is transferred to the new owner(s). Other parties can voluntarily assume liability – such as developers or agents
- 10.10 After April 2014 CIL will replace s.106 agreements as a means of paying for strategic infrastructure, especially from more than one development. Section 106 Obligations may still be used to deliver necessary on-site infrastructure needs and mitigation measures. Section 278 agreements will continue to be used to secure necessary highway improvements to make developments acceptable in planning terms. In addition, for the present time, affordable housing will continue to be delivered via s.106 agreements
- 10.11 To ensure that the levy is open and transparent Councils are obliged to report on the use of CIL funding over time. Charging Authorities must prepare short reports on the levy for the previous financial year which must be placed on their websites by 31 December each year. They may prepare a bespoke report or utilise an existing reporting mechanism, such as the annual monitoring report which reports on their development plan. The Council must report on how much monies they received from the levy in the last financial year and on how much was unspent at the end of the financial year. The Council must also report total expenditure from the levy in the preceding financial year, with summary details of what infrastructure the levy funded, how much of the levy was ‘spent’ on each item of infrastructure and how much on administrative expenses.

11.0 The Notice of Motion.

- 11.1 At its meeting on 23 February the Council received the following notice of Motion submitted by Councillor D Brickhill:
 1. *“At least 80% of all money raised by community levy payments by Developers must be spent in the same town or parish council area as the actual development.*

2. *The remaining 20%, if any, must be spent in the same district as the actual development, where 'district' means the appropriate area of one of the three previous district councils that made up Cheshire East.*
 3. *The planning department shall consult the parish or town council on how the money should be spent and, if necessary, fully explain at a planning Committee meeting why the parish's recommendations cannot be implemented.*
 4. *The planning department shall provide to the parish or town council full accounts on how the money was spent."*
- 11.2 This motion anticipates much that will be central to the preparation and operation of CIL when it is applied in Cheshire East. It addresses key questions such as the distribution of infrastructure, how much will be spent locally, the process of consultation and public accountability.
- 11.3 These matters are covered in large degree by both statute and the CIL regulations. As set out in section 10 above, the new Levy in Cheshire East will have to be prepared in accordance with a prescribed process. This needs to be informed by both the Local Plan (and the Infrastructure needs arising from it) and other evidence (notably on viability). There will follow a formal process of consultation and examination. Once adopted the Council is obliged to report on the use of CIL funding.
- 11.4 Consequently whilst the notion is prescient and properly looks ahead to the process of CIL preparation, it would not be appropriate to prescribe or constrain the scope of this in advance. The matters referred to need to be addressed, but at the proper time and when the full evidence is before the Council. Ultimately the way CIL works in Cheshire East will be influenced by independent examination and decided upon by full Council. Consequently it is recommended that no further action be taken at the present time, but that a Cheshire East CIL continues to be developed as part of the Local Plan process.

12.0 Access to Information

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

Name: Adrian Fisher

Designation: Strategic Planning & Housing Manager

Tel No: 01270 686641

Email: adrian.fisher@cheshireeast.gov.uk

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CHESHIRE EAST COUNCIL

COUNCIL

Date of Meeting:	19 July 2012
Report of:	Strategic Director of Children, Families and Adults
Subject/Title:	Capital Programme Approvals – Schemes over £1m

1.0 Report Summary

- 1.1 This report seeks approval for the virement of Block Grant Funding contained within the approved 2012/13 Capital Programme to specific named schemes to address demographic basic need for pupil places.

2.0 Decision Requested

- 2.1 Council is asked to approve virements and Supplementary Capital Estimates totalling £4.3m for the following schemes:-

- £1.7m to Wilmslow High School Learning Resource Centre
- £1.0m to Pebble Brook Primary School Extension
- £1.6m to Wheelock Primary School Extension

3.0 Reasons for Recommendations

- 3.1 Finance Procedure Rules A32, A36, B30-B34 set out the requirements for financial approvals by Members, and relevant recommendations are contained in this report.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change, Health

- 6.1 None

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

- 7.1 The request for approval is set out in 3.1 and required in order to meet the timetable for the delivery of a number of schemes.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The schemes involve building works that must be compliantly procured through an open or restricted procedure.

9.0 Risk Management

- 9.1 Scheme risks are assessed and reported on a regular basis as part of the project management of schemes, and remedial action taken if and when required.

10.0 Background

- 10.1 In December 2012 the Secretary of State announced the 2012/13 Capital allocations for Basic Need and Capital Maintenance for Children's Services. Immediately after the announcement a funding strategy was produced in collaboration with a steering group appointed by the Schools Forum and agreed by the Children and Families Strategy, Planning and Performance Management Team.
- 10.2 That strategy has been applied by officers to review the need to produce a number of Demographic Basic Need solutions across Cheshire East.
- 10.3 Following extensive interpretation of data including the September 2012 admission allocations a list of proposals has been compiled over the last few months and feasibility studies completed.
- 10.4 To enable delivery of these schemes by September 2013 approval is required by the end of July 2012 to enable design work for the following schemes:
- Wilmslow High School Learning Resource
 - Pebble Brook Primary School Extension
 - Wheelock Primary School Extension
- 10.5 In accordance with Financial Procedure rules detailed business cases have been completed for each of the above schemes.
- 10.6 At both Pebble Brook and Wheelock Primary Schools the need for places is immediate and has meant that temporary classroom units are required from September 2012. To ensure the implementation of these units as close to the start of the academic year as possible this element of these schemes has been progressed in advance and the costs are excluded from this report. This element of these schemes will be progressed in accordance with the requirements set by Financial Rules and Regulations.

- 10.7 Details of the virements and Supplementary Capital Estimates required are provided in the following table:-

	£000	£000
Wilmslow HS - Learning Resource	1,685	
Pebble Brook PS - Extension	1,040	
Wheelock PS - Extension	1,609	
	4,334	
<u>Funded by:</u>		
Basic Need Grant		1,641
Capital Maintenance 12/13 Grant		2,195
Supplementary Capital Estimates:		
Basic Need 12/13 Additional Grant		313
Wilmslow High School		185
		4,334

- 10.8 Further details relating to these schemes are provided in Appendix 1.

11.0 Access to Information

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

Name: Fintan Bradley
 Designation: Head of Service: Strategy, Planning & Performance
 Tel No: 01606 271 504
 Email: fintan.bradley@cheshireeast.gov.uk

Wilmslow High School Learning Resource

1. Wilmslow High School is a school of choice: oversubscribed throughout the year by groups and sixth form, which has generally brought pressure on the school's accommodation. Parents of children with additional needs, disabilities and special educational needs (SEN/Equality Act 2010), regard Wilmslow High School as a school that provides not only an excellent education but also the appropriate care and support to enable their sons or daughters to achieve of their best. The current accommodation for Learning Support is 3 standard sized classrooms and a corridor.
2. Within the resourced provision there are 12 ASC students although the total number of ASC students is now 42. There are currently 1 curriculum team leader, 3 teachers, 1 ASC coordinator, 7 ASC LSAs, and 46 LSAs with a range of skills within the Learning Support team. There are no dedicated toilets and no dedicated spaces for specific disability groups or outside agencies.
3. A new Learning Resource Centre would be an inclusive environment providing dedicated spaces for students with additional needs, specific disabilities and/ or SEN including ASC, hearing impairment and dyslexia alongside appropriate provision for SEN students at school action/ school action plus at Key Stage 3 and Key Stage 4 (nurture room, life skills, one to one spaces, inclusion, learning support, physical disability, dedicated toilets). The development will be in line with Cheshire East's ASC strategy and the 'Wilmslow Vision': complementing provision across Cheshire East.

Pebble Brook Primary School – Extension

1. Due to changes in demographics for this area the Local Authority received applications for admission in September 2012 in excess of the reception class places available. Although the Local Authority has already taken some measures to alleviate the immediate shortfall in school places by providing a mobile classroom, long term measures are necessary to accommodate the anticipated increase in demand due to population growth within the Crewe area.
2. The school currently has a published admission number (PAN) of 30, and a net capacity of 210. The proposal will allow the schools PAN to be increased to 45 and their net capacity to increase to 315 which equates to 1.5 forms of entry (FE). The site is large enough to accommodate a 1.5 FE school.

Wheelock Primary School – Extension

1. Due to changes in demographics for this area the Local Authority received applications for admission in September 2012 in excess of the reception class places available. Although the Local Authority has already taken some measures to alleviate the immediate shortfall in school places by providing a mobile classroom, long term measures are necessary to accommodate the anticipated increase in demand due to population growth within the Sandbach area.

2. The school currently has a published admission number (PAN) of 30, and a net capacity of 210. The proposal will allow the schools PAN to be increased to 45 and their net capacity to increase to 315 which equates to 1.5 forms of entry (FE). The site is large enough to accommodate a 1.5 (FE) school.

Cost Breakdown:

	Wilmslow HS £000	Pebble Brook PS £000	Wheelock PS £000
Construction	1,415	756	1,178
Asset Management Fee	0	20	31
Fixture & fittings/ICT etc	70	58	94
Professional fees	130	168	260
Other fees	70	38	46
Total Expenditure	1,685	1,040	1,609

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CHESHIRE EAST COUNCIL

COUNCIL

Date of Meeting:	19 July 2012
Report of:	Director of Finance and Business Services
Subject/Title:	Additional Grant Funding

1.0 Report Summary

- 1.1 This report provides details of additional unbudgeted specific grant received or due to be received by the Council in respect of which services are seeking approval to incur expenditure in 2012/2013.
- 1.2 The Department for Transport (DfT) has announced that Cheshire East's bid to the Local Sustainable Transport Fund (LSTF) has been successful. The value of the bid is £3.509 million (64% revenue and 36% capital) over the next three years until March 2015.
- 1.3 Various service bids are also being made in respect of unused grant funding received in the 2011/2012 financial year which is therefore effectively now held in general reserves.
- 1.4 Some of the items require urgent approval so that intended expenditure can be incurred, but, for convenience, this report includes all known bids for which Council approval is required.

2.0 Decision Requested

- 2.1 Council is asked to:-
 - (i) in respect of the Local Sustainable Transport Fund (LSTF):-
 - (a) accept the Department of Transport's offer of grant funding totalling £3.509m over three years;
 - (b) approve a Supplementary Revenue Estimate (SRE) of £578k in 2012/2013;
 - (c) approve a Supplementary Capital Estimate (SCE) totalling £1.273m across three financial years until March 2015.
 - (ii) approve additional service expenditure of £301k for 2012/2013, fully funded from unspent specific grant allocations from 2011/2012 as detailed in the Appendix.

3.0 Reasons for Recommendations

- 3.1 Finance Procedure Rules set out the requirements for financial approvals by Members, and relevant recommendations are contained in this report.

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 The objectives of the LSTF are entirely consistent with the Council's strategic transport priorities set out in Local Transport Plan (LTP3) to "create conditions for business growth" and "ensure a sustainable future".

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

7.1 The value of the grant available to claim from the DfT is £3.509m (£2.236m revenue and £1.273m capital). The spend profile across the three financial years is set out below:

£000	2012/2013	2013/2014	2014/2015	Total
Revenue	578	876	782	2,236
Capital	403	410	460	1,273
Total	981	1,286	1,242	3,509

7.2 The DfT grant award letter (still to be received) will set out that payments are made quarterly in arrears, following a claim form submitted to the DfT at the end of each financial quarter.

7.3 The report seeks approval for a Supplementary Revenue Estimate of £578k for the current financial year and a Supplementary Capital Estimate of £1.273m for the three-year period, all fully funded by the DfT grant. The Revenue spend for 2013/2014 and 2014/2015 will be reflected in the business planning/ budget setting process going forward, again fully grant-funded.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 As noted in 3.1 above the Council's Finance and Contract Procedure Rules set out the requirements for financial management approvals, and where these are placed within the Council's decision making processes.

