

Cabinet

Agenda

Date: Tuesday, 28th May, 2013
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

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

1. **Apologies for Absence**

2. **Declarations of Interest**

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

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

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

Contact: Paul Mountford, Democratic Services Officer
Tel: 01270 686472
E-Mail: paul.mountford@cheshireeast.gov.uk

4. **Questions to Cabinet Members**

A period of 20 minutes is allocated for questions to be put to Cabinet Members by members of the Council.

Notice of questions need not be given in advance of the meeting.

Questions must relate to the powers, duties or responsibilities of the Cabinet. Questions put to Cabinet Members must relate to their portfolio responsibilities.

The Leader will determine how Cabinet question time should be allocated where there are a number of Members wishing to ask questions.

Where a question relates to a matter which appears on the agenda, the Leader may allow the question to be asked at the beginning of consideration of that item.

5. **Minutes of Previous Meeting** (Pages 1 - 6)

To approve the minutes of the meeting held on 7 May 2013

6. **Key Decision 41 - ICT Strategy 2013-16** (Pages 7 - 36)

To consider a report seeking approval for the ICT Strategy 2013 – 2016

7. **Key Decision 52 - Home to School Transport** (Pages 37 - 88)

To consider a report on the revised Home to School transport policy

8. **Key Decision 53 - Contract for Provision of Banking and Card Transaction Services** (Pages 89 - 92)

To consider a report seeking authority for the Chief Operating Officer to award the contract for banking and card services for Cheshire East Council

9. **Key Decision 5 - Award of Contract for the Flexible Transport Service** (Pages 93 - 98)

To seek approval to award the contract for a long term flexible demand responsive transport contract from 15th July 2013 until 14th July 2018.

10. **Key Decision 6 - Crewe Green Link Road South: Contract Award and Forward Funding of Developer Contributions by Council** (Pages 99 - 110)

To consider a report which seeks approval to award the Early Contractor Involvement contract for the design and construction of the Crewe Green Link Road (South) scheme to the winning Tenderer.

11. **Key Decision 7 - Contract for the Supply of Liquid Fuels** (Pages 111 - 114)

To consider a report which outlines the options for a new contract for the supply of liquid fuels.

12. **Key Decision 8 - Creative Design and Print Framework Agreement** (Pages 115 - 118)

To seek authorisation to implement a new Creative Design and Print Framework Agreement.

13. **Key Decision 9 - Procurement of New Case Management System** (Pages 119 - 124)

To consider a report requesting approval to procure a Case Management System to plan and deliver Adults and Children's social care services

14. **Key Decision 10 - Update on the Review of Service Delivery Options - Leisure Services** (Pages 125 - 236)

To consider a report seeking approval for the creation of a company that will be a charitable Trust and the delivery of leisure services be transferred to that company

15. **Exclusion of the 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 matter may be determined with the press and public excluded.

The Cabinet may decide that the press and public be excluded from the meeting during consideration of the 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 Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and the public interest would not be served in publishing the information.

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

16. **Key Decision 51 - Domiciliary Support in Extra Care Housing Schemes** (Pages 237 - 240)

To seek delegated authority to award domiciliary care contracts to provide care and support in Extra Care Housing schemes.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 7th May, 2013 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor M Jones (Chairman)
Councillor D Brown (Vice-Chairman)

Councillors J Clowes, J P Findlow, L Gilbert, J Macrae, B Moran, P Raynes
and D Topping

Members in Attendance

Councillors Rhoda Bailey, L Brown, K Edwards, P Groves, P Hoyland,
B Livesley, P Mason, A Moran, P Nurse, A Thwaite and R West

Officers in Attendance

Kim Ryley, Paul Bradshaw, Lorraine Butcher, Rachel Musson, Mike Rowan,
Caroline Simpson, Paul Mountford

Apologies

Councillor Rachel Bailey

180 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

181 **PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public wishing to speak.

182 **QUESTIONS TO CABINET MEMBERS**

Councillor P Nurse asked about the current position with regard to the
AstraZeneca site at Alderley Edge.

The Leader of the Council responded by saying that the Council was about
to announce the creation of 300 new jobs at the site as the Council
continued to work with AstraZeneca and others to attract new companies.

183 **MINUTES OF PREVIOUS MEETING****RESOLVED**

That the minutes of the meeting held on 2nd April 2013 be approved as a
correct record.

184 **KEY DECISION 54 - A6 TO MANCHESTER AIRPORT RELIEF ROAD - OUTCOME OF FIRST PHASE CONSULTATION AND EMERGING PREFERRED SCHEME**

Cabinet considered a report on the outcomes of the first phase of the consultation on the A6 to Manchester Airport Relief Road which took place between October 2012 and January 2013 on junction options.

The results of the consultation were being used to inform the development of an emerging preferred option for the scheme which would then be subject to a second phase of consultation later in the year.

The Leader of the Council gave an assurance that local ward members would be kept informed of progress.

RESOLVED

That

- (1) the high level of public support for the scheme, with over 80% of those expressing a preference being in favour, be noted;
- (2) the following options be approved as the Council's preferred junction options:

Location	Recommended Junction Option
Location 1. Styal Road, Wythenshawe	Option 1 Traffic lights controlled cross roads over airport spur rail lines
Location 2, A34 / Stanley Road, Stanley Green	Option 1 Upgraded roundabout with traffic lights.
Location 3, Woodford Road, Bramhall	Option 2 Scheme passes under Woodford Road with new traffic lights controlled junctions introduced.
Location 4, Chester Road Link, Poynton	Option 1 Scheme connects to Chester Road via a new short link road. The scheme has a large traffic lights controlled gyratory junction. This option best caters for a future Poynton Relief Road.
Location 5, Woodford Road, Poynton	Option 1: Scheme passes under a new bridge for Woodford Road.
Location 6, Macclesfield Road, Hazel Grove	Option 1: Traffic lights controlled cross roads.

- (3) the Head of Environmental Protection and Enhancement be authorised to approve minor modifications to the preferred junction options above, including those specific measures outlined for each junction in Section 10 of the report.

185 **VISION AND STRATEGY FOR ECONOMIC GROWTH: EAST CHESHIRE - ENGINE OF THE NORTH**

Cabinet considered a report seeking approval for the East Cheshire-Engine of the North: Our Vision and Strategy for Economic Growth.

This was a high level document which built upon other key strategies and policies and which set out a Vision for Growth, a Strategy for Change and an Investment Plan. The document was needed to pull together all aspects of the Council's economic growth activity into one 'vision' for economic growth which succinctly captured the scale of the Council's ambition, the potential impact on the national and regional economy and the benefits at a local level. It identified the role of the Council in delivering economic growth, and explained how the Local Plan, place-based initiatives, commissioning, infrastructure investment, business rates and access to finance would be put in place to enable the conditions for growth.

RESOLVED

That

- (1) the document 'East Cheshire - Engine of the North: Our Vision and Strategy for Economic Growth' be approved; and
- (2) the Vision and Strategy be pro-actively promoted to key influencers, locally, nationally and internationally, and to both the public and private sectors.

186 **CONNECTING CHESHIRE PROJECT UPDATE**

Cabinet considered a report detailing progress on the development and delivery of the Cheshire, Warrington & Halton Local Broadband Plan.

The project had completed a procurement process to appoint a strategic telecommunications investment partner, the successful bidder being British Telecom PLC (BT). The strategic telecommunications investment partner would provide over £9.0m to deliver and gap fund the rollout of fibre broadband to rural areas of Cheshire, Warrington and Halton. The project was expected to deliver total coverage of over 96% of premises able to take-up a fibre broadband service by the summer 2015 compared with around 78% coverage at present.

To complement the deployment of superfast broadband services an integrated demand stimulation campaign would be led by the project to encourage take-up of fibre broadband.

In July 2013 a partner would be procured to deliver a tailored programme of business support for eligible Small and Medium sized Enterprises (SMEs) to ensure they could make best use of high speed digital services.

An addendum was circulated at the meeting which discussed a potential concern of the Council's as to the extent to which British Telecom's contract dealt with rescoping the project in the event that funding was withheld. Following discussions with BT, BDUK and the Minister Ed Vaizey, the Council had agreed to accept the contract on the condition that BT signed an accompanying letter committing to establish robust processes to manage such a situation should it arise.

RESOLVED

That the report be noted and the appointment of BT as the project's strategic telecommunications investment partner be endorsed.

187 PROPERTY ASSET TRANSFER: TRANSFER OF THE FORMER WATER STREET SCHOOL, BOLLINGTON

Cabinet considered a report seeking approval for the transfer of the land and buildings known as the Former Water Street School, Bollington to the Bollington Initiative Trust.

The proposed asset transfer was in line with the Localism Act and would enable the local community to have a direct say on how the asset was managed. The proposed sale would generate a significant revenue saving and relieve the Council of ongoing maintenance and management liability.

Bollington Initiative Trust was a Macclesfield-based charity involved with the acquisition and conservation of public buildings and open spaces for continued public use and access. The Trust had been managing the site for some time under a management agreement. It intended to fully repair the building and carry out improvements for the benefit of community users. In order to fund this, the Trust may need to dispose of or let the first floor for commercial, residential or other uses. The ground floor would be used for community purposes. The Trust may also choose to dispose of some land, as identified in the report, for the furtherance of its charitable purposes at Water Street School. The Trust had submitted a detailed business case in support of its proposal.