9.0 Risk Management

9.1 Financial risks are assessed and reported on a regular basis, and remedial action taken if and when required.

10.0 Background and Options

- 10.1 The Council's budget provides for the receipt of specific grants. However during the year, where additional non-ringfenced grant funding is received, services wishing to increase their expenditure budgets are required to seek approval to a bid to use this additional funding. This report seeks Council approval to supplementary expenditure fully funded from grant in respect of the DfT's Local Sustainable Transport Fund, and also to services' requests to incur additional expenditure in 2012/2013 in respect of:
- (i) £75k of additional grants received too late in 2011/2012 to be spent in that year. Historically, local authorities would have been able to provide for these grants in the accounts as receipts in advance, and apply them in the following year. However, under new accounting rules, unconditional non-ringfenced grants must be credited to the revenue account in the year of receipt, and effectively these grants are now held in the year end general reserves balance at 31 March 2012.
 - (ii) £226k relating to the unspent element of Supplementary Revenue Estimates for additional grants approved in 2011/2012, which services wish to reclaim in 2012/2013. This amount has been reflected as an underspend against service outturn positions in 2011/2012, and again has effectively been returned into general balances at 31 March 2012.

11.0 Access to Information

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

Name: Lisa Quinn
Designation: Director of Finance and Business Services
Tel No: 01270 686628
Email: lisa.quinn@cheshireeast.gov.uk

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Additional Grants held in General Reserves

Service	Awarding Body	Grant	£000	Notes
a) Grants received late in 2011/2012 (unused in 2011/2012 ; to be used in 2012/2013)				
Children & Families	CLG	Troubled Family Initiative /Community Budget	42	Advance payments of £42k were received with the final quarter payment of 2011/2102 Early Intervention Grant to allow the authority to begin any necessary work in advance of the Troubled Families grant being received in 2012/2013, too late for the service to request this funding in that financial year. This funding will be needed for this work in 2012/2013.
Community	DEFRA	Air Quality Grant	30	This money is to support a project plan and feasibility study for the implementation of a low emissions zone within Cheshire East. The money will be predominantly spent on the appointment of consultants to undertake the feasibility study itself. This work is not planned for completion until 31.12.13 so there may be a need to carry monies forward depending upon which aspect of the project happens when.
Children & Families	DfE	NW Children's Improvement Programme	3	Children and Families have received an allocation of £3,000k towards the cost of undertaking and receiving Peer Challenge, as part of the Children's Improvement Board – sector led improvement programme. This was received too late in 2011/2012 but will be spent in 2012/2013.
b) Unspent SREs approved in 2011/2012 (balance requested for 2012/2013)				
Development	CLG	Neighbourhood Planning Vanguard	60	An SRE of £80k was agreed in 2011/2012 of which £60k has still to be incurred. The grant was provided with the specific purpose of funding a new innovative approach to plan making. The council had to bid and compete for these monies; having won the funds there is a clear expectation from CLG that they be used for this purpose. The grant is necessary to fund further neighbourhood planning work - and this is integral to the preparation of the new Local Plan. Without this resource the progression of the plan will be hampered.
Development	CLG	Homelessness	18	In 2011/2012 an SRE of £67k was approved to enable the management of the increasing demands on the homelessness service. Two temporary officers were appointed to assist, one with Homelessness and one to carry out a review of the homelessness services. A full Strategic Housing Review is currently being undertaken and the service will be redesigned to deal with the forthcoming challenges. The service is therefore requesting that the remaining £18k be used to extend the temporary homelessness officers post until the end of March 2013.

Service	Awarding Body	Grant	£000	Notes
Development	DoH	Warm Homes	31	A Supplementary Revenue Estimate for £69k was approved at the Three Quarter Year review for Housing, fully funded from a Department of Health Warm Homes Healthy People grant. The grant is provided to support local authorities to reduce the level of winter deaths and morbidity as a result of cold homes. £31k of the grant remained unspent in 2011/2012, and the service now wish to apply this to expenditure in 2012/2013.
Highways and Transport	Environment Agency	Flood & Water Management Act (FWMA)	117	<p>The FWMA 2010 placed on local authorities the role of being the lead local flood authority responsible for coordinating flood risk management in their area, and requires the council to :</p> <ol style="list-style-type: none"> 1. Develop, consult on, maintain, apply and monitor a strategy for local flood risk management that is consistent with the national strategy. 2. Investigate flooding incidents in its area, publish findings and notify relevant authorities of their flood risk obligations. 3. Develop and maintain a publically accessible asset register of structures and features considered to have a significant effect on flood risk in their area, including as a minimum record of ownership and state of repair. 4. Designate where the council deems appropriate a structure or feature that affects the risk of flooding. 5. Establish a Sustainable Drainage Systems Body (SAB) which has the responsibility for approval of proposed drainage systems in new developments and re-developments. <p>Work has commenced on the above tasks with Preliminary Flood Risk assessments available on line and development of an asset register ongoing. Cross service meetings have been running to address the development of the strategy and establishment of a SAB but a significant body of work is still required to complete all these requirements and put in place the cross service process for approvals. An SRE of £125k was approved to match DEFRA funding in 2011/2012, however only £8k of expenditure was incurred in 2011/2012. The Highways Service has currently taken the lead for the Council on progressing the requirements of the Act and these additional responsibilities require the remainder of the 2011/2012 SRE of £117k to be allocated. This will be used in funding the staff required to develop the strategy, asset register and SAB to support delivery of the Council's duties under the Act.</p>
Total			301	

CHESHIRE EAST COUNCIL

STAFFING COMMITTEE COUNCIL

Date of Meeting:	19 July 2012
Report of:	Head of Human Resources and Organisational Development
Subject/Title:	Pay Policy Statement 2012/13 Update

1.0 Report Summary

- 1.1 The purpose of this report is to seek Council approval, following recommendation from Staffing Committee, for the adoption of the updated Pay Policy Statement 2012/13. The Updated Pay Policy Statement is attached at Appendix 1 and the changes have been highlighted within it.

2.0 Recommendation for Staffing Committee:

That the updated Pay Policy Statement 2012/13 be recommended to Council for approval.

2.2 Decision for Council:

To approve the updated Pay Policy Statement for 2012/13.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council has an up to date Pay Policy Statement in place for the year 2012/13, as required under the Localism Act 2011, that fully reflects the Council's approach and policy with regard to the pay and terms and conditions of Chief Officers employed by the Council.
- 3.2 In line with the constitution and their powers, Cabinet have recently made some changes to the Council's Termination and Severance policies. These changes have since been reflected in the Pay Policy Statement for 2012/13, which requires a recommendation from Staffing Committee for approval by full Council before it can be adopted as the most current version.
- 3.2 For clarity, the Pay Policy Statement, attached at Appendix 1, has been updated as follows:
- 3.2.1 Redundancy Payments and Payments on Termination, Section 8, Pages 11 – 14 of the Pay Policy Statement. Updated as detailed in sections 11.1, 11.2, and 11.3 of this report.

4.0 Wards Affected

- 4.1 Not applicable.

5.0 Local Ward Members

5.1 Not applicable.

6.0 Policy Implications

6.1 Any decisions relating to the pay and remuneration of Chief Officers must comply with the Pay Policy Statement in place at the time for that financial year and, whilst the Statement can be amended in year should the need arise, changes must be subject to the approval of full Council.

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

7.1 There are no direct financial implications associated with approving the updated Pay Policy Statement 2012/13 and no budgetary adjustments are proposed specifically in relation to this report.

7.2 The changes to the voluntary severance scheme (as detailed in section 11.1.1 of this report) will reduce the cost of voluntary severance going forward and help to ensure that the plans for managing workforce change are both affordable and sustainable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 A pay policy statement is required to be produced annually from 2012-2013 under section 38 of the Localism Act.

8.2 The policy revisions, particularly with regard to the reduced Voluntary Redundancy terms, will continue to exceed statutory redundancy requirements and are in accordance with pension regulations. They are therefore legally compliant.

8.3 Under the Local Government (Early Termination of Employment) Discretionary Compensation) (England and Wales) Regulations 2006, Councils, amongst other things, have the discretionary power to pay a compensatory payment of up to 104 weeks pay. The revised Termination on Grounds of Efficiency Policy complies with this regulation.

8.4 Any amendments that the Council makes to its application of the discretionary regulations must be published for a month before any new terms are implemented. In this event, the new terms will be applicable from 20th August 2012 (subject to Council agreement on the 19th July).

9.0 Risk Management

9.1 If the Council's Pay Policy Statement 2012/13 is not updated to reflect decisions taken relating to policy changes, there is a risk that the Council is not fully compliant with its own Pay Policy Statement for the financial year to which it relates.

10.0 Background and Options

- 10.1 The Council is required to produce and publish a Pay Policy Statement, agreed by Council, for 2012/13 and for each subsequent year, under section 22 of the Localism Act.
- 10.2 Any decisions relating to the pay and remuneration of Chief Officers must comply with the Pay Policy Statement in place at the time for that financial year and whilst the Statement can be amended in year as required, any changes must be subject to the approval of full Council.
- 10.3 In line with this requirement, the Pay Policy Statement for this year, 2012/13, had been updated to reflect a number of policy changes which are detailed below.

11.0 Redundancy Payments and Payments on Termination, Section 8, Pages 11 – 14

11.1 Redundancy (Page 11)

11.1.1 Following a recommendation from Corporate Scrutiny Committee, Cabinet recently took a decision to reduce the Council's voluntary redundancy terms as follows:

- The additional payment for voluntary redundancies i.e. the payment over and above the Statutory Redundancy Pay (SRP), is to be reduced from a multiplier of 2.0 to 1.80.
- The maximum number of weeks payable will be capped at 50 weeks rather than 60 weeks as it is currently.

11.1.2 This decision was taken to better enable the Council to continue to manage workforce change in an effective and timely way, taking account of; the likely scale of change, the costs associated, value for money alongside the importance of striking the right balance in facilitating organisational change and maintaining our constructive employee relations and levels of employee engagement.

11.1.3 This change will also bring the Council in line with some other North West Authorities regarding their voluntary severance terms.

11.2 Termination and Retirement on Grounds of Efficiency (Page 12).

11.2.1 Cabinet also recently agreed to amend the application of the discretionary power relating to the termination of employment on the grounds of efficiency. Under the Council's current policy, employees can only be released on grounds of efficiency where they are aged 55 and over and are members of the LGPS, in which event their pension is released early without an actuarial reduction. Under the new arrangement, termination payments, on the grounds of efficiency, can be made up to the same maximum value applicable under the Council's voluntary redundancy scheme to any employee regardless of age.

11.2.2 Cabinet took this decision on the basis that in exceptional cases, it may be beneficial for the Council to agree to an employee leaving on the grounds of efficiency, in order that better use can be made of the resources that fund their role. In some cases changes of this nature may not be a true redundancy scenario which prevents the use of the voluntary redundancy scheme and would result in

the Council being unable to realise a potential saving or efficiency. The introduction of this discretion and by linking it to the same upper limit as the voluntary redundancy scheme (in place at that point in time), will optimise the Council's ability to implement planned change, to realise potential savings / efficiencies and to support any employees so affected.

- 11.2.3 In line with the redundancy process, all requests for termination on grounds of efficiency will be subject to Cabinet approval.

11.3 Compromise Agreements

- 11.3.1 Currently the Pay Policy Statement confirms that the final decision and approval for any compromise agreement and associated costs rests with the Chief Executive. Given that the Chief Executive cannot approve a compromise agreement for him/herself, the attached Pay Policy Statement has been updated to address this point and provide further clarity and transparency around decision making and accountability with regard to Compromise Agreements.

- 11.3.2 The updated Pay Policy Statement states that the final decision and approval for any termination payments (excluding payments in relation to contractual notice pay and outstanding holiday pay) and the terms of any associated compromise agreement for the Chief Executive will be subject to approval by the Staffing Committee.

- 11.3.3 In addition, the Chief Executive will also be required to consult the Leader on any final decisions and approval for any termination payments (excluding payments in relation to contractual notice pay and outstanding holiday pay) and the terms of any associated compromise agreement in relation to Chief Officers (Statutory and non Statutory and those earning over £100,000 per annum).

- 11.3.4 It should be noted that this arrangement will only apply where a termination is mutually agreeable and payment is agreed with a Chief executive on a consensual basis. For any other dismissal relating to a Chief executive, full Council approval would be required, in line with the designated statutory process.

- 11.3.5 Approval for any termination payment made under a compromise Agreement must take into account the following considerations:

- The individual circumstances of the departure
- Value for Money for the authority
- The age and proximity to retirement of the individual,
- The risk and value of a potential claim against the authority
- The need for a speedy departure / 'opportunity lost' cost
- Any other material factors that may be considered

- 12.0 All of the changes noted above are highlighted in the attached Pay Policy Statement with the current statement, which is to be replaced, crossed out for ease of reference.

13.0 Access to Information

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

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PAY POLICY STATEMENT 2012/13

1. INTRODUCTION AND PURPOSE

Under section 112 of the Local Government Act 1972, the Council has the “power to appoint officers on such reasonable terms and conditions as the authority thinks fit”. This Pay Policy Statement (the ‘statement’) sets out the Council’s approach to pay policy in accordance with the requirements of Section 38 of the Localism Act 2011.

The purpose of the statement is to provide transparency with regard to the Council’s approach to setting the pay of its employees (excluding teaching staff and employees working in local authority schools) by identifying:

- the methods by which salaries of all employees are determined;
- the detail and level of remuneration of its most senior employees i.e. ‘Chief Officers’, as defined by the relevant legislation;
- the Committee responsible for ensuring the provisions set out in this statement are applied consistently throughout the Council and recommending any amendments to the full Council.

“Remuneration” for the purposes of this statement includes three elements - basic salary, pension and all other allowances arising from employment.

Additionally, the definition of “Chief Officers”, for the purposes of this statement and in line with recommendations from the Secretary of State, includes the Head of Paid Service and Statutory Officers as well as those who report directly to them (non-statutory Chief Officers) and their direct reports.

Under this definition, the Council regards the following as its “Chief Officers”:

Head of Paid Service

Chief Executive (also Returning Officer)

Statutory Chief Officers

Director of Finance and Business Services (151 Officer)

Strategic Director (Children, Families and Adults)

Borough Solicitor and Monitoring Officer

Non-Statutory Chief Officers

Strategic Director (Places and Organisational Capacity)

Head of HR and Organisational Development

Deputy Chief Officers

Services Manager - Strategy Planning and Performance
Head of Service - Safeguarding and Specialist Services
Head of Care4CE
Head of Integrated Strategic Commissioning
Head of Local Delivery and Independent Living Service
Head of Performance, Customer Services and Capacity
Head of Development
Head of Service - Early Intervention and Prevention
Head of Community Services
Finance Manager
Head of Highways and Transport
HR Strategy Manager
HR Delivery Manager
Head of Business Management Performance and Standards
Principal Manager Safeguarding & Quality Assurance
Democratic and Registration Services Manager
Head of Health Improvement
Shared Services and Procurement Manager
ICT Manager
Head of Streets and Open Spaces (Vacant)

The senior management structure and relevant grades for these posts (including any vacancies) is attached at Appendix 2.

Once approved by the full Council, this policy statement will come into immediate effect and will be subject to review on a minimum of an annual basis, the policy for the next financial year being approved by 31st March each year.

Any decision under powers delegated in the Council's Constitution with regard to remuneration to be taken during 2012/13 will be bound by and must comply with this Statement.

The Head of Human Resources and Organisational Development must be consulted prior to any decision impacting on remuneration where there is any question regarding compliance with the Statement.

2. OTHER LEGISLATION RELEVANT TO PAY AND REMUNERATION

In determining the pay and remuneration of all of its employees, the Council will comply with all relevant employment legislation. This includes legislation such as the Equality Act 2010, Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000, Fixed Term Workers Regulations 2002 and, where relevant, the Transfer of Undertakings (Protection of Earnings) Regulations. The Council ensures there is no pay discrimination within its pay structures and that all pay differentials can be objectively justified through the use of job evaluation mechanisms, which directly establish the relative levels of posts in grades according to the requirements, demands and responsibilities of the role.

3. PAY STRUCTURE

The Council evaluates all Chief Officer roles, including the Chief Executive, using the HAY evaluation scheme. This ensures that different jobs having the same value are paid at the same rate i.e. the rate or pay scale linked to the “job score”. Up to Grade 18 (SCP 73) there is provision for progression by annual increments until the top of the pay scale is reached and most pay scales have 5 increments.

The Council uses the nationally negotiated pay spine(s) i.e. a defined list of salary points, as the basis for its local pay structure up to Spinal Column Point 38. The Council then deviates from the nationally negotiated pay spine and determines salary points locally up to SCP 73 / Grade 18 in order to provide flexibility to attract and appoint the best candidates taking into account local market conditions..

This defined pay structure then determines the salaries of all employees on NJC (National Joint Council for Local Government Services) and JNC (Joint Negotiating Committee for Chief Officers) terms and conditions, including Chief Officers, up to SCP 73 / Grade 18.

The Chief Executive and Chief Officers above grade 18 (SCP 73), are paid a fixed spot salary with no provision for incremental progression. These posts are detailed below and the salaries for each grade are detailed in appendix 1:

- Chief Executive (Returning Officer)
 - Director 3
- Strategic Director Places and Organisational Capacity
 - Director 2
- Strategic Director (Children, Families and Adults)
 - Director 1
- Director of Finance and Business Services (151 Officer)
- Head of Human Resources and Organisational Development

For these posts, the Council will normally use external advisers such as the Hay Group and the North West Employers Organisation when determining salary. The external advisor(s) would then provide information and advice as to the appropriate level at which to pitch the salary to be successful in recruiting. This statement and future benchmarking would also inform part of the process by which these salaries are reviewed.

Employees outside of this local pay and grading structure include the following groups of employees:

Soulbury - Education Psychologists and Advisers. Their pay is determined by the National Soulbury Committee.

NHS/Nurses - Occupational Health Nurses. Their pay is determined in accordance with NHS Agenda for Change Pay Bands

Craft - Electricians, Mechanics etc. Their pay is determined by the Joint Negotiating Committee for Local Authority Craft & Associated Employees

In addition, there will from time to time be employees that have TUPE transferred into the authority on different pay and conditions.

The Council adopts the national pay bargaining arrangements in respect of the establishment and revision of the national and local pay spine, for example through any agreed annual pay increases negotiated with joint trade unions.

All other pay related allowances are the subject of either nationally or locally negotiated rates, having been determined from time to time in accordance with collective bargaining machinery.

In determining its grading structure and setting remuneration levels for any posts which fall outside its scope, the Council takes account of the need to ensure value for money in respect of the use of public expenditure, balanced against the need to recruit and retain employees who are able to meet the requirements of providing high quality services to the community, delivered effectively and efficiently and at times at which those services are required.

In addition, progression through the incremental scale of the relevant grade for NJC and JNC employees (including Chief Officers) is subject to completing satisfactory service, which is reviewed on an annual basis.

Where the Council is unable to recruit Chief Officers, or there is a need for interim support to provide cover for a substantive Chief officer post, the Council will, where necessary, consider engaging individuals under a 'contract for service', particularly where this relates to a statutory post. These will be sourced through a relevant procurement process ensuring the council is able to demonstrate the maximum value for money benefits from competition in securing the relevant service. In assessing such it should be noted that in respect of such engagements the Council is not required to make either pension or national insurance contributions for such individuals. The Council does not currently have any Chief Officers engaged under such arrangements.

4. RECRUITMENT OF CHIEF OFFICERS

The Council's policy and procedures with regard to recruitment of Chief Officers is set out within the **Recruitment Policy and Procedure** (refer to Staffing Committee Sharepoint or link in Appendix 3) and as set out in [the Staff Employment Procedure Rules in Part 4.

When recruiting to all posts the Council will take full and proper account of all provisions of relevant employment law and its own **Recruitment Policy and Procedure, Disability at Work Commitment, Mindful Employer, Redeployment**

Policy and Procedure and **Equality in Employment Policy** (refer to Staffing Committee Sharepoint or link in Appendix 3)

The determination of the remuneration to be offered to any newly appointed Chief Officer will be in accordance with the pay structure and relevant policies in place at the time of recruitment and in line with this Pay Policy Statement. New appointments will normally be made at the minimum of the relevant pay scale for the grade, although this can be varied on an exceptional basis where necessary to secure the best candidate. Where the appointment salary is above the minimum point of the pay scale and is not affected by other council policies, for example promotion, redeployment or flexible retirement, this is approved in accordance with the **Pay and Allowances Policy** and will take into account the appointee's existing pay and their relevant experience and qualifications taking account of equal pay within the Council.

From time to time it may be necessary to take account of the external pay levels in the labour market in order to attract and retain employees with particular experience, skills and capacity. Where necessary, the Council will ensure the requirement for such is objectively justified by reference to clear and transparent evidence of relevant market comparators, using data sources available from within the local government sector and outside, as appropriate. Any such payments will be reviewed at regular intervals to ensure their ongoing suitability and appropriateness.

Any temporary supplement to the salary scale for the grade is approved in accordance with the guidance document **Payment of Market Supplements** as a recruitment/retention incentive (refer to Staffing Committee Sharepoint or link in Appendix 3)

Currently one Chief Officer, the Head of Service, Early Intervention & Prevention, receives a market factor supplement of £3,500 per annum. This will be reviewed annually in line with the Council's policy on Market Supplements.

5. CHIEF OFFICER REMUNERATION

With the exception of progression through the incremental scale of the relevant grade being subject to satisfactory service, which is reviewed on an annual basis, currently, the level of remuneration is not variable dependent upon the achievement of defined targets. However, the Council expects high levels of performance from its employees and intends to move to a contribution based progression scheme linked to the annual performance and development review process from November 2012 onwards. In developing this scheme and future arrangements for setting Chief Officer remuneration, the Council will consider the Hutton Review's proposal for "earn back" (ie withholding a specified proportion of existing pay if performance is unsatisfactory) alongside any performance related pay scheme as a future model.

In addition and in preparation for the move towards a contribution based progression scheme, the Council currently has in place a 12 month freeze on incremental progression, this commenced in November 2011.

To meet specific operational requirements it may be necessary for an individual to temporarily take on additional duties to their identified role. The Council's arrangements for authorising any additional remuneration relating to temporary additional duties are set out in section 10 of the Pay and Allowances Policy (refer to Staffing Committee Sharepoint or link in Appendix 3) Where the full duties and responsibilities of a higher graded post are being undertaken, the payment will be the salary in the higher job that would apply were the employee acting-up to be promoted to that job. If the full duties and responsibilities are not being undertaken or if they are undertaken by more than one employee, the amount of payment should be calculated with reference to the salary of the higher graded post by the Head of Service in consultation with HR. It may consist of a monthly addition to salary or one or more lump sums to be paid at the end of, or during, the acting-up period.