An addendum was circulated at the meeting which set out a number of minor changes to the report.

RESOLVED

That

- (1) both the Council's freehold and leasehold interests in the site shown edged in red on the plan attached to the report be transferred to Bollington Initiative Trust upon the terms outlined in Section 10 of the report as amended; and
- (2) delegated authority be granted to the Director of Economic Growth and Prosperity and the Interim Monitoring Officer and Head of Legal Services to finalise the details of the proposed freehold transfer and long lease assignment of the property and any statutory declarations/statements of truth as may be required to regularise title and transfer the whole site to Bollington Initiative Trust.

188 **DEVELOPMENT COMPANY**

Cabinet considered a report recommending that the Council set up a Development Company, wholly owned and controlled by the Council, to drive forward the development of the Council's land assets for housing and economic growth.

The report summarised the work of Deloitte LLP (business and financial advisors) and Bevan Brittan LLP (legal advisors), appointed to evaluate options and report back on a preferred model to provide the best opportunity to realise the ambitions of the Council, and to create the infrastructure necessary to ensure greater prosperity for local residents.

The preferred option was the delivery of the Council's objectives through a wholly-owned and controlled arm's length company, where the Council retained ownership of the physical assets. The principal advantage of this option was that it allowed the Council to focus its delivery through the separate arm's length company, without distracting the company's management and staff with the Council's other day-to-day operational requirements. The Company could also better promote the Council's land and property assets for development through the Local Plan and planning process.

RESOLVED

That

- (1) Council be recommended
 - (a) to approve the setting up of a Development Company – East Cheshire, Engine of the North, wholly owned and controlled by the Council, in the form described in the report, to drive forward the development of the Council's land assets, as a key element for the Council's wider plans for housing and economic growth;

- (b) to appoint initially to the Board of the Company the following non-executive Directors: Cllr A Thwaite (Chairman), Cllr D Druce (Vice Chair), Cllr D Newton (Vice Chair), Cllr P Groves, the Director of Economic Growth and Prosperity (Caroline Simpson), the newly-appointed Head of Development (Darran Lawless) and to agree that the Interim Borough Solicitor (Mike Rowan) take on the role as Company Secretary; and
 - (c) to approve that a Shareholder Committee be established comprising of the Leader, Deputy Leader, Portfolio Holder for Prosperity, Portfolio Holder for Resources and the Chief Executive.
- (2) subject to (1) above, the Interim Chief Executive and Interim Borough Solicitor and Monitoring Officer be granted delegated authority to take forward the actions required to implement the recommendations and set up the Development Company, reporting back to Cabinet in October 2013 on progress, specific actions to take forward being:
- 1. to set up the Company as operational (separate legal entity) and establish its Memorandum and Articles of Association by end May 2013;
 - 2. to finalise initial staffing arrangements and related HR considerations; insurance arrangements; and other operating procedures to ensure that the Council's budget envelopes and capital plans in relation to the activities of the Company are clearly understood by end May 2013; and
 - 3. to develop a 3-Year Business Plan for the Company, to establish the portfolio of assets it is required to act upon; any provision of resources to facilitate land acquisitions; set objectives against which its performance will be measured.; and draw up Company Objects and, if relevant, an Agency Agreement by end October 2013.

The meeting commenced at 10.00 am and concluded at 11.05 am

M Jones (Chairman)

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	ICT Strategy Manager
Subject/Title:	Key Decision 41 - ICT Strategy 2013-16
Portfolio Holder:	Cllr David Brown (Strategic Communities)

1.0 Report Summary

- 1.1 The Information and Communications Technology (ICT) Strategy document, that was published last year, has been updated and Cabinet are asked to consider the ICT Strategy 2013 – 2016 for approval. This strategy sets the corporate direction for ICT within the Council and supports corporate priorities.
- 1.2 The ICT Strategy 2013-2016 is recommended for Cabinet approval.

2.0 Decision Requested

- 2.1 To endorse and approve the corporate Information and Communications Technology Strategy 2013-2016 to enable it to progress to publication.
- 2.2 To authorise officers to take all necessary actions to implement the strategy/proposal.

3.0 Reasons for Recommendations

- 3.1 An ICT Strategy is a key success factor for a modern organisation. This strategy summarises how the ICT Strategy team, in conjunction with ICT Shared Services, partners and external providers; contributes to the success of Cheshire East.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 None identified.

7.0 Financial Implications

- 7.1 Within current budgets – there are no additional financial implications. Delivery of the Strategy is dependent upon approval of the associated budgets for the period

8.0 Legal Implications

- 8.1 There are no specific Legal Implications arising out of publication of the report. Projects which fall within the 3 year strategy will be subject to the Council's Finance and Contract Procedure Rules as they arise.

9.0 Risk Management

- 9.1 A fragmented approach to ICT, conducted outside of a structured framework, will restrict the ability of Cheshire East Council to achieve value for money. A clear ICT strategy mitigates this risk.

10.0 Background and Options

- 10.1 The ICT Strategy sets out the ICT direction for the Council and how it supports the Council vision. The ICT Strategy is reviewed and updated on an annual basis to ensure that it is in line with corporate objectives and improving technologies. Cabinet is invited to approve the ICT Strategy 2013-2016.

11.0 Access to Information

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

Name: Alan Myatt
Designation: ICT Programme Manager
Tel no: 01270 686168
Email: alan.myatt@cheshireeast.gov.uk

ICT Strategy 2013 - 2016



April 2013

1. Executive Summary

The need for 'fit for purpose' ICT services has never been greater. With our ever growing reliance on ICT in our every day activities; developments such as the need for faster broadband speeds, the need for increased availability of wireless connectivity and the wide use of social and business tools available on the internet, are just some of the key strategic enablers that will impact on ICT across the organisation over the next 3 years.

This document outlines how ICT Strategy will support the Council's Three Year Plan, 2013-16 to provide:

- 'Fit for purpose' ICT services which enable and support effective and reliable service delivery
- A cost effective ICT infrastructure that reduces duplication, streamlines work flows and access to information, offers best value and delivers a return on investment
- A safe and secure ICT network that reduces risks, repels external threats and complies with relevant legislation
- A future-proof, proactive and innovative commissioning service for all ICT investment.

The future of the authority lies in a true partnership of public, private and voluntary bodies to deliver effective and appropriate public services for our citizens. Effective collaboration will widen our horizons and open up opportunities for innovation in service provision and administration.

Our 3 year strategy is made up of five key programmes:

- **Location Independent Workforce** – to develop ICT facilities and services that allow staff to work effectively from any location
- **Enabled Citizens, Managers and Staff** – to implement tools and technologies which put the citizen, business managers and staff in control of their information and communication to transform the way that services can be delivered
- **Superfast Broadband** - to secure public and private sector investment to enable the provision of superfast broadband infrastructure to over 90% of homes and businesses; and to promote take-up across Cheshire East
- **Core System Stability** - to sustain all the ICT systems and technologies which underpin the organisation, including the development of a new regional Public Service Network (PSN).
- **Core Financial Systems** (Oracle) - To develop our Oracle platform to provide back office efficiency, control and compliance, self service financial management information, improvements to usability and access for customers (both internally and externally) and multi-organisation working.

2. Strategy Drivers

Cheshire East Council is a complex and diverse organisation and we are experiencing a fundamental change in the way we operate internally and the way we relate externally to citizens, local businesses, other public services providers, partners and central government. We need to deliver better value by working in partnership with other service providers to allow more choice and improve achievement of our priority outcomes.

Regardless of our area of activity, effective service provision is becoming ever more dependent on how we, as individuals, teams and organisations embrace, manage, develop and apply ICT. We live in a world increasingly digitally enabled with greater reliance on faster broadband and wireless connectivity. Our aim is for the ICT strategy service to be a key enabler for the existing activities and aspirations of the Council and the various partnerships and groups that work with us to improve the wider "well being" of the area.

The key drivers influencing our strategy are illustrated in the diagram below:



2.1. Political Drivers

The government view transparency as a foundation stone of accountability and a powerful means of promoting efficiency. The taxpayer has a right to see how their money is being spent. In this tight fiscal climate it is important that we can manage our high volume and diverse information sources effectively so that we can publish data appropriately and in a timely manner.

In order to support multi-agency and collaborative working, the Government is driving forward the creation of a Public Service Network (PSN) infrastructure. We will work proactively with public sector colleagues across the Cheshire sub-region to develop a PSN and to ensure that this network is cost sustainable, secure, compliant, resilient, scalable and future-proof.

The UK has an overarching target to reduce greenhouse gases by 26% or more by 2020 and by at least 60% by 2050. The Council has set targets to reduce carbon dioxide emissions with a view to ultimately achieving carbon neutrality. In order to reduce the overall carbon footprint of the authority, we will ensure that ICT provision embraces sustainability principles wherever possible.

2.2. Community and Social Drivers

Cheshire East is an area of contrasts, from remote sparsely populated areas, to major townships, with significant wealth and health inequalities. Many of these demographic and social issues have been exacerbated by both the recession and commercial imperatives, making it difficult for the needs of specific groups to be reflected in local, national and regional policies. With the implementation of digital communications and investment in superfast broadband, which can reach and empower local communities, we will be able to reflect local needs, drive costs down and remove the digital divide which exists between our urban and rural areas.