Any changes to existing posts or additional posts created, with a salary above £100,000, will be subject to a vote by full Council prior to appointment / confirmation.

If the need arises to provide agency or interim cover the policy is to seek to cap the cost of that appointment at no more than that of the permanent appointment taking into account additional employment costs – pension contributions, national insurance, paid leave etc. However, where necessary a higher “market rate” will be paid to secure a suitable individual and market rate will be established by reference to soft market testing, external advice and dialogue with peer authorities.

6. ADDITIONS TO SALARY OF CHIEF OFFICERS

- **Fee for acting as the Returning Officer and Deputy Returning Officer(s)**

Cheshire East Council is required to appoint a Returning Officer by virtue of section 35 of the Representation of the People Act 1983. In Cheshire East the Chief Executive has been appointed as the Returning Officer. This is a personal appointment, separate from their other duties. In this capacity they are the Returning Officer for elections to the Council and to Parish Councils within this Borough. For Borough and Parish Council elections, the Returning Officer fee is calculated in accordance with an agreed Scale of Fees. The Scale of Fees is agreed between and used by the four Cheshire Authorities.

The Returning Officer fee is payable for the substantial additional duties undertaken, and leadership required of the Returning Officer in planning, delivering and undertaking the elections and recognises the personal nature and personal responsibility of the role of the Returning Officer. The agreed scale of fees is used to determine the fees of the Deputy Returning officers, who are appointed from time to time and other elections employees.

The Returning Officer for Cheshire East is very involved in the electoral process and exceeds the Performance Standard set by the Electoral Commission for “skills and knowledge of the Returning Officer”. There are no scheduled Borough or Parish elections during the 2012/13 financial year.

The Cheshire Scale of Fees is currently under review.

- **Travel Allowances and Expenses**

In addition to pay, National Agreements cover other terms and conditions such as annual leave and allowances for use of private vehicles on council business. The Council recently reduced these travel allowances and rates and, whilst they continue to be in accordance with these national scales (which are the same for the Chief Executive, Chief Officers and other employees) the Council no longer pays the highest band. The current rates (which were last increased in April 2009) are:

	Engine Size	Engine Size
REGULAR USERS	451 -999cc	1000cc+
Lump Sum	£846	£963
Per mile first 8,500	36.9p	40.9p
Per mile after 8,500	13.7p	14.4p

	Engine size	Engine Size
OCCASIONAL USERS	451 -999cc	1000cc+
Per mile first 8,500	46.9p	52.2p
Per mile after 8,500	13.7p	14.4p

The Council has recently reviewed the assessment criteria for determining regular car users and as a result of this review has significantly reduced the number of employees in receipt of the Regular User lump sum. Chief Officers are required to complete the same assessment criteria as all other employees and currently no Chief Officers are in receipt of the regular user lump sum.

- **‘Green’ Salary Sacrifice Lease Car Scheme**

The Council has recently introduced a ‘green’ salary sacrifice lease car scheme. This is a new and innovative employee benefit, born out of the Government’s introduction of a 10% band for benefit in kind taxation on low emission vehicles. The scheme enables employees to drive a brand new, fully maintained and insured car, but at a significantly reduced cost and offers savings in tax (employee only) and national insurance for both the employer and the employee. As such, it is a very attractive proposition for both.

The Green Car Scheme is underpinned by a salary sacrifice arrangement. Salary sacrifice is a contractual arrangement whereby an employee gives up the right to receive part of their cash remuneration, usually in return for their employer’s agreement to provide some form of non-cash benefit, in this case a car.

Whilst the scheme operates at no cost to the employer, in fact generating a saving overall, because it is being provided as a benefit by the Council it attracts a 'Benefit in Kind' (BiK) tax for employees on the scheme.

The scheme is open to all employees of the Council, subject to meeting the criteria set out in the scheme rules.

The level of CO2 emissions on the car chosen is important as it determines the benefit in kind tax to pay on the car (the non-cash benefit). The more environmentally friendly the car is, the greater the savings will be.

- **Relocation Expenses**

Where it is necessary for a newly appointed employee to relocate to take up appointment the Council may make a contribution towards relocation expenses, in accordance with the Relocation Expenses Policy (see link at Appendix 3). Under this policy, the Chief Executive, or their nominee, has discretion to agree relocation financial assistance for any external candidate appointed, up to a maximum of £10,000. The details of any such payment must be agreed at the time of making a job offer/during initial appointment. The relocation must bring the employee nearer to their workbase and, as such, support will not normally be given to employees who already live within 30 miles of the workbase. This discretion covers all items for which assistance may be given, which must be directly related to a home relocation within two years of appointment, for example removal expenses, legal and estate agents fees.

Travel Assistance may also be agreed for expenditure arising from a move from temporary accommodation to permanent home, (as well as for the initial move to temporary accommodation), normally provided that the second move takes place within the maximum two year period. Both sets of assistance are subject to the overall limit of £10,000 and the policy is very clear that an employee must not make a net financial gain from the assistance.

The same policy applies to Chief executive, Chief Officers and other employees.

- **Professional Fees and Subscriptions**

The Council will reimburse professional fees only for those employees where it is a legal requirement of their employment (subject to the employee paying the first £50) or, where employees are undertaking a training course and the membership of a professional body it is a requirement of the course. In those circumstances it will be paid for the period of study only. The Council has one policy and does not differentiate between Chief Officers and other employees.

7. LOCAL GOVERNMENT PENSION SCHEME

The Local Government Pension Scheme and policy with regard to the exercise of discretions in Pension provision is an important part of the remuneration package.

All employees under the age of 75 and who have a contract of employment which is for 3 months or more are eligible to join the statutory Local Government Pension Scheme (LGPS). There are no restrictions on the minimum number of hours an employee must work to be eligible to join. All Cheshire East employees are automatically entered into Scheme membership, and have to elect to opt out if they so wish.

Contribution bands are determined on full time equivalent pay on 1 April each year. The bands are shown below.

Annual Rate of Pay	Rate of Contributions
More than £81,100	7.5%
More than £43,300.01	7.2%
More than £32,400.01	6.8%
More than £19,400.01	6.5%
More than £15,100.01	5.9%
More than £12,900.01	5.8%
Up to £12,900	5.5%

This is the banding rate applicable at 1st April 2011, and these rates will go up in line with the Consumer Price Index (CPI) each April.

Where employees have exercised their statutory right to become members of the Local Government Pension Scheme, the Council must make a contribution to the scheme representing a percentage of the pensionable remuneration due under the contract of employment of that employee. The rate of contribution is set by Actuaries advising the Cheshire Pension Fund and reviewed on a triennial basis in order to ensure the scheme is appropriately funded. The current rate is set at 21.3% and this will increase to 21.8% with effect from 1 April 2012. These rates were set following the 2010 triennial valuation.

For more comprehensive details of the Local Government Pension Scheme and Cheshire Pensions Fund see <http://www.cheshirepensionfund.org/>

Neither the Scheme nor the Council adopt different policies with regard to benefits for any category of employee: the same terms apply to the Chief Executive, Chief Officers and other employees alike.

The Scheme also provides for the exercise of discretions that allow for retirement benefits to be enhanced. The Council will consider each case on its merits but has determined that its usual policy is not to enhance benefits unless early release of

pensions is agreed on compassionate grounds. However, the Council has agreed to adopt the provision to enable redundant employees to purchase additional service with the non statutory part of their redundancy payment (additional redundancy payment) if employees are in receipt of such a non statutory payment.

The **Pensions Discretions Policy** (refer to Staffing Committee Sharepoint or link in Appendix 3) details the Council's agreed Pensions Discretions and applies equally to the Chief Executive, Chief Officers and other employees.

The Pension Scheme also provides for flexible retirement. In applying the flexible retirement provision no distinction is made between the Chief Executive, Chief Officers and other employees. Employees aged 55 and above may apply to have their hours and/or their pay grade reduced and to seek agreement to early release to some or their entire pension.

The request can be considered if;

Either

- their substantive grade reduces by a minimum of 2 grades (e.g. Grade 6 to Grade 4)

And / Or

their contract hours reduce by a minimum of 1/5

And

- at the same time, the employee requests early release of their pension.

Any consequential fund strain payments to the pension fund are recoverable in three years with the discretion to extend the three years in exceptional circumstances. The Council's Staffing Committee will consider requests from the Chief Executive or a Chief Officer in respect of other employees.

8. REDUNANCY PAYMENTS AND PAYMENTS ON TERMINATION

• Redundancy

Where an employee is made compulsorily redundant, they will receive a redundancy payment in accordance with the State formula based on the employee's actual week's pay, plus any payment in lieu of notice where applicable and, payment for any annual leave for employees leaving the Council's employment with accrued leave which, by agreement is untaken at the date of leaving.

Current statement – to be removed:

~~The Council also has a voluntary redundancy scheme in place which is applicable to all employees who opt to leave the authority on grounds of voluntary redundancy. Employees who leave on grounds of voluntary redundancy will normally be entitled to receive a redundancy payment in accordance with the State formula based on the employee's actual week's pay plus an additional severance payment of up to the~~

~~equivalent to the State redundancy payment. This will be reviewed in March 2012 and the Council reserves the right to change all discretionary elements.~~

Revised statement – to be added in

The Council also has a voluntary redundancy scheme in place which is applicable to all employees whose applications for voluntary redundancy are accepted as being in the interests of the Council. Employees who leave on grounds of voluntary redundancy will normally be entitled to receive a redundancy payment in accordance with the statutory formula but based on the employee's actual week's pay plus an additional severance payment of 0.8 times the statutory payment, bringing the total payment to 1.80 times the statutory formula and up to a maximum of 50 weeks pay. This will be reviewed in August 2013. The Council reserves the right to change all discretionary elements.

When considering applications for voluntary redundancy the Council considers: -

- The need for the competency and skill set to meet current commitments
- The uniqueness of that competency and skill set in the organisation compared to the expected demand
- The likely need for that competency and skill set to meet future needs
- The likely timescale of future needs, comparing the cost of retention with the cost of VR and future re-recruitment
- The opportunity to cross skill or retrain remaining staff to fill the gap, and the cost and timescale to achieve this
- The cost of VR

The Council's approach to statutory and discretionary payments on termination of employment of Chief Officers, prior to reaching normal retirement age, is set out within the **Redundancy Policy and Procedure** and for those eligible for retirement, in the **Retirement and Severance Policy** (refer to Staffing Committee Sharepoint or link in Appendix 3) and are in accordance with its published policy under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006, a copy of which is annexed to this policy.

All payments under this section are subject to the approval process set out in the **Redundancy Policy and Procedure**.

- **Termination and Retirement on Grounds of Efficiency**

Revised statement – to be added in (nothing to be removed)

The Council also operates a voluntary scheme to facilitate early retirement or termination on grounds of efficiency to enable the Council to continue to achieve effective use of resources and provide value for money.

Subject to requirements set out in the policy, employees' aged 55 or above and in the LGPS with at least three months membership (or with transferred service) may be

entitled to access to their accrued LGPS pension on an unreduced basis. These employees may also be paid a lump sum payment on termination which would usually be calculated in accordance with the voluntary redundancy formula set out above as above and subject to maximum of 50 weeks pay.

Employees aged under 55 could also be considered for a lump sum, subject to requirements set out in the policy. The amount of the payment would usually be calculated in the same way as a voluntary redundancy payment as above subject to maximum of 50 weeks pay.