It is important that citizens are not disadvantaged by lack of access to the opportunities that ICT presents. We will continue to deliver technology that can enable the personalisation of services especially in social care and associated Telecare advances, support and enable social inclusion, and engage our staff and citizens so that whatever their background or circumstances they may have similar opportunities in life.

ICT can play a key role in the support of life long learning and it is important that our schools are well resourced with technology and our children and young people are equipped to make the most of the ICT tools available to them.

2.3. Economic Drivers

Reductions in public funding, to support national deficit reduction targets, mean that we have to become very skilful at achieving outcomes with reducing financial resources, continuously striving to maximise outputs and optimise processes. We will harness the power of technological developments to change the way our services are delivered, driving down costs while continuously striving to improve levels of service, optimise processes and broaden the options for accessing and delivering services.

The focus on efficiency also strengthens the need to consider Joint and Shared services. There are many opportunities to share services locally, regionally and nationally and we need to fully explore the potential benefits.

The Localism agenda and our local strategic partnerships allow organisations to work together effectively in true collaboration. ICT will enable these partnerships to communicate easily, collaborate electronically and access information and knowledge seamlessly.

Business growth is a key driver for economic recovery; through the investment of superfast broadband infrastructure we will support our businesses. Small and medium sized enterprises, in particular, will be able to maximise the take-up and exploitation of technology enabled by faster broadband connectivity e.g. high definition video conferencing, 'cloud computing', telecare, international trade and e-commerce.

2.4. Technology Drivers

The Council's office accommodation strategy is driving forward the optimisation of our valuable office space. Not all staff will be allocated dedicated desks and there is an overall target of 1 desk/workstation for every 1.3 staff. Staff will be encouraged to work in the most efficient and effective manner possible in whichever of the Council's network of main offices and locality bases is most appropriate for each particular activity. We will ensure the effective exploitation of ICT technology to ensure that staff have access to appropriate resources to undertake their work in a variety of locations.

With advances in computing power and capability, the widespread use of the internet and the growing affordability of many devices, it is now possible to take advantage of a wide variety of digital services. The marketplace moves quickly and it is important to actively investigate emerging tool sets to stay abreast of developments and the possibilities they present.

Over the past 5 years or so the growth in personal use of smart phones, laptops and tablet computing has overtaken the capability and perceptions of Council owned ICT. This is a key challenge and opportunity for us, to enable staff to work productively at home if they choose and even use their own devices at work where appropriate.

We will ensure that the provision and use of ICT within the authority is compliant where legislative requirements and government standards dictate. These include the Government Connect Code of Connection, Payment Card Industry Standards, and Data Protection Act 1998.

2.5. Stakeholder Drivers

Our service 'clients' rightly expect their ICT solutions to deliver information access, storage, processing and reporting facilities for practitioners and appropriate partners. Although complex data sharing requirements, legacy systems and differing partner technologies present significant challenges to provide efficient connections with partners and suppliers, we will strive to deliver fit for purpose and future-proof services.

ICT now plays an increasing role supporting the Council's front line services, in addition, these services now need to reduce costs without compromising service standards or reducing access or uptake particularly among more vulnerable or disadvantaged service users. We will continue to provide and develop new services for our citizens that are efficient, effective, equitable and empowering putting the customer at the heart of what we do.

3. ICT – The Vision

ICT will continue to support the major schemes and programmes of work across the Council as well as the day to day operations and so it will be vital to continue to invest in the development of a cost effective, well managed and secure ICT infrastructure that will:

- **Enable everyone (internally and externally) to collaborate and access information electronically when, where and how they need it**
- **Allow services to be delivered more efficiently and effectively, to enable better strategic commissioning and delivery of frontline services**
- **Help us to capture, process, store and retrieve information reliably and conveniently from multiple access points.**

Our vision will be underpinned by the following core principles across each of our key stakeholder groups:

Citizens & Businesses can become self-reliant and take personal responsibility, are able to:

- Find information about Council services and how to use them at any time of day and from any part of the borough and beyond
- Have quick and easy access to information from any device e.g. smartphone, laptop, tablet
- Access information through a variety of channels e.g. phone, internet, email, letter, Twitter, face-to-face
- Be confident that their personal details and information we retain are managed securely, processed and shared responsibly
- Express views and make decisions on services and plans

Elected Members can support their communities, are able to:

- Retrieve and use information at any time, from anywhere in order to:
 - inform decisions
 - monitor the effectiveness and efficiency of services
 - engage in effective scrutiny of Council strategies, policies and operations
 - to understand and respond to the needs of constituents

Managers and staff can deliver quality and best value, are able to:

- Access Council ICT systems and services from any location using a variety of devices e.g. Smartphone, tablet, laptop in line with business need
- Retrieve timely and accurate information at any time using self-service tools
- Contact and collaborate with colleagues and partners across the organisation using a variety of different channels e.g. phone, email, text, video
- Move and work easily between roles and departments as a result of standardised equipment and processes.

Partner organisations can work with the Council to ensure best outcomes, are able to:

- Exchange information with the Council safely, securely and appropriately
- Integrate and harmonise ICT processes to improve efficiency and deliver benefits to citizens and local businesses
- Ensure that individuals do not get 'lost' between agencies.

4. How is ICT Strategy Delivered?

The ICT Strategy Team identify, procure and commission ICT technologies and services in response to service 'clients' needs, and work proactively to identify opportunities and anticipate business needs. The Team will sustain, improve and enhance the effective delivery of front-line Council services to the wider community and partners. This is conducted with regard to costs, benefits, legislation, government standards, and emerging technologies.

ICT Finance Management Details

Revenue

The permanent revenue budget for ICT Strategy is approximately £3.4m with the following breakdown:

EXPENDITURE	%
Staffing costs	43
Non-staffing costs	57
TOTAL EXPENDITURE	100
FUNDED BY	
Staff recharges to capital	32
Other recharges to services	3
Base budget	65
TOTAL FUNDING	100

Staff recharges to capital

ICT Strategy does not have a permanent revenue budget to fund all the resources required to deliver the ICT Work Programme, so approximately 32% of the resource requirement is funded by recharges to the capital programme at an agreed average chargeable rate.

In most years in-house resources will not be sufficient to deliver the Council's work programme. When this happens, external contractors on short term premium rate contracts are used to provide additional resources. The cost of these contractors are "pooled" with the cost of internal development staff and charged to projects at an agreed average chargeable rate. An annual capital programme for these essential resources of approximately £1.125m is required to provide sufficient funding for all these staff.

Assumptions about the proportion of external contractors used are reviewed annually. This will affect the average rate charged to projects.

Capital

The table below sets out a summary of the funding for the current ICT 3 year capital programme:

Change programmes	2013-14 Forecast Spend	2014-15 Forecast Spend	2015-16 Forecast Spend
	£	£	£
- Location Independent			
7.4B Workforce	3,400,000	3,131,000	1,340,000
Enable Citizens and			
7.4C Businesses	287,000	450,000	360,000
7.4A Core System Stability	5,403,000	2,876,000	2,900,000
2.1 Superfast Broadband	20,583,000	20,583,000	400,000
7.4D Core Financial Systems	924,000	326,742	
Totals	30,597,000	27,366,742	5,000,000

Implementing modern business architecture, including an ICT system which supports innovation and affordable frontline delivery is a Cheshire East major change programme (7.4). It is a portfolio of four programmes (with a total of 300+ projects):

- A Core System Stability (CSS)
- B Location Independent Working (LIW)
- C Enabled Citizen and Business (ECB)
- D Core Financial Systems (Oracle)

Full Project Initiation Documentation (PIDs) and Business Cases have been submitted in line with corporate procedures.

Departmental ICT provision

In addition to the central ICT budget, Services hold significant Revenue and Capital budgets covering application licences and associated maintenance contracts. Grant funded ICT provision is also held by some services.

Purchase of computer equipment such as PC's, laptops and printers

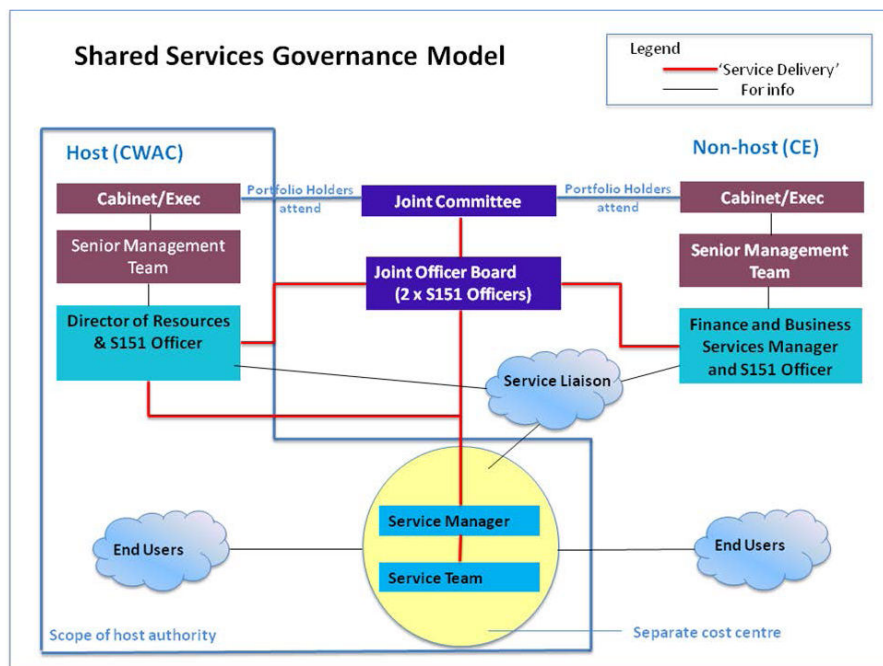
Cheshire East has an estate of around 6,000 desktop computers and laptops. The purchase of this type of equipment is made from a centralised contract using a corporate ICT Strategy held revenue budget. Replacement and growth expenditure on these items for Cheshire East is approximately £1.0m annually.