In relation to pension enhancement the Council's policy as set out above will apply to all employees: The Council will consider each case on its merits but has determined that its usual policy is not to enhance benefits unless early release of pensions is agreed on compassionate grounds. However, the Council has agreed to adopt the provision to enable redundant employees to purchase additional service with the non statutory part of their redundancy payment (additional redundancy payment) if employees are in receipt of such a non statutory payment.

All payments under this efficiency policy are subject to Cabinet approval.

- **Compromise Agreements**

Current statement – to be removed:-

~~The Council uses Compromise Agreements as a matter of course for all voluntary redundancies/severances and this applies to all employees, including Chief Officers. The use of standard compromise agreements on this basis minimises any risk of future claims against the Council.~~

~~Occasionally a Compromise Agreement may be used to ensure a smooth departure of an employee (including Chief Officers) in other circumstances. The content of any such compromise agreement and associated termination payment will take into account:~~

- ~~• The individual circumstances of the departure~~
- ~~• Value for Money for the authority~~
- ~~• The age and proximity to retirement of the individual,~~
- ~~• The risk of a potential claim against the authority~~
- ~~• Any entitlement to notice pay~~
- ~~• The need for a speedy departure / 'opportunity lost' cost~~
- ~~• Any other material factors that may be considered~~

~~The final decision and approval for any such Compromise Agreement and associated payment rests with the Chief Executive, in discussion with the Leader.~~

~~The final decision and approval for any such Compromise Agreement and associated payment rests with the Chief Executive, in discussion with the Leader.~~

Additional statement to be added in:-

The Council uses compromise agreements as a matter of course for all voluntary redundancies/severances and this applies to all employees, including Chief Officers. The use of standard compromise agreements on this basis minimises any risk of future claims against the Council and can ensure that any threatened or pending legal proceedings and their associated legal costs can be avoided. .

A compromise Agreement will take into account any outstanding contractual entitlement which the individual has to notice. The Compromise Agreement will also take into account:

- The individual circumstances of the departure
- Value for Money for the authority
- The age and proximity to retirement of the individual,
- The risk and value of a potential claim against the authority
- The need for a speedy departure / 'opportunity lost' cost
- Any other material factors that may be considered

The final decision and approval for any termination payment and approval for the terms of a compromise agreement in relation all employees up to Deputy Chief Officer level (as defined in this Pay Policy Statement) rests with the Chief Executive and, in cases of Chief Officers (Statutory, non Statutory and those earning over £100,000 per annum) this will be in discussion with the Leader.

Termination payments in addition to a payment in relation to contractual notice pay (and including any outstanding holiday pay] for the Chief Executive and the terms of any associated compromise agreement will be subject to approval by the Staffing Committee.

This will only apply where a termination payment is agreed with a Chief executive on a consensual basis. The dismissal of a Chief executive or a statutory officer is the subject of a designated statutory process and decision by the full Council.

9. PUBLICATION AND ACCESS TO INFORMATION

Upon approval by full Council, this statement will be published on the Council's Website. Additionally, information relating to senior posts (defined as posts with a full time equivalent salary of £50,000 and above) will also be published on the Council's website, in line with the CIPFA Code of Practice on Local Authority Accounting.

The following information is published as part of this:

- Salary;

- Job Title (with the exception of individuals earning over £150,000 who will be identified by name)
- Job description;
- Responsibilities;
- Budgets (including overall salary costs of employees reporting to the senior role)

An organisation chart of the Council's management structure, including salary bands and details of vacant posts is also published. The current chart is attached at Appendix 2 for information.

Further information about the Council's commitment to transparency can be found at the attached link.

http://www.cheshireeast.gov.uk/council_and_democracy/council_information/transparency.aspx

10. PAY MULTIPLES

The figures below exclude schools based employees and teachers as the Localism Act does not apply to local authority schools. They also exclude casual employees.

The lowest paid persons employed under a contract of employment with the Council are employed on full time (37 hours) equivalent salaries in accordance with the minimum spinal column point currently in use within the Council's grading structure. As at 1st April 2012, this is £12,145 per annum, Grade 1 Spinal Column Point (SPC) 4. There are 78 employees (excluding casuals) on this grade and SCP currently.

Separate to the Council's pay and grading structure, we offer one year apprenticeship placements. The Council operates this scheme in line with the National Minimum Wage and the apprenticeship rate guidelines as follows.

There are different levels of National Minimum Wage, depending on your age and whether you are an apprentice. The current rates (from 1 October 2011) are:

- £6.08 - the main rate for placements aged 21 and over
- £4.98 - the 18-20 rate (equivalent to Spinal Column Point 3 –£ 9608)
- £3.68 - the 16-17 rate for placements above school leaving age but under 18

Apprentice Specific Pay: £2.60 - the apprentice rate, for apprentices under 19 or 19 or over and in the first year of their apprenticeship.

Additionally, there are a number of employees on other pay and conditions, as noted above, such as Craft, NHS and Soulbury employees on different pay structures, but none fall below the £12,145 FTE salary at SCP04.

The relationship between the rate of pay for the lowest paid and Chief Officers is determined by the processes used for determining pay and grading structures as set out earlier in this policy statement (section 3, Pay Structure).

The current pay levels within the Council define the multiple between the average / mean full time equivalent earnings (£21,798) and the highest paid Chief Officer, the Chief Executive (£173,000) as 7.94.

Additionally, the multiple between the lowest paid employee (£12,145) and average Chief officer salary (£81,573) is 6.72.

The Council does not explicitly set the remuneration of any individual or group of posts by reference to a simple multiple of another post or group of posts. The use of multiples cannot capture the complexities of a dynamic and highly varied workforce in terms of job content and skills required.

The Council is satisfied with its current pay multiples but as part of its overall and ongoing monitoring of alignment with external pay markets, both within and outside the sector, the Council will use available benchmark information as appropriate. In addition, upon the annual review of this statement, the Council will also monitor any changes in the relevant 'pay multiples' and may benchmark against other comparable Local Authorities.

11. ACCOUNTABILITY AND DECISION MAKING

In accordance with the Constitution of the Council, the following arrangements are in place in relation to the recruitment, pay, terms and conditions and severance arrangements for employees of the Council, including Chief Officers.

<p>Posts:</p> <p>Head of Paid Service</p> <p>Statutory Officers (including 151 and Monitoring Officer)</p> <p>Plus any Chief Officers with salaries over £100,000 which are currently:</p> <p>Strategic Director Places and Organisational Capacity</p> <p>Strategic Director (Children, Families and Adults)</p>	<p>Staffing Committee oversee the arrangements for filling the vacancy, including the final selection process. Once a candidate has been selected and agreed, this is then communicated to Cabinet.</p> <p>Cabinet then have the opportunity to put forward any material or well founded objection to the proposed appointment of the successful candidate, prior to it being recommended to Council.</p> <p>Full Council then vote on the appointment of the successful candidate, following the recommendation made by Staffing Committee.</p>
<p>Non Statutory Chief Officers and Chief Officers</p>	<p>Staffing Committee oversee the arrangements for filling the vacancy,</p>

with salaries below £100,000 Deputy Chief Officers	including the final selection process. Once a candidate has been selected and agreed, this is then communicated to Cabinet. Cabinet then have the opportunity to put forward any material or well founded objection to the proposed appointment of the successful candidate, prior to it being recommended to Council. Subject to no material or well founded objection being put forward, the appointment is then confirmed.
All other posts	The Chief Executive has the power to appoint all other staff but this authority is usually delegated to the relevant Director / Head of Service.

The Council's Constitution sets out the fuller roles and responsibilities of these groups.

12. RE-EMPLOYMENT/RE-ENGAGEMENT OF EMPLOYEES IN RECEIPT OF A LOCAL GOVERNMENT PENSION (INCLUDING CHIEF OFFICERS)

Any decision to re-employ an individual (including Chief Officers) already in receipt of a Local Government Pension (with same or another local authority) will be made on merit, taking into account the use of public money and the exigencies of the council.

13. RE-EMPLOYMENT/RE-ENGAGEMENT OF FORMER EMPLOYEES (INCLUDING CHIEF OFFICERS)

Former Cheshire East/ Legacy Authority employees who left their employment on grounds of voluntary retirement or severance will not be re-employed or re-engaged in any capacity, except in truly exceptional circumstances and subject to the agreement of the Head of Human Resources and Organisational Development in consultation with the Leader and the relevant portfolio holder. Re-engagement includes all types of contractual relationships whether they be a contract of employment, contract of service, etc and whether the individual is appointed as an employee or engaged as an interim, direct consultancy or via an agency or other supplier.

Prepared by: HR Strategy and Policy Team
Date: 8th February 2012

Revisions and reasons: 19th July 2012
 Updates to sections 8, 11
 Review Date: January 2013

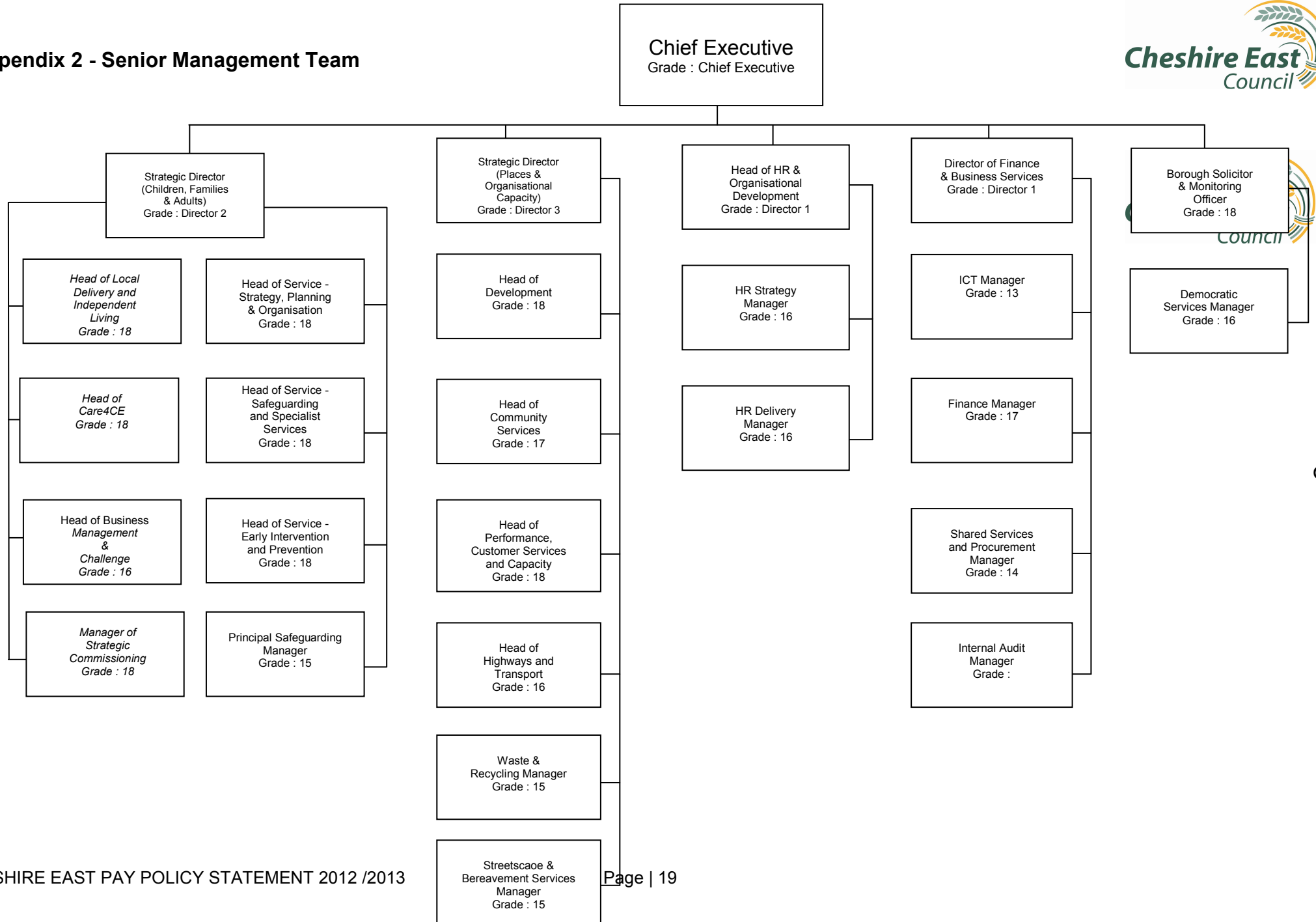
Appendix 1 – Cheshire East Pay and Grading Structure (NJC and JNC)

GRADE	SCP	SALARY			
1	4	12145	11	41	36182
	5	12312		42	37263
	6	12489		43	38342
				44	39544
2	6	12489	12	45	40741
	7	12787		46	42014
	8	13189		46	42014
	9	13589		47	43294
3	9	13589	12	48	44771
	10	13874		49	46251
	11	14733		50	47227
	12	15039		51	48200
	13	15444			
4	13	15444	JNC Chief Officers		
	14	15725	13	49	46251
	15	16054		50	47227
	16	16440		51	48200
	17	16830		52	48598
5	17	16830	14	53	49631
	18	17161		53	49631
	19	17802		54	50888
	20	18453		55	52144
	21	19126		56	53606
6	21	19126	15	57	55067
	22	19621		57	55067
	23	20198		58	56494
	24	20858		59	57924
	25	21519		60	59508
7	25	21519	16	61	61098
	26	22221		61	61098
	27	22958		62	62695
	28	23708		63	64299
	29	24646		64	66040
8	29	24646	17	65	67782
	30	25472		65	67782
	31	26276		66	69495
	32	27052		67	71212
	33	27849		68	73118
	34	28636		69	75023
9	33	27849	18	69	75023
	34	28636		70	76962
	35	29236		71	78906
	36	30011		72	81073
	37	30851		73	83240

10	37	30851
	38	32012
	39	33167
	40	34501
	41	36182

Director 1	90320
Director 2	120000
Director 3	122000
Chief Executive	173000

Appendix 2 - Senior Management Team



Appendix 3

All of the relevant policies and procedures as referred to in the Pay Policy Statement can be found on the Staffing Committee Share Point.

<http://mycheshireteams.ourcheshire.cccusers.com/sites/cecstaffcomm/default.aspx>

Intranet links to the relevant policies and procedures:

[Payment of Market Supplements](#)

[Pay and Allowances Policy](#)

[Pensions Discretions Policy](#)

[Redundancy Policy](#) and **[Procedure](#)**

[Retirement and Severance Policy](#)

[Recruitment Policy](#) and **[Procedure](#)**

[Disability at Work Commitment](#)

[Mindful Employer](#)

[Redeployment Policy](#) and **[Procedure](#)**

[Equality in Employment Policy](#)

[Relocation Expenses Policy](#)

CHESHIRE EAST COUNCIL

Council

Date of Meeting: 19 July 2012
Report of: Democratic and Registration Services Manager
Subject/Title: Overview and Scrutiny Annual Report 2011/12

1.0 Report Summary

1.1 The 2011/12 Overview and Scrutiny report is attached.

2.0 Recommendation

(1) That the annual report be received.

(2) That the report be posted on the Council's Website.

3.0 Reasons for Recommendations

3.1 It is good practice to produce an annual report reviewing Overview and Scrutiny Activity.

4.0 Wards Affected

4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications

6.1 There are no identifiable policy implications

7.0 Financial Implications

7.1 N/A.

8.0 Legal Implications

8.1 There are no legal implications.

9.0 Risk Management

9.1 There are no identifiable risks

10.0 Background

10.1 The reference text version of the 2011/12 Overview and Scrutiny Annual report attached summarises the activities of the Council's 6 Overview and Scrutiny Committees during the period of the 2011/12 Municipal Year.

11.0 Access to Information

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

Name:	Mark Nedderman
Designation:	Senior Scrutiny Officer
Tel No:	01270 68659
Email:	mark.nedderman@cheshireeast.gov.uk

Overview and Scrutiny Annual Report 2012

Contents

Welcome

The Work of the Scrutiny Chairs Group

The Work of the Overview and Scrutiny Committees

- Corporate
- Children and Families
- Environment and Prosperity
- Sustainable Communities
- Adult Social Care
- Health and Wellbeing

Lessons Learned

Welcome

Overview and Scrutiny plays an important role in the governance of Cheshire East Council and this year has involved 51 of the Council's 82 elected Members and many Officers from all departments and services of the Council. Overview and Scrutiny's purpose is to ensure that the Council's decision makers and those of our partner organisations are held to account for their decisions. In its overview element, Overview and Scrutiny plays a role in developing Council policies. Committees can review policies and make recommendations to Cabinet and Council about whether current policies are effective and what new policies should be. The Scrutiny element can be used to review the performance of Council, and Partner, services and make recommendations for improvement. By doing these things, we strive to ensure that the Council is achieving the best value possible from the services provided to the residents of Cheshire East.

During the last twelve months the Overview and Scrutiny Committees have continued to develop and progress by strengthening their relationships with Cabinet and Corporate Management Team (CMT), as well as the Council's external partners and community groups across the Borough. The Committees have conducted some important work in vital areas of the Council's strategy and policies and have helped to ensure that services are performing well and are value for money.

The Scrutiny Chairmen's Group has been developing its role in helping to coordinate scrutiny across the six Committees as well as playing a crucial role in supporting the scrutiny function's role in the Council and maintaining strong relationships with CMT and Cabinet so that Scrutiny may operate more effectively. We hope that the relationships between Scrutiny, Cabinet and CMT continue to improve and that Scrutiny's profile continues to grow amongst Officers and the Public.

The Localism Act 2011 and several other pieces of legislation look set to have a big impact on the way the Council delivers, and therefore Overview and Scrutiny, services and support to the residents of Cheshire East. The Scrutiny Chairmen's Group and all six committees will work hard to ensure that they continue to deliver effective scrutiny throughout by ensuring the opportunities afforded through changes that may occur over the next twelve months are taken. Possible changes in governance arrangements will hopefully improve the delivery of the Council's services whilst ensuring that decision making and service delivery is open and transparent, and subject to challenge where necessary.

Our thanks is extended to all those who have taken part in the work of Overview and Scrutiny over the past year. Effective scrutiny would not be possible without the cooperation and support of Cabinet, co-opted members, officers and engagement with the public.

Cllr Brian Silvester – Chairman of Scrutiny Chairmen's Group

Scrutiny Chairmen's Group

Chairman: Cllr B Silvester

Vice Chairman: Cllr P Findlow

Committee Membership: G Baxendale, K Edwards, L Gilbert, M Grant, A Kolker, H Murray, D Newton, J Saunders, M Simon, G Walton

The Scrutiny Chairmen's Group is an informal body made up of the Chairmen and Vice-Chairmen of each of the six Scrutiny Committees. The group meets monthly to review work programmes, share best practice and consider how to deal with issues that overlap the remits of the Scrutiny Committees.

The Group supports the Overview and Scrutiny Function and ensures that each of the Committees is operating effectively with the necessary support. The Group has kept an eye on how new legislation will affect the work of the Committees and discussed how Committees can adapt to any changes. New provisions under the Localism Act 2011 have already had to be considered, in particular possible changes to governance arrangements. It is hoped this group will be able to offer expertise and knowledge that will help to inform the discussion on governance arrangements.

There are a variety of matters and subject areas that cross Cabinet portfolios and service areas and the Scrutiny Chairmen's Group consider how these should be dealt with and by which Committee. As a result some joint Task and Finish Groups have been set up which ensure the interests of all Committees involved are considered. Examples include the joint task and finish group on Health and Cared for Children which has members from Children & Families and Health & Wellbeing. The Home to School Transport task and finish group was commissioned by Children and Families as an education matter however included members of Environment and Prosperity as transport is part of their remit.

The Group has also worked hard to ensure that Overview and Scrutiny is strengthened by ensuring each Committee is supported with appropriate financial and performance information so they can effectively review the Council's services and make recommendations for improvements. The Group has consulted with the Council's Director of Finance to agree arrangements that will allow Officers to better assist the Scrutiny Committees with Financial and Performance information.

Other developments that the Group has considered and will continue to pursue are the use of social networking to better engage with the public and training arrangements that will help to improve Members knowledge and scrutiny skills.

Corporate

Chairman: Cllr A P Findlow

Vice Chairman: Cllr D Newton

Committee Membership: G Barton, G Baxendale, B Burkhill, S Corcoran, S Davies, F Keegan, B Moran, D Neilson, D Topping, G Wait

The Corporate Scrutiny Committee is responsible for scrutinising the Resources portfolio and the Procurement and Shared Service portfolio. This includes areas such as; financial strategy; business management; treasury management; audit; member training and development; human resources strategy; organisation development; shared services; pensions; occupational health; and procurement.

Last year the Committee carried out a task and finish review of Business Generation Centres in Cheshire East to make recommendations for the development of a policy for the future of business generation. The recommendations for the review were positively received by Cabinet and many of them are being supported by the Council's Economic Development Strategy. The Committee are pleased that the Council will be fully supporting the principle of business generation and the development of new local business to help the local economy in these times of economic uncertainty.

This year the Committee has been working on several ongoing tasks to advise Cabinet on the budget setting process and to review finance and performance reports. The work of the Corporate Scrutiny Committee and the Budget Task Group has helped to keep a close check on the finances and performance of the Council as well as ensuring that the budget setting process is carried out effectively and considerately so that the Council can deliver its priorities for the Borough in the coming year.

The Committee met in November to discuss a report on Shared Services. Cheshire East shares a wide variety of services with Cheshire West and Chester Council ever since the two authorities were formed after the Local Government Review in 2009. It has been important for the Committee to monitor these shared services in order to ensure Cheshire East is operating as effectively as it can. The Committee has been involved in consultation on the creation of a Single legal Entity to provide a range of high level services currently provided by Shared Services.

In January the Committee began joint work with the Council's Constitution Committee to review the Council's governance arrangements and to consider whether changes could be made to improve the effectiveness of the current arrangements. The Localism Act 2011 allows Council's to choose their own governance arrangements and a small number of Councils have taken the opportunity to review how they work to assess whether there are any ways in which they can improve the efficiency, transparency and quality of decision making.

Adult Social Care

Chairman: Councillor M Simon

Vice Chairman: Councillor B Silvester

Committee Membership: C Andrew, D Bebbington, I Faseyi, J Jackson, L Jeuda, S Jones, F Keegan, B Murphy, J Saunders, D Stockton

The Committee's responsibility is to scrutinise the Adult Services portfolio. This includes matters such as; re-ablement; family based care; residential care; nursing home care; equality in access; welfare rights; connected service delivery for families; and support for informal carers.

Cheshire East has the fastest growing ageing population in the North West. It also has one of the highest life expectancies in the North West which has created an unprecedented demand on adult services. Caring for people in need is a major priority for the Council which is looking forward at how to deal with a growing population of over 65s. The Adult Social Care Scrutiny Committee plays a key role in helping to develop policies and scrutinising the performance of services on behalf of service users and carers.