4.1 ICT Shared Services

The Council is committed to the concept of shared services and much of our ICT portfolio is commissioned from the ICT Shared Service which is jointly funded with Cheshire West and Chester Council. The ICT Shared Service is tasked to develop, operate and deliver a cost-effective, quality and efficient ICT service that reduces costs while enabling each authority to pursue their respective operational and strategic agendas. These will include:

- Provision, operation and maintenance of ICT infrastructure
 - Systems and servers
 - Desktops, laptops, printers etc
 - Networks (wide and local area networks)
 - Security defences and telephone infrastructure
- Operational running and maintenance of applications
- Provision of help-desk services to support end users
- Provision of system and application development services

The diagram below illustrates the current governance arrangements for ICT Shared Services:



The two main bodies that formally govern ICT Shared Services are:

- **Joint Committee (JC)** - This is a formal governance body, consisting of members from each client, with constitutional powers delegated from each authority. It is effectively the ultimate power for these services and all shared services are accountable to the JC. This committee mirrors the role of shareholders in a business, i.e. they are investing the resources of the two Councils to get a return on their decision to share, through a more efficient and effective set of services

- **Joint Officer Board (JOB)** - ICT Shared Services is accountable to a formal JOB which is chaired jointly by the section 151 officers of both councils. The JOB's role mirrors that of a board of directors and oversees business strategy, planning, operational and financial performance, issue management and transformation.

5. Context

Across the Council we are responsible for over 400 legacy application systems currently in use, with in excess of 4000 desktop PCs and laptops (using various installed software), digital telephone systems; a multitude of telecommunication lines and contracts and several data centres (either wholly owned or shared with Cheshire West and Chester).

This mixed estate of applications, hardware, infrastructure and data centres presents a clear opportunity, and challenges, to reduce ongoing costs and to improve resilience through rationalisation and harmonisation, subject to consultation with services. However we are still addressing the impact of legacy systems and hardware resulting from the creation of Cheshire East in 2009, with many disparate, inefficient and incompatible elements within our ICT estate, some of which is beyond its useful life. Nevertheless, our proactive commitment to innovate and improve service delivery through the effective use of ICT systems and services will remain paramount.

The ICT Strategy Team will work with suppliers and service providers to identify opportunities for innovation with new and enhanced technologies. This enables the team to work with front-line services to specify commission and oversee the delivery of technical solutions, services and research to meet business requirements and service delivery priorities.

With a complex ICT environment it is important to ensure that information, systems and data are protected from inappropriate access, loss or malicious attack. Regular tests and audits of the defences are undertaken to ensure compliance with government standards and the delivery of effective, secure and safe services.

Our policies, procedures and standards have been developed to assist and guide both suppliers and users; these are regularly reviewed and updated in line with best practice guidelines and legislation. In developing and enhancing our ICT systems and their supporting infrastructure, we work in partnership with other organisations and agencies. These range from our immediate geographical neighbours such as Warrington Borough Council, Cheshire West and Chester Council; partners in service delivery such as the NHS, PCT's, Police, Fire and Rescue; through to partnerships with voluntary and private sector organisations. The ICT Strategy Team will continue to actively seek

partnerships to provide integrated information systems, safe sharing protocols and drive efficiency savings.

We also manage the procurement of mobile devices and hardware. Following a successful procurement process, the provision of Mobile Phones, Blackberry devices, and 3G data-sticks has now been drawn together in a contract with Orange under the AGMA framework. Standard sets of equipment including desktops, laptops, docking stations, Microsoft Office software, keyboards and mice are supplied through a centralised contract with A&O.

6. How are we going to get there?

Our 3 year strategy is made up of five key programmes:

- **Location Independent Workforce** – to develop ICT facilities and services that allow staff to work effectively from any location
- **Enabled Citizens, Managers and Staff** – to implement tools and technologies which put the citizen, business managers and staff in control of their information and communication to make it possible to transform the way that services can be delivered
- **Superfast Broadband** - to secure public and private sector investment to enable the provision of superfast broadband infrastructure to over 90% of homes and businesses; and to promote take-up across Cheshire East
- **Core System Stability** – to sustain all the ICT systems and technologies which underpin the organisation, including the development of a new regional Public Service Network (PSN).
- **Core Financial Systems** (Oracle) - To develop our Oracle platform to provide back office efficiency, control and compliance, self service financial management information, improvements to usability and access for customers (both internally and externally) and multi-organisation working.

In support of the corporate 3 year plan the ICT Strategy team will plan to deliver over 300+ projects across multiple programmes where our role will be to lead, enable and innovate.

Change programmes	2013-14 Forecast Spend	2014-15 Forecast Spend	2015-16 Forecast Spend
	£	£	£
- Location Independent			
7.4B Workforce	3,400,000	3,131,000	1,340,000
7.4C Enable Citizens and Businesses	287,000	450,000	360,000
7.4A Core System Stability	5,403,000	2,876,000	2,900,000
2.1 Superfast Broadband	20,583,000	20,583,000	400,000
7.4D Core Financial Systems	924,000	326,742	
Totals	30,597,000	27,366,742	5,000,000

7. Location Independent Workforce (LIW)



ICT will play a crucial role in creating an authority that is organised around the needs of customers and employees rather than the constraints of building design, fixed hours and geographic location. Staff mobility and service flexibility will allow the Council to work more effectively with the potential to reduce accommodation costs and our overall carbon footprint by making better use of the available space, reducing staff travelling expenses and improving delivery and access to public services.

No modern vision for Council service delivery will be feasible without multi-disciplinary and multi-agency working. Information sharing is vital and will require a transformation in our electronic communications, security and work processes. Information must be available in a variety

of formats and be accessible through a number of routes outside the originating office and its opening hours.

7.1. LIW - What have we achieved so far?

We have made significant progress in implementing ICT to facilitate flexible working arrangements, this includes:

- Home working solutions have been trialled and implemented using secure data networking equipment such as Devolo, with on average 350 users of our Click into Cheshire functionality per day, with 1,000 tokens issued to date facilitating full network access remotely
- Office phone technologies have been extended to direct calls through to mobile numbers - Extension to Cellular
- Microsoft Lync has been trialled and is currently being rolled out to facilitate improved collaboration and instant communications for staff in different locations
- Video Conferencing facilities have been extended and enhanced enabling staff to come together for key meetings; e.g the Oracle Strategic Board for 4 attendees the yearly saving has been over £2,000 in travel expenses, 1.3 tonnes of CO² and 160 hours of unproductive travel time.
- Corporate Wireless Communications have been installed in a number of buildings allowing staff to access the corporate network without the need for a cable connection
- The next generation of tablet devices have been trialled using management technologies that permit access to the corporate network with appropriate defences in place to limit the risks of data loss and intrusion
- A corporate-wide accommodation booking system has been implemented to enable staff to book meeting rooms at key corporate buildings
- A range of intranet information pages and e-learning materials have been published on a variety of ICT topics to enable staff to obtain key information.

7.2. LIW - What do we want to do next?

The plans for 2013-16 include:

Efficiency Projects:

- **Wi-Fi Access (public and corporate)** Enhancements to the Wi-Fi estate are required in order to provide standardised secure public and corporate network access at all major office hubs to keep pace with the increasing demands for online provision.

- **Social collaboration and networking** The social collaboration/networking aspects of SharePoint (in conjunction with Microsoft Lync) will help facilitate a location independent workforce.
- **Unified Communications** There is a business efficiency need for fully integrated communications, providing access to e-mail, voicemail, Instant Messaging, voice and directory services from a range of suitable devices such as desktops, laptops, smart-phones, tablets, handhelds, etc.
- **Flexible and Mobile Working (F&MW)** Technical solutions are required to enable staff to work productively from a wider variety of locations including all corporate offices, home, mobile and partner sites. This can include working outside of traditional working hours.

Transformational Projects:

- **Partnership Connectivity** Specialist solutions are needed to provide technical connectivity between disparate partnership agencies with differing technology platforms.
- **Identity and Access Management** In order to move forward with the data sharing agenda (data, services and technologies), managed access to systems and data is required to continue to balance the needs of enhanced security with wider access, so that the right people have access to the right resources at the right time for the right reasons.

Mandatory Project:

- **Information Security Advancement** Enhancement of the ICT security estate is required to improve protection against the ever evolving landscape of external cyber attack and security threats, or hardware theft. Currently around 40 million emails are received by the Council every year, however only around 5 million are legitimate and relevant to core business delivery, therefore it is essential that protection from such huge threats is maintained.

8. Enabled Citizens, Managers and Staff (ECMS)



The ICT tools will transform the way that our services can be delivered. The development of on-line citizen access solutions will permit services to maximise on-line transaction capability and reduce costs compared with face-to-face or telephone. They will also enhance customer choice and allow citizens to access services outside traditional office hours.

A web-based Customer Portal will provide a single point of access and guide to tiered levels of service information below. "Self Service" for citizens is a key requirement of the personalisation agenda and further development of assistive Telecare technology will reduce risk and increase choices available to our older, vulnerable and isolated citizens.

Internal Manager Dashboards will provide key information to enable effective decision making by allowing processes and services to be delivered more efficiently, helping to capture, process, store and retrieve information reliably and conveniently from multiple access points.

8.1. ECMS – What have we achieved so far?

- Document scanning and storage solutions implemented, used by Human Resources and Facilities Management using the core technologies of SharePoint and Kofax. These facilities are scalable and re-usable by other business user groups as processes evolve to embrace electronic document storage.
- National leads for:-
 - CHOICE (a citizen portal for Adults personalisation and health assessment)
 - SCPEA (demographics data integration with Health, successfully using the NHS number as the unique identifier)
 - National CAF Demonstrator programme
 Strategic involvement and shaping of national initiatives such as these, enables us to design our ICT infrastructure to maximise

opportunities to share and collaborate within partner organisations. It also shares the risks associated with development activities.

- Implementation of electronic Health and Social Care Assessment of Needs (HaSCAN) format shared across Cheshire East with Health partners. Key benefit from this is improved efficiency through reduced data duplication.
- Enabled almost 500 staff to access to Microsoft's Home User Programme. As well as offering Office software to staff members at significantly reduced rates, this initiative reinforces staff understanding and competence within these key productivity tools at no cost to the council.

8.2. ECMS – What do we want to do next?

The plans for 2013-16 include:

Efficiency Projects:

- **Citizen Authentication** We will continue to improve our website and access to services online, particularly in relation to the 'tell us once' agenda. The Personalisation agenda is also a business requirement to develop a user-friendly corporate web offering that cuts across delivery silos and offers a truly joined-up service.
- **Enabled Manager - Self Service.** In order to provide managers with seamless data services, the integration of key systems with SharePoint, as part of the model office development, will provide profiled access to data and services such as staff expenses and financial reporting.
- **Business Intelligence and corporate data warehousing** This will provide the capability to support business objectives, more informed and faster decision making, reporting and performance management at all levels across the organisation. This includes the reduction of data duplication through the effective master data management, data integration and cleansing to create a single consistent view of data across the organisation.

Transformational Projects:

- **Location Independent citizen spatial data/mapping (GIS)** Enhancement and re-development of spatial mapping services to improve functionality, understanding and enable access for internal and external customers. These developments will provide a basis for specific projects such as the online publication of Local Plans (Spatial Planning).

- **Customer Web Portal** A customer portal solution will provide the ability to create a single and common interface (or Single Point of Access) to integrate and present disparate solutions and content. This will also allow users to deliver documents directly to both citizens and colleagues from their desktop.

9. Superfast Broadband (SfB)



We believe investment in SfB infrastructure is the single greatest strategic opportunity to drive economic growth and improve the quality of life for all our residents this decade. This project is being developed in partnership with Cheshire West and Chester, Warrington and Halton Councils under the Connecting Cheshire brand; with Cheshire East Council the accountable body and principal delivery agent. We will use public and private sector gap funding to invest in SfB infrastructure in areas of market failure, in particular our outlying rural areas.

Our vision is to reach over 90% SfB coverage by the end of 2015, subject to a European Regional Development Fund (ERDF) grant award, and to ensure businesses and residents can exploit the benefits of faster broadband and put the technology to best use.

A recent study estimated full coverage of SfB would generate a gross impact of £1.3bn in business benefits over the next 15 years across our sub-region. The Connecting Cheshire Partnership has vigorous support from our community, business, political representatives and local government organisations across the sub-region. Faster broadband will underpin future business growth, educational attainment, the delivery of health services, and the transformation of public services. It will make a range of everyday activities carried out by individuals, households and community organisations quicker and cheaper.

In contrast, the lack of SfB where hitherto not commercially viable, especially in our rural areas, is a constraint to unlocking the full potential of our sub-regional economy and enhanced social cohesion. There is a real danger that the 'digital divide' between towns or cities and our more remote and rural communities will become deeper.

9.1. SfB – What have we achieved so far?

- Established an effective partnership and collaborative project delivery team across the 4 councils and project website, see: www.connectingcheshire.org.uk, and developed strong engagement channels with MPs, MEPs, Local Enterprise Partnership and North West Business Leads promoting the virtues of SfB
- Led multiple community and business engagement events across the sub-region promoting better broadband
- Developed a successful Better Broadband for Cheshire media campaign to drive demand registrations to demonstrate strong evidence of need,
- Received £4m from Broadband Delivery UK (BDUK) which has been matched by the 4 councils
- Submitted a £15m ERDF grant submission in July 2012 focused on the delivery of SfB connectivity to 88% of eligible Small and Medium Sized Enterprises (SMEs) in known areas of market failure; and to provide a business support programme to maximise take-up and exploitation of technology enabled by SfB e.g. high definition video conferencing, 'cloud computing', telecare, international trade and e-commerce
- Secured EU State Aid approval via a national agreement brokered by BDUK, to permit investment of public money in SfB infrastructure.

9.2. SfB – What do we want to do next?

The plans for 2013-16 include:

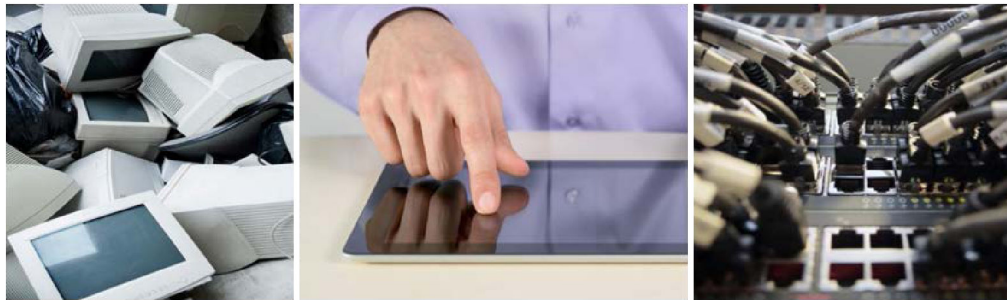
Transformational SfB Work streams:

- **ERDF Funding** Confirm approval of £15m grant submission for SfB connectivity for SMEs in areas of market failure.
- **Telecommunications Partner** A key milestone of the project is to appoint a telecommunications provider from the BDUK delivery framework, to undertake the publicly funded rollout of SfB infrastructure across Cheshire, Halton & Warrington. Following publication of our Invitation to Tender (ITT) in December 2012 as part of the BDUK project 'pipeline', we are currently tenth in the queue of forty projects across the UK, we expect the appointment of our partner to be confirmed in spring 2013.
- **SfB Infrastructure** The implementation phase is expected to commence in summer 2013 (subject to procurement approval), with capital investment completed by during 2015. Current economic modelling indicates the project will increase the

availability of SfB services from 70% of homes and businesses to over 96%.

- **Engagement** Work with ERDF eligible businesses, residents and the public sector to stimulate demand and promote the benefits of SfB technologies and reduce digital exclusion.

10. Core System Stability (CSS)



The systems and technologies which underpin the organisation require a lifecycle approach to be maintained, refreshed and replaced to sustain currency, fit for purpose and compliant with mandatory standards. Continued investment in database and server technology is required to preserve the reliability and availability of our core ICT infrastructure in order to ensure that current service levels are maintained. Equipment and applications are only considered for replacement if there is justifiable concern over reliability, capacity to support service demands, fitness for purpose or if there is a strong business case for migration to newer technologies.

Key drivers for CSS methodology include ensuring the organisation can 'keep the lights on' and maintain our 'license to operate' from the government and compliance status, and maintaining software platforms within vendors' support timeframes.

10.1. CSS – What have we achieved so far?

- Completed the consolidation of our Consolidated Geographical Information Systems (GIS) and adoption of a standardised GIS software (ESRI / ArcGIS)
- A reduction in MapInfo Licensing costs across the authority of over £17k
- Implemented a mobile telephony and billing review which resulted in cross-departmental savings of almost £250k

- Developed a new Financial Reporting Centre which collates and produces customised, consistent and simplified reports for 300 Budget Managers, on track to achieve £150k savings
- Developed a new online public Planning interface which has provided a much simpler and more reliable functionality for users to search and view planning applications and decisions
- Achieved our mandatory Government Connect Code of Connection for sharing of NHS and Department of Work & Pensions information
- Achieved NHS IGSO accreditation August 2011
- Implemented Intrusion Detection Services to provide additional protection against the risks of cyber attack.