This year the Committee has considered and monitored several issues that are important to the care for adults in the Borough. In July the Committee received a report on Disabled Facilities Grants (DFGs). These are mandatory grants which are rewarded under the Housing Grants, Construction and Regeneration Act 1996. The purpose of the grants is to help disabled residents to meet the cost of adapting their homes, facilitate independent living and help individuals to maintain their personal dignity. The ageing population of Cheshire East has resulted in a rise in the demand for DFGs. The Committee suggested that if DFGs result in a reduction in injuries and health issues which save the NHS time and money then perhaps the Council should work with health partners to secure funding and increase the level of DFGs awarded to residents of Cheshire East. The Committee is keen to continue to monitor DFGs to ensure that the Council is able to meet the demand of its ageing population.

The Committee also considered the Think Local Act Personal (TLAP) strategy in July to offer recommendations before Cabinet took a decision. The TLAP strategy is a national strategy building on the principles of the 'Putting People First' agenda, first initiated by Government in 2007. Whilst accepting the principle and direction of this policy, the Committee was concerned about the move towards web based and electronic platforms as the preferred communication method for disseminating information to older people. The Committee requested that officers attend future meetings with a communication strategy that catered to all needs. After seeing a demonstration of various alternative methods in November and December, the Committee was reassured that their suggestions had been considered and was also pleased to have one of its Members co-opted onto a communication working group.

In September the Committee considered the 2011-2015 Strategy for Carers in East Cheshire. The strategy set out the collective commitment to Carers across Cheshire East and demonstrated the value the council and its partners placed in supporting Carers and their families. This is an issue of considerable interest to the Committee and once the strategy has been allowed to embed, this topic will be explored further in 2012/13.

The Adult Social Care budget has been an issue which has been looked at closely since the start of the municipal year. The Council is not alone in having to balance growing demand with an increasingly stretched budget. With this in mind, the Committee has been interested to explore and analyse what impacts budget reductions are having on policies and outcomes. Much of 2011/12 has been taken up with gaining an understanding of the complexities within the Adult Social Care budget and extra training sessions have been provided for Members.

In November the Committee considered a progress report on the Adults Local Account. With the Annual Performance Assessment by the Care Quality Commission and the National Indicator Set coming to an end, the Committee was informed that the Council planned to replace these with a Local Account which will reflect those outcome measures which the public and the Council feel are most important. It is expected that this will become a vital tool for the Committee in 2012/13.

The Committee also considered an update on a review of Adult Services Transport during their November meeting. Members were impressed with the extensive consultation process that had gone into making the proposed changes but the effectiveness of the new model will be analysed over the coming years to examine how successful it has been for service users.

In April, the Committee dealt with a call in relating to the consultation process for the permanent closure of Bexton Court. The Committee concluded however that the consultation process had been adequate and therefore no advice was given to Cabinet.

In the final meeting of the year, the Committee considered the Council's newly formulated personalisation policy. For those in need of social care, the last few years has seen an increase in the individual's choice and control over services and this has been reflected in how the Council now delivers these services. Whilst the Council had incrementally changed how it delivers social care services there was not one document that brought these various work streams together. The Committee was informed that the personalisation policy would help to do this and ensure a consistency of service across the Directorate. As this is a major piece of work, it was resolved that the Committee would receive an extra training session on the policy and its potential implications.

Task Groups

The Committee inherited a Task Group from the former Health and Adult Social Care Scrutiny Committee which was looking at issues around

Dementia. As it is predicted that there will be over 1 million people living with dementia by 2025, of which Cheshire East will be disproportionately affected. This is a key piece of work for the Council.

Following a Notice of Motion submitted regarding instability in the residential care market in Cheshire East and its potential impact on the finances of the Council a task and finish review was commissioned to determine the best means of managing demand for residential care including demand from returning self funders. The task group has explored a number of 'invest to save' initiatives for mitigating demand and is expected to report with its findings by the end of April.

Children and Families

Chairman: Cllr A Kolker

Vice Chairman: Cllr K Edwards

Committee Membership: L Brown, S Gardiner, P Hoyland, B Livesley, D Mahon, G Merry, D Neilson, B Silvester, G Wait

Co-optees: John McCann, Jill Kelly, Ray Woolgar and Claire Blanchard

The Children and Families Scrutiny Committee is responsible for scrutinising the Children and Families portfolio. This includes matters such as; early years and childcare; education; children's social care and wellbeing; family support services; cared for children and care leavers; children's safeguarding; and services for children and young people with disabilities.

This year the Committee has commissioned a number of task and finish reviews which have helped the Council to better support children and young people in the Borough. The Committee has also taken part in various site visits and training sessions in order to help it better understand the needs of all children and young people in particular their education and safeguarding needs.

In July the Committee considered a report on the Cheshire East Family Service. The implementation of a new family service was in response to a range of initiatives and strategies from recent task and finish group work and national policy. The Committee has tracked the development of the new initiative throughout the year and is pleased to find that it is creating some positive outcomes.

In October the Committee received a presentation on the Virtual School and how this initiative enabled Cheshire East to maintain an overview of all its cared for children and their educational progress. The Committee was delighted to discover that the initiative had already produced some significant improvements and this will be continued to be monitored to ensure that this is a sustainable and long lasting change.

In November the Committee had an overview and discussion about Child and Adolescent Mental Health Service (CAMHS). This item had been requested as there had been a concern that the level of and access to services was not consistent throughout the Borough. After considering the item, the Committee was reassured that work was under way to mitigate this issue.

In December the Special Education Needs Policy draft was presented to the Committee for consideration. A number of Councillors had undertaken site visits to a selection of the Borough's special schools in order to gain an understanding of the prevalent issues. As a result of the 'hands on' experience of Members, a number of comments were made on the draft policy and these were taken into consideration by the officers.

In the first meeting of 2012 on 17 January the Committee considered the impacts of Academies on the Council and its budgets. The Committee also received an update on Disabled Respite Care. A parent of a disabled child who had attended a meeting of the Committee early in 2011 with concerns regarding the future of disabled respite care following the closure of a special unit, revisited the Committee to provide an update and was able to explain that he had been entirely satisfied with the alternatives that had been put in place for his child.

The Committee received a response on the fostering task and finish review (completed April 2011) in the meeting held on 14 February. The Committee was pleased to note that all 33 recommendations had been endorsed in principle by the department. Whilst this is promising, fostering remains a topic of interest to the Committee and therefore work will be continued to be monitored throughout 2012/13.

In order to try and gain a deeper understanding of the issues being scrutinised, the Committee decided to hold its last two meetings of the Municipal year outside of the usual venue of Westfields, Sandbach. The first of these was held in Oakenclough Children's Centre, Wilmslow and the Committee was treated to a Premiere viewing of a promotional DVD that had been produced to demonstrate the value of Children's Centres. During this viewing, the Committee was able to talk to the parents and children involved in the DVD which was useful to gain a first hand account of the challenges they faced.

The final meeting of the year was held at Ash Grove Primary School, Macclesfield. The Committee was considering an item on school improvement and as Ash Grove was the second most improved school in England it was deemed appropriate to hear how they had achieved such an outcome. Following a talk and tour of the school from the Head teacher, the Committee was then able to take this knowledge into the meeting to aid questioning.

The Committee agreed that holding meetings outside of Westfields was a useful exercise and something that should be repeated in 2012/2013. It was felt particularly valuable in the way that it helped bring items to life and added an extra dimension to the Committee's knowledge. Having said this, it was noted that holding meetings in some venues such as schools could potentially reduce public participation as people might feel less comfortable accessing such venues. Going forward therefore, the Committee will attempt to strike a balance between holding meetings in Westfields and choosing external venues when it is judged to be appropriate and worthwhile.

Task Groups

The Committee set up a task and finish review into Home to School Transport. This emerged as a topic when Cabinet delayed a decision on the removal of denominational and mainstream post 16 school transport subsidies and resolved to refer the matter to the Children and Families Scrutiny Committee for further consideration. Following an extensive evidence gathering process, two reports emerged from the Group; one a majority and

one a minority, both with different options and solutions proposed. The Committee considered both reports and resolved to refer both to Cabinet, with the minority report being put forward as the endorsed report. Whilst this was an unusual situation, it illustrated that the principles of democracy and debate were still held in esteem and that the scrutiny process offered room for both.

A couple of task and finish reviews tumbled out of the findings of the successful fostering review, carried out in the previous year. These were, firstly, health and cared for children and secondly, care leavers. Both of these reviews will be looking to strengthen the safeguarding processes around some of the Borough's most vulnerable children and through their recommendations will hopefully improve the lives and outcomes of those children and young adults affected. Both reports are expected to conclude early in the next municipal year.

Environment and Prosperity

Chairman: Cllr L Gilbert

Vice Chairman: Cllr G Walton

Committee Membership: A Barratt, G Barton, P Butterill, H Davenport, K Edwards, R Fletcher, P Hayes, S Hogben, P Hoyland, A Thwaite

The Environment and Prosperity Scrutiny Committee is responsible for scrutinising the Environmental Service portfolio and the Prosperity portfolio as well as development management and building control from the Safer and Stronger Communities portfolio. This includes matters such as economic development; waste management; housing strategy; tourism; highways and transport; carbon reduction; and planning.

This year the Committee has been consulted on a wide range of issues, has contributed to policy development and has addressed some of the concerns of the public. In June 2011 the Committee looked at the Council's Public Transport Criteria and was successful in persuading Cabinet to amend the criteria to better support elderly and disabled who required access to public transport.

In July the Committee called in a Cabinet decision declare the site of the Crewe Heritage Centre surplus to requirements and to offer a 125 year lease for sale on the open market with a restrictive covenant which would preserve the site for the rail heritage of Crewe. The Committee questioned the Prosperity Portfolio and heard evidence as to why the original decision had been made. The Committee considered the evidence given by both representatives of the Heritage centre and portfolio holder. The Committee subsequently recommended that the proposed decision to abandon the existing lease arrangements should be delayed. Although the Portfolio holder upheld his original decision the process followed by the Committee was commended and members of the public were given an opportunity to take an active part in the democratic process.

In October the Committee considered the Council's Housing Strategy. The housing strategy is fundamental to the lives of everyone in Cheshire East and to setting out the Council's priorities for the future. The Committee made significant recommendations which helped to strengthen the Housing Strategy and ensure that the Council has a good quality housing at an affordable level and that our most vulnerable residents are given every opportunity to retain their independence.

In November the Committee considered two important items that will have an effect on the local economy in the near and distant future. The Council's Pavement Café Policy plays an important role in creating vibrant and sustainable towns and villages. In 2011 there was a lot of public debate about the "Alfresco Policy" of Cheshire East which prompted the Committee to consider the current arrangements and make recommendations for the future. The Committee was fully in support of the Council's current policy and hope that the Committee's backing will reassure members of the public that this is a

best way forward in order to support local business and ensure that the public can enjoy vibrant and thriving communities in a safe and sustainable environment.

As well as the Pavement Café Policy the Committee considered the future of Cheshire East's farm estate. The Council's farm estate provides an essential supply of farm land for young farmers looking for a way into the industry and the Committee were happy to endorse the strategy for rationalisation of farm estate to provide viable and sustainable farming for the long term future.

At the Committee's meeting just before Christmas, Members were asked to consider income from car parking by the Scrutiny Chairmen's Group which was concerned by the underachievement against budgeted income in the first quarter. Income from car parks was down nationally due to economic conditions and a reduced footfall in towns and cities and although Cheshire East had suffered a reduction it was still performing well in comparison with other local authorities. The Committee recommended to the Portfolio Holder for Environmental Services that the budget set for income may have been too optimistic and that in future historic data should be used to set a more realistic budget.