10.2. CSS – What do we want to do next?

The plans for 2013-16 include:

Ongoing Efficiency Projects:

- **Internet Based Services** These will undoubtedly become more common- place within the council as the technology matures, it will be important to assess fitness for purpose and undertake proof of concept activities in order to judge if such software is appropriate and secure.
- **Enterprise Content Management and Records Management** The ongoing creation, management, publication, archiving and disposal of our documents and information, both electronic and hard copy.
- **Service Continuity, Licences and Security Architecture** Continuity and security arrangements, licenses, contracts and technologies will be maintained, consolidated and refreshed to sustain currency, reduce risk and ensure compliance with mandatory standards.
- **Corporate Platforms including Email and Servers** We will sustain, replace and uplift vital core platforms including Exchange (E-Mail), SQL (Database), SharePoint (Collaboration), and replace servers to ensure that key platforms can continue to function. For example, our current storage of 90 million emails is increasing at a rate of over 10 million per year.
- **Retirement/Consolidation of Legacy Systems** Application consolidation will reduce our portfolio from over 400 applications to a more manageable number; this will include the retirement of legacy systems via archiving, application consolidation and/or switching off systems that no longer fulfil any statutory or business requirement.

- **Core System Re-platform** The existing Oracle platform is our key 'back office' system that runs many vital functions such as pay-roll and procurement, but is no longer supported by the supplier and will need moving to a more up to date infrastructure. Similarly, a replacement hardware and software platform is required for our Adult and Children's PARIS business system.

Transformational Projects:

- **Public Service Network** A regional Cheshire & Merseyside network carrying data traffic for the Police, Fire, Local Authorities, and Health Services will replace existing isolated infrastructures, providing an essential foundation for effective multi-agency working, facilitating service flexibility and significant cost savings.
- **Next Generation Desktop** The provision of a standardised ICT systems and services from a range of devices, locations and at varying times in the day; including the centralisation of ICT applications so that they can be delivered more flexibly and efficiently from a data centre rather than installed on each individual users' PC or laptop.

11. Core Financial Systems (Oracle)

The current core financials work programme includes around 50 development proposals aimed at improving and extending existing Oracle functionality.

The work programme includes a number of projects which are considered 'mandatory' in terms of addressing new statutory requirements e.g Pensions auto-enrolment, and national developments such as the transfer of Public Health responsibilities. New tax reporting requirements introduced by HMRC in respect of PAYE are also being tackled.

This programme includes the development of a number of SLE solutions to enable future organisational changes & changes to business delivery. The specific SLE solutions already approved to proceed i.e. Tatton Park Enterprises & Shared Services with potential for further solutions for Bereavement Services, Development Company, Leisure Trust, Catering & Care4CE.

The 2013/14 Oracle Programme will also fund the necessary changes to the HR structure following the management review.

Although there will certainly be a need for on-going investment in core financial systems, alternative options, including the purchase of a fully 'hosted' solution, are being considered. This would effectively shift the responsibility for on-going platform maintenance and development to an external provider, with the Council paying an annual revenue charge for the service, rather than investing its own capital directly. Further work is required however, to determine how such an arrangement would be funded and the potential impact on future revenue and capital requirements.

11.1 Core Financial Systems (Oracle) – What we have achieved so far?

Over the past two years investment in the Oracle system has delivered a significant range of cashable and non cashable savings. Upgrades to the system have provided additional functionality which have enabled savings of over £1m to be delivered across the Council. These include £750k of savings as a result of streamlining Business Management savings, £300k of savings in Finance from process improvements and greater deployment of self serve for budget managers as well as helping to facilitate procurement savings of £700k.

In 12-13 the focus of the investment programme will move away from delivering new functionality to re-orientating the system to meet the changing business requirements of the Council. The restructuring of the Council to a new commissioning model may require significant changes

to the set up of the system and where possible this work would be funded from this capital programme.

In addition, the Council is currently looking at a number of different delivery models (Council owned companies, Trusts etc) in various service areas. If the new companies or Separate Legal Entities continue to use Oracle financials to conduct their business then a major work programme is required to build new business groups which would enable the new companies to trade separately from the Council (e.g. record their own VAT transactions, run their own HMRC compliant payrolls with transactions hitting their own bank account etc). The Tatton Park catering company is already operating as a separate company on the Oracle system and the knowledge gained from this IT build will be applied to future company set ups.

11.2 Core Financial Systems (Oracle) – What we want to do next?

Approval has been given to set up the IT/HR/Finance Shared Services SLE and the financial system will shortly be commissioned and funded from this programme. If additional company set ups are approved then it is likely the majority of the budget will be used to fund the financial system set up costs. Work is ongoing on the business cases to underpin the proposed SLE's.

If resources permit then new Oracle functionality will be funded from the programme and this would deliver targeted process improvements in specific areas. One example of this is bank reconciliation where processes need to be improved so they are fully automated. This in turn should reduce the level of manual intervention required and help the Finance service deliver its existing budget savings for 13-14.

A range of business benefits are being targeted, including cashable and non-cashable savings related to improvements in :-

- back office efficiency
- control and compliance
- financial management information
- usability and access for customers (both internally and externally)
- multi-organisation working

Reduced Cost

- Significant resources are being devoted to the bank reconciliation process. Both Councils have savings targets for their Finance Service to achieve and a more efficient bank reconciliation process would enable the level of resources to be reduced and contribute towards the savings target.

Improve Effectiveness

- To have a fully automated bank reconciliation will reduce to an acceptable level the resources to produce the bank reconciliations
- Where bank accounts are not reconciled the amount of time to investigate issues will reduce
- Reduced level of unaccounted transactions
- Payables and Business Support teams to ensure unaccounted transactions (payments and invoices) are kept within acceptable tolerances
- Reduce the amount of journals produced as the existing system is not fully automated to deal with voided cheques, returned payments, unreconciling of payments etc

Customer Experience

- Reports that are cumbersome to use and therefore making the interpretation of transactions difficult, will be improved and lead to less issues/errors with the bank reconciliations and ultimately the treatment of transactions in the accounts

Business Initiative

- The Councils accounts will not have an potential audit points raised against them

12. Summary

ICT will have a critical and expanding role in enabling the Council's ambition, by providing effective methods for customers to access and use our services and to develop new working practices which will improve both our service quality and staff productivity whilst reducing overall costs.

As we move more towards more virtualised ICT provision and internet based services, we will align ourselves with the direction of travel for the industry. In turn this will correspond well with our aspirations of being a flexible and dynamic organisation, able to flex our resources in line with changing business needs.

However in order to maximise the potential of our ICT resources and skills, services will need to engage fully with us to realise the service improvements and cost efficiencies we all seek. As we move towards greater collaboration, shared accommodation and multi-disciplinary teams with our partners across the public sector, the expectations of how our ICT resources can become the key enabler will increase. Only by working with us to truly challenge assumptions, review service requirements from first principles and develop innovative solutions can we develop mutual trust and succeed in our objectives.

13. Further Information

A number of detailed technical strategies have been developed to complement this high level overview of the strategic direction of ICT.

These include:

- Desktop Strategy
- Data Centre Strategy
- Telephony Strategy
- Green ICT Strategy
- Flexible and Mobile Working Strategy
- Business Intelligence and Data Warehousing Strategy
- Enterprise Content Management Strategy
- Records Management Strategy
- ICT Sourcing Strategy

Copies of these documents can be found on our ICT Strategy pages on Centranet.

Cheshire East Council
ICT Strategy
Delamere House
Delamere Street
Crewe CW1 2JZ

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Director of Children Services Head of Public Protection and Enforcement
Subject/Title:	Key Decision 52 - Home to School Transport
Portfolio Holder:	Cllr Rachel Bailey (Children and Family Services) Cllr David Topping (Environment)

1.0 Report Summary

- 1.1 Cheshire East Council's Home to School Transport Policy was inherited from the legacy authority following local government reorganisation in April 2009. A process of 'general housekeeping' is necessary not only to take account of agreed policy changes and recent government guidance. This guidance relates to the process for parents / carers to request a review of entitlement or to lodge an appeal should they be dissatisfied with the outcome of their child's eligibility assessment.

2.0 Decision Requested

- 2.1 Cabinet receive the revised Home to School transport policy.
- 2.2 That officers be authorised to undertake all actions necessary to publish the policy in accordance with statutory requirements and any other actions necessary for its implementation.

3.0 Reasons for Recommendations

- 3.1 On 30 April 2012, Cabinet were asked to consider proposed changes to the Home to School Transport Policy, specifically in relation to discretionary areas of activity.
- 3.2 Revised government guidance, effective March 2013, reaffirms the council's updated policy. It also sets out statutory guidance that councils must take into account when formulating policy for the rights of parents who wish to challenge entitlement and eligibility decisions regarding home to school transport.
- 3.3 The appropriate policy clarifications have been made to ensure that the Council is meeting its statutory obligations and has adopted the latest government guidance for the publication / administration of its Home to School Transport Policy.

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

7.1 There are no direct financial implications arising from this report.

8.0 Legal Implications

8.1 Under section 508B of the Education Act 1996, the Council is required to provide free transport for “eligible children”, who are defined in Schedule 35B of the Act, where the Council considers it necessary for the purpose of facilitating attendance at school.

8.2 “Eligible children” include children:

- a) with special educational needs, disability or mobility problems;
- b) who cannot reasonably be expected to walk because of the nature of the route to school;
- c) who live outside the statutory walking distance and no suitable alternative arrangements have been made for them; and
- d) who are entitled to free school meals or their parents receive the maximum amount of tax credits.

8.3 In addition, local authorities have the discretion under other sections of the Act to make transport arrangements for those who are not “eligible children” and transport arrangements made under those sections do not have to be provided free of charge, subject to that charge being reasonable in the circumstances.

8.4 Finally, under section 509AB (5) of the Education Act 1996, local authorities are required annually to publish post-16 transport policies. Local authorities must have regard to guidance published by the Secretary of State when carrying out their responsibilities in relation to transport arrangements for young people of sixth-form age.

9.0 Risk Management

9.1 There are no direct risk management implications.

10.0 Background and Options

- 10.1 The council is required to publish policies relating to support for home to school transport. As a result of Cabinet decisions taken since April 2009 – as well as decisions taken by the School Transport Appeals Sub-committee that are of general applicability - the council's published policy no longer reflects the current policy framework.
- 10.2 In addition, in October 2012, Cabinet adopted a slightly revised approach to assessing whether a child has an available walking route to school. If no available walking routes exists within the statutory maximum walking distance that a child is expected to walk, then transport assistance must be offered.
- 10.4 The Department for Education published statutory guidance in March 2013 ([Guidance on home to school travel and transport - About the Department](#)) in respect of home to school travel and transport. The guidance has been considered and the current policy assessed; the policy proposed for adoption takes full account of the guidance. One aspect of the previous policy has been refined in the light of the latest guidance – the way in which the council considers requests for reviews of eligibility and entitlement decisions. A revised process which follows the guidance has been incorporated into the Home to School Transport Policy (Appendix 1).
- 10.5 Finally, the decisions made by the council's appeal sub-committee have been incorporated into the policy. These relate to matters of detail – such as how the council approaches the measurement of distance from home addresses to school. Nevertheless, where of wider applicability than the individual case that gave rise to the appeal, it is considered a matter of good practice to be transparent and incorporate such issues into the published policy.

11.0 Access to Information

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

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Department
for Education

Guidance on home to school travel and transport

**For local authorities, parents, schools
and other persons or bodies who may
find it useful**

March 2013

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Summary

About this guidance

This guidance, to which local authorities are under a statutory duty to have regard, is issued under duties placed on the Secretary of State by section 508D of the Education Act 1996 and provides a summary of the statutory duties with which local authorities must comply when making home to school travel arrangements.

This guidance replaces Home to School Travel and Transport Guidance- Ref: 00373-2007BKT-EN.

Review date

This guidance will next be reviewed in 2015.

What legislation does this guidance refer to?

- Sections 508A, 508B, 508C, 508D, 509AD and Schedule 35B of the Education Act 1996 (The Act), which were inserted by Part 6 of the Education and Inspections Act 2006 (EIA 2006).
- Regulation 5 and Part 2 Schedule to 2 to The School Information (England) Regulations 2008.

Who is this guidance for?

This guidance is for:

- Local authorities
- Parents
- Schools
- Other persons or bodies who may find it useful.

Key points

- Section 508A of the Act places a duty on local authorities in England to assess the school travel needs of all children and persons of sixth form age in their area and to assess and promote the use of sustainable modes of travel.
- Section 508B of the Act sets out the general duties placed on local authorities to make such school travel arrangements as they consider necessary for 'eligible

children' within their area, to facilitate their attendance at the relevant educational establishment. Such arrangements must be provided free of charge.

- Section 508C of the Act provides local authorities with discretionary powers to make school travel arrangements for other children not covered by section 508B but the transport does not have to be free.
- Section 508D of the Act places a duty on the Secretary of State to issue guidance to which local authorities have to have regard to in performance of their functions under section 508B (travel arrangements for 'eligible children') and 508C (travel arrangements for other children). The Secretary of State may revise this guidance from time to time.
- Parents are responsible for ensuring their child's regular attendance at school and local authorities are under a duty to provide home to school transport, where necessary, to enable them to enforce attendance. Section 444 of the Education Act 1996 states that the child shall not be taken to have failed to attend regularly at the school if the parent proves that the local authority fails to make appropriate transport arrangements under Section 508.

Home to school travel and transport: Local authority arrangements

Duty to promote sustainable modes of travel (Section 508A of the Act)

This duty requires all local authorities in England to assess the school travel needs of all children and persons of sixth form age and to promote sustainable modes of travel to school. They must produce sustainable modes of travel strategy and a summary, on an annual basis, which must be published on the authorities' websites by 31 August each year.

The duty to promote sustainable travel applies in relation to children (of compulsory school age and below) and young people of sixth form age (broadly 16 to 19) who are travelling to and from schools, Further Education institutions or Pupil Referral Units at which they receive or are to receive education or training.

Travel arrangements for 'eligible children'

Section 508B of the Act sets out the general duties placed on local authorities to make such travel arrangements as they consider necessary to enable the attendance of "eligible children" within their area, at the relevant 'qualifying school'. Such travel arrangements must be free of charge.

The duty applies to 'eligible children' in the authority's area who are attending their nearest 'qualifying school', where:

- the school is beyond the statutory walking distances of two miles for

children below the age of eight and three miles for those aged eight and over.

or

- the child is from a 'low income family' and is over age eight, but under 11 years of age, and they are living more than two miles from the nearest school;

or

- the child is from a 'low income family' and is of secondary age (aged 11-16) and attending a qualifying school that is between two and six miles from the child's home (as long as there are not three or more nearer suitable qualifying schools);

or

- the child is from a 'low income family' and is of secondary age (aged 11-16) and attending their nearest school preferred on the grounds of religion or belief, between two and 15 miles from home.

Local authorities must also make travel arrangements for those pupils who are unable to walk to school because of their special educational need (SEN), disability or mobility problems and children who cannot reasonably be expected to walk because the nature of the route is such that they cannot walk in reasonably safety.

Arrangements that might be considered to meet the local authority duty include:

- a mileage allowance paid to meet a person's travelling expenses in lieu of the local authority making arrangements to transport the child;
- provision of an escort(s) to accompany the child to school;
- voluntary arrangements made by the parent.

Such arrangements require the relevant parental consent.

Travel arrangements for other children

Section 508C of the Act provides local authorities with discretionary powers to provide transport for children not covered by Section 508B. Where transport is provided, authorities may charge for the service.

Duty to have regard to religion or belief in exercise of travel functions

Section 509AD of the Act places a duty on local authorities, when exercising their travel functions, to have regard to, amongst other things, any wish of a parent for their child to be educated at a particular school on the grounds of the parents' religion or belief. Religion or belief in this instance means any religious or philosophical belief.

This duty is in addition to the duty on local authorities to make travel arrangements for children from 'low income families' who attend the nearest school preferred on ground of religion or belief, where they live between two and 15 miles from school.

This duty is complemented by Section 9 of the Education Act 1996, which provides that

in exercising all duties and powers under the Education Acts, the Secretary of State and local authorities shall have regard to the general principle that pupils are to be educated in accordance with their parents' wishes, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable expenditure. However, there is no general statutory duty requiring local authorities to provide free transport to schools with a religious character.

Publication of travel arrangements and policies

Regulation 5 and Paragraphs 4-6 of Schedule to 2 and paragraphs 9-11 and 15 of Schedule 3 to The School Information (England) Regulations 2008, require local authorities to publish general arrangements and policies in respect of transport for pupils of compulsory school age.

This information should be a clear and comprehensive statement of transport arrangements, explaining statutory and discretionary provision and how parents can hold local authorities to account through their appeals processes.

Definitions

- Section 444 (5) of the Act defines 'walking distance'.
- Schedule 35B of the Act defines:
 - 'eligible children' (paragraphs 2-7 and 9-13);
 - 'qualifying school' (paragraph 15);
 - 'disabled child' (paragraph 15(4));
 - 'religion and belief' (paragraph 16 (6)) and 509AD of the Act;
 - 'low income family' (paragraphs 9-14).
- Section 579 of the Act defines 'child'.
- Section 509AC of the Act defines 'compulsory school age'.

Post-16

Guidance relating to Post-16 transport is available on the Department's website at <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/LSC-P-NAT-100520>

Appeals

Local authorities should have in place a review/appeals procedure for parents to follow should they have cause for complaint about the service or disagreement about the eligibility of their child for travel support. The procedure should be published alongside the local authority travel policy statement. If a complainant considers that there was a failure to comply with the procedural rules or if there are any other irregularities in the

way an appeal was handled there is a right of complaint to the Local Government Ombudsman. If a complainant considers the decision of the independent panel to be flawed on public law grounds, a complainant may apply for a judicial review.

The following paragraphs outline a recommended appeals process, which is summarised in Annex A.

Home to School Transport Appeals Process

Local authorities should publish on their website, with paper copies available on request, details of a two stage home school transport review/appeals process for parents who wish to challenge a decision about:

- The transport arrangements offered
- Their child's eligibility
- The distance measurement
- The safety of the route

26. Stage one:

- A parent has 20 working days from receipt of the local authority's home to school transport decision to make a written request asking for a review of the decision.
- The written request should detail why the parent believes the decision should be reviewed and give details of any personal and/or family circumstances the parent believes should be considered when the decision is reviewed.
- Within 20 working days of receipt of the parent's written request a senior officer reviews the original decision and sends the parent a detailed written outcome setting out:
 - the nature of the decision reached;
 - how the review was conducted (including the standard followed e.g. Road Safety GB);
 - information about other departments and/or agencies that were consulted as part of the process;
 - what factors were considered;
 - the rationale for the decision reached;
 - information about escalation to stage two (if appropriate).