The Committee's agenda for its February meeting was well attended by visiting Members and members of the public who wished to speak and witness proceedings. Many attended with regard to the proposed parking tariff structure which sort to make parking tariffs more logical and understandable. There were concerns about how tariffs would be applied and possible increases in charges despite these not being considered as part of the item. Due to the concerns of both Members and the public the Committee decided to commission a Task and Finish Review into tariff structures and the setting of tariffs in Cheshire East. The Committee also received a report on Planning Enforcement in February which the Committee felt would need further consideration and a Task and Finish Review on Planning Enforcement is scheduled to begin in the next municipal year.

Task Groups

The Task and Finish Review of Cheshire East Car Park Management began in February to review the current tariffs and management of car parks to ensure that they are contributing to the vitality and viability of Towns and Villages in Cheshire East. Although the review is in its early stages, the Task and Finish Group is planning to consult ward councillors on car parking in their local areas to identify and address the issues with car parking. It is hoped that the outcomes of the review will be tariffs and management procedures that are supported by the public and contribute to the vitality of towns and villages by attracting the appropriate users to the car parks.

Health and Wellbeing

Chairman Councillor G Baxendale

Vice-Chairman Councillor J Saunders

Committee Membership: G Boston, S Gardiner, M Grant, M Hardy, D Hough, A Martin, G Merry, A Moran, G Wait, J Wray

The 2011/12 municipal year saw the introduction of a new scrutiny committee. The Health and Wellbeing Scrutiny Committee was created during the split of the Health and Adult Social Care Scrutiny Committee to form a Committee that will be able to shadow the Council's Health and Wellbeing Board that will begin work in 2013.

The Health and Wellbeing Scrutiny Committee is responsible for scrutinising the Health and Wellbeing portfolio as well as leisure and cultural services from the Environmental Services portfolio. Health and Wellbeing covers areas such as; health promotion; liaising with NHS trusts; disability; mental health; ensure the transition of LINKs to Healthwatch; monitor the impacts and outcomes of the health and wellbeing strategy; and the Ageing Well programme.

During its formative year the Committee has had to hit the ground running and get to grips with the issues around health and wellbeing quickly in order to carry out its role effectively. The Committee has received many briefings on the various services and issues it will be scrutinising giving Members all the necessary skills. The Committee has also been communicating regularly with the Shadow Health and Wellbeing Board to establish a relationship that will work effectively to hold health services to account.

As well as working to develop an understanding of health services the Committee has considered a number of issues affecting the health and wellbeing of residents of Cheshire East. In July the Committee supported changes to the opening times of the Minor Injuries Unit at Congleton War Memorial Hospital. It was felt that the new arrangements would reduce the risk to employees of lone working and make the unit more efficient by operating during peak times without reducing the level of service available.

In October the Committee supported changes to vascular services in South Cheshire which would ensure that residents would have access to a highly specialised team working in a large centre to which patients could be referred. The Committee is extremely committed to ensuring the health services for residents of Cheshire East are at the highest possible standard and will continue to use its powers to scrutinise performance and help to develop policy.

In January the Committee considered a report on alcohol related harm reduction. Abuse of alcohol and the negative consequences to individuals and the public as a whole is an issue that has received lots of national attention over recent years. The reduction of alcohol abuse and the negative effects alcohol has on health and communities has been a priority to most authorities for a long time. The Committee is keen to make its contribution and, having considered the report, emphasised the importance of educating young people and taking advantage of social media to communicate messages to a wider

audience in a way that young people relate to. The Committee also supported minimum unit pricing and wanted the Council to use licensing powers to reduce the opportunities for all day drinking. The Committee will continue to monitor the issue of alcohol harm to ensure that it remains a priority for the Council and its partners.

The Committee also considered the Ageing Well Programme and how Members can contribute to the making Cheshire East a good place to grow old. The Ageing Well Programme will be important in preparing Cheshire East to deal with the fastest growing ageing population in the North West. The Programme sets out how the Council may go about maximising the opportunities for the ageing population to prepare for the later stages of life maintain their quality of life during later life and have access to person centred services when required. The programme comprises six work streams each with five priorities that will be the focus over the five years of the programme. The Scrutiny Committee has the responsibility to ensure that all of the priorities within the programme are being met to ensure that ageing residents are able to maintain a good quality of life and independence. The Committee will be monitoring the Council's progress regularly over the next five years and where possible contribute to improving access to education, activities and services for the ageing population.

Sustainable Communities

Chairman: Councillor H Murray

Vice Chairman: Councillor M Grant

Committee Membership: A Barratt, G Barton, L Brown, P Hayes, D Hough, J Jackson, B Livesley, M Parsons, G Wait, J Wray

Expert Advisor – E Lam – Police Authority

The Sustainable Communities Scrutiny Committee is responsible for scrutinising the Safer and Stronger Communities portfolio and the Performance and Capacity portfolio. This covers a wide range of areas including; crime reduction; community safety wardens; environmental health; local area partnerships; corporate and business planning; local development framework; risk management; and customer complaints and responses.

This year the Committee has conducted work on a number of issues that have helped to improve some of the services that the Council and its partners provide. During the 2010-11 municipal year the Committee conducted a review of Community Safety Wardens. In October 2011 the Committee returned to the issue after six months to see how their efforts the previous year had affected the service. The Committee was please to hear that due to some of the changes recommended in its review the Community Safety Wardens (CSW)were more focused and providing a better value for money service. The group had recommended that the CSWs needed to work more closely with the Police. Now operating from Police Stations, the CSWs are able to apportion work with the Police, allowing the Police to concentrate on the more pressing issues. Operational Statistics for CSWs showed increases in activity in the previous six months compared to the six months prior to that. These changes were attributed to the improved co-ordination and joint working with the Police that had been recommended by the Committee. The changes to the service have also produced significant cost savings in addition to improvements in performance. The Committee is pleased with these outcomes but are also keen to continue to monitor the situation to contribute to further improvements in the service.

In August Members of the Committee conducted site visits to the Council's new CCTV base in Macclesfield Town Hall. Having inherited three separate CCTV control units from the legacy authorities Cheshire East decided to rationalise the service by moving all facilities to Macclesfield. Committee Members were invited to attend the new site in order to determine whether they believe the new arrangements would be adequate for the safety of the Borough. The feedback from Members was offered to the Safer and Stronger Communities portfolio holder who welcomed the input of the Committee which would help her decision making in the future.

In September the Committee conducted an investigation into the development of the Council's Library Strategy to advise Cabinet about what it should consider when developing a library strategy in the future. The Committee held a one off meeting at Macclesfield Town Hall during which they interviewed

various officers in order to obtain views on the libraries service and the development of a strategy from various angles within the Council. Having collected their evidence from officers and discussed the issues faced when producing a library strategy the Committee produced a discussion paper and synopsis and presented them to the Informal Cabinet. The recommendations of the Committee were well received by Cabinet and will help in the formulation of a Libraries Strategy early in the new municipal year. Non-members of the Committee who attended the meeting in Macclesfield to observe said they thought the process had been an effective way to gather information from officers and were pleased with the conclusions that the Committee had reached. The Committee is hoping to use this innovative method of investigation in scrutiny on other issues in the near future and other Committees are commended to take advantage of this kind of process.

In November the Committee gave its support to setting up a formal agreement for delivery of Road Safety between Cheshire East Council, Cheshire Fire and Rescue Service and Cheshire Police. In the new agreement the Council will be responsible for road maintenance and the Police for enforcement. The Fire and Rescue Service would provide education on road safety specifically to primary school children as pedestrians and cyclists and those about to leave secondary school to prepare them for learning to drive. The Fire and Rescue Service also run Think Drive Survive courses for secondary schools and Members of the Committee will be attending their local event in summer 2012 to see how effective they are and get the feedback of the pupils.

At its meeting in February the Committee made recommendations on improvements to the management of Section 106 agreements and funds. As awareness amongst about where on a ward by ward basis such funds had been and consequently were unable to monitor the situation and ensure that Section 106 monies were spent. The Committee recommended that a document used Members should receive regular updates on section 106 monies to allow them to monitor activity and ensure that funds were spent on improvements to their wards.

In April the Committee considered the impact the introduction on the Community Infrastructure Levy (CIL) would have on Section 106 agreements and how the negative impact of developments would be mitigated. CIL funds will be spent on improvements across the Borough which will aid in ensuring that infrastructure is capable of accommodating new developments and the growth of communities. Concerns had been expressed about the level of funding that would be retained in the vicinity of a development to improve the area in the way that Section 106 is set up to do. The Committee recommended to Council that at least 50% of funds should be retained within local areas to ensure that local people gain from having new developments placed in their community.

Lessons Learned

At the end of the 2011/2012 municipal year, the Scrutiny Chairmen's Group undertook an 'end of term' review of the scrutiny function.

The Group summarised its findings as follows:

Scrutiny Chairmen's Group

It was generally accepted that the Scrutiny Chairmen's Group Works well. The style of meeting has changed in 2011/12 and is more business focussed with formal style agendas. It has spent less time looking back at the work of individual committees and has focussed on topical issues common to the whole of the scrutiny function, particularly those relating to the development and improvement of Scrutiny. Due to the increased work of the Group, Members feel that Scrutiny as a higher profile and Cabinet give more attention to the scrutiny process.

Questioning techniques

There are many examples where scrutiny committees have missed an opportunity to get the best out of visiting officers and members. The Scrutiny Toolkit provides simple guidance about questioning techniques and Members are asked to take note of that advice. Too often members fall into the trap of making statements rather than asking direct questions. There are good examples of occasions when Members have extracted incisive and valuable information from targeted questioning. One particular example was the informal meeting of Sustainable Communities that undertook a spotlight review of library services. This review was conducted in private but was considered to be a success by all participants.

Scrutiny Engagement with the Public

Although significant developments have occurred in this area through the recent improvements to the website including the introduction of a twitter account and Chairman's blog facility, there is very little tangible evidence that the Scrutiny is engaging with the residents of Cheshire East.

Task and Finish Groups

Task and Finish groups have provided a vehicle for the most productive and well received work by Overview and Scrutiny. Scrutiny has completed 3 reviews this year. Without exception they have been well received by Cabinet. Furthermore, in most cases the recommendations have been accepted in their entirety. Although time consuming, the original work undertaken by Task and Finish groups is having a direct influence on the strategic direction of the Council, and those members who have been on Task and Finish report that it is a rewarding and interesting part of the Scrutiny process.

Cross Cutting Issues

There are still areas where improvements could be made to the structure to enable Scrutiny to deal with cross cutting issues more effectively. One example is the area of safeguarding. Although there is no desire to review structures annually, there are some areas which need to be addressed.

Committees

Generally, the committees operate in a spirit of co-operation and function in a non political arena. This is positive and in keeping with the principles of good scrutiny.

No action required

One of the pitfalls that academics in the field of Scrutiny warn local authorities against is allowing agendas to be dominated by items to be merely noted. Items to be noted are relatively common Cheshire East but should be avoided. There are other avenues for members to note matters of interest. Scrutiny agendas should be constructed so that the Committees always add value to the work of the Council.

Member Involvement

For a scrutiny function to work well, it must be led by its Members. Cheshire East should encourage its Members to actively contribute to the work programme more than they currently do and efforts should be made to increase the cohort of Members involved Task and Finish work.

1:1s

1:1s should be used more consistently – they provide an excellent opportunity to build up good relations between the Cabinet Member Scrutiny and senior officers and allow matters to be rehearsed in an informal setting.

Policy Development

Members feel that they should have an involvement in policy development from an earlier stage to allow them to influence the policies of the Council. Committees should be proactive in reviewing the Council's policies or developing new ones.

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