27. Stage two:

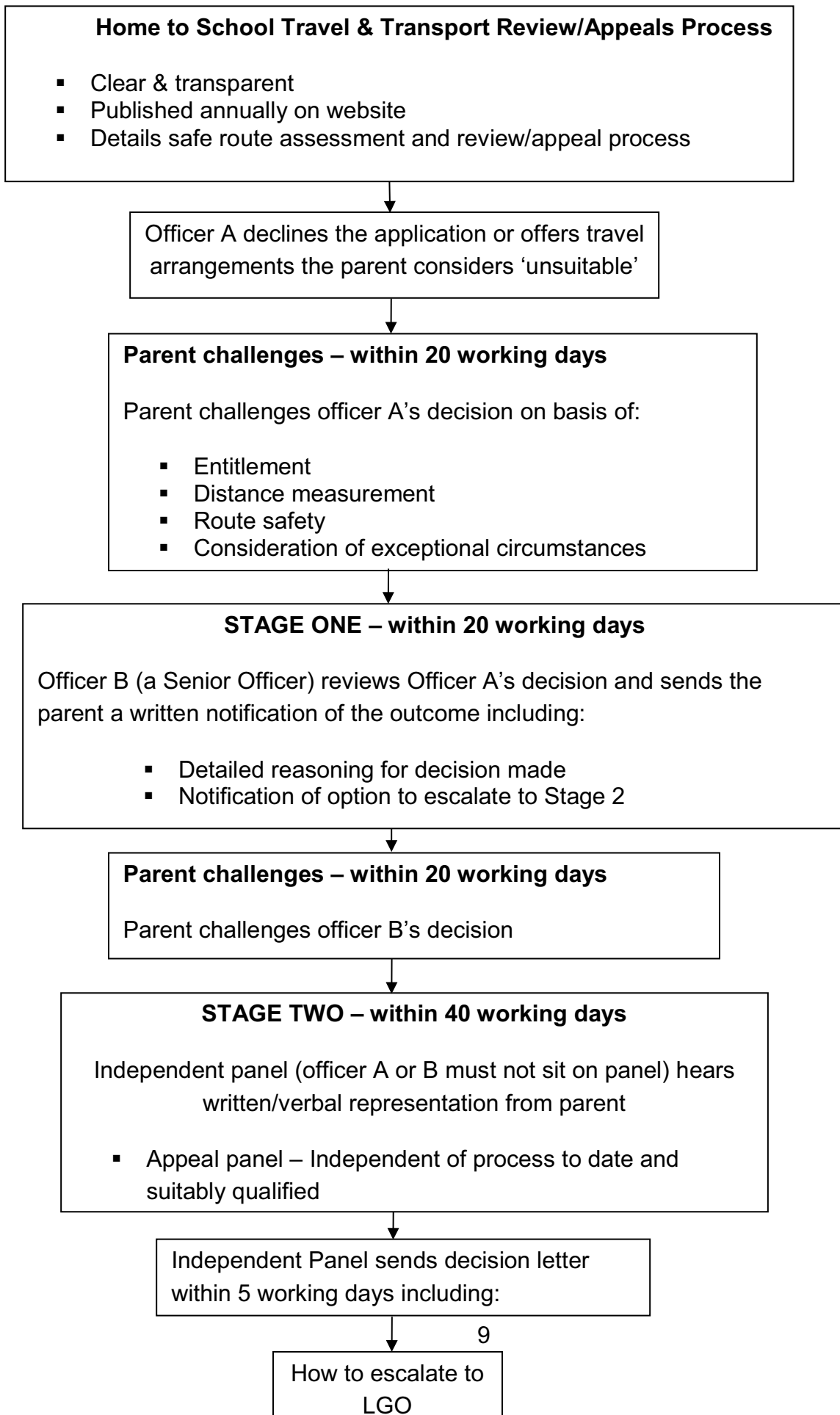
- Parent has 20 working days from receipt of the local authority's stage one decision to make a written request to escalate the matter to stage two.

- Within 40 working days an independent appeal panel considers written and verbal representations from the parent and officers and gives a detailed written outcome setting out:
 - the nature of the decision reached;
 - how the review was conducted (including the standard followed e.g. Road Safety GB);
 - information about other departments and/or agencies that were consulted as part of the process;
 - what factors were considered;
 - the rationale for the decision reached;
 - information about escalation to the Local Government Ombudsman (see below).
- The independent appeal panel members should be independent of the process to date and suitably experienced, to ensure a balance is achieved between meeting the needs of parents and the local authority, and that road safety requirements are complied with.
- Local Government Ombudsman – It is recommended that as part of this process, local authorities should make it clear that there is a right of complaint to the Local Government Ombudsman, but only if complainants consider that there was a failure to comply with the procedural rules or if there are any other irregularities in the way the appeal was handled. If the complainant considers the decision of the independent panel to be flawed on public law grounds, the complainant may apply for judicial review.

Consultation

Local authorities should consult widely on any changes to home to school transport policies. Consultations should run for at least 28 days during term time. This period should be extended to take account of any school holidays that may occur during the consultation period.

Annex A:

Home to School Travel & Transport Review/Appeals Process flowchart



Department
for Education

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Appendix 2



Home to School Transport Policy

May 2013

Author(s):	Fintan Bradley
Date agreed:	
Agreed by (e.g. council):	Cheshire East Cabinet
Date to be reviewed:	April 2014

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A. Introduction

This policy sets out how Cheshire East Council (the Council) will assist children of statutory school age with travel between home and school. It generally relates to transport between home and school to facilitate a child's education and outlines the responsibilities that parents and the Council have in this process.

The policy also explains the way in which the Council may help with the transport needs of those children who qualify for assistance as a result of specific special educational needs, disability or other mobility difficulties.

This policy applies only to children who are ordinarily resident within the Borough of Cheshire East.

1. Equality statement

The Council will only commit to policies and practices which will eradicate discrimination and promote equality for all, regardless of age, gender, disability, religion and belief, race and ethnicity and sexual orientation.

2. Safeguarding statement

The Council and its partners recognise that safeguarding is everybody's responsibility. Whether their interest is in all young people 'staying safe' in all aspects of our services, or whether they are working in specific areas of vulnerability, all staff will receive appropriate training and induction so that they understand their roles and responsibilities and are confident in carrying them out.

Schools, settings, children, young people and their parents or carers, or any member of the community should feel secure that they can raise any issues or concerns about the safety or welfare of children and know that they will be listened to and taken seriously. This will be achieved by maintaining an ethos of commitment to safeguarding and promoting the welfare of children and young people. This is supported by a clear child protection policy, appropriate induction and training, briefings on and discussion of relevant factors and refreshed learning in line with current legislation and guidelines.

The Council acts as a Corporate Parent for Children in Care. This means that the local authority has a legal and moral duty to provide the kind of support that any good parents would provide their own children. This policy has been written to comply with these principles.

3. The legal framework

Sections 508 to 509 of the Education Act and Schedule 35B inserted by Part 6 of the Education and Inspections Act 2006, set out the statutory obligations and powers of local authorities to support children with travel to and from school. These provisions are mandatory for children of compulsory school age and discretionary for children under or over this age.

Statutory distance is defined as:

- 2 miles for a child under 8 years of age; and
- 3 miles for a child who has attained the age of 8 years

These distances are defined in Section 444 of the Education Act 1996 and they have long been established in detailed government guidance. The shortest available walking route is used to measure the distance between home and school, although this does not mean that the child is expected to walk alone, as they should be accompanied by a responsible person as appropriate for their age.

4. Status of policy

By accepting any offer of assistance made by the Council under this Policy, it will be assumed that a parent / carer will be accepting of all the provisions of this Policy.

B. Eligibility Criteria

A child of statutory school age (5-16 years) who meets one of the criteria listed within this section will be provided with travel assistance if the child attends a 'qualifying school'.

For most children, including those who have a Statement of SEN in the mainstream sector, the 'qualifying school' is the school that is declared by the Council to be the school or academy serving the area in which the child's home address falls. However, it may also mean the nearest school to the home address where that school is nearer than the designated catchment area school.

1. Distance criteria

Travel assistance will be provided when a child lives beyond **the statutory** distance from his or her qualifying school as set out below:

- a) A child under 11 years of age who attends a qualifying school and lives more than 2 miles from the school, unless parents / carers voluntarily make suitable arrangements.
- b) A child aged between 11 and 16 years who attends a qualifying school and lives more than 3 miles from the school, unless parents / carers voluntarily make suitable arrangements.

2. Low income families criteria

Children from low income groups or families are defined in legislation as those entitled to free school meals or whose families receive the maximum level of Working Tax Credit. Confirmation of low income status is requested (annually) prior to awarding travel assistance, which will be provided when a child meets one of the following criteria:

- a) A child aged between 11 and 16 years who is from a low income family and attends one of his or her three nearest qualifying schools and lives more than 2 miles but less than 6 miles from the school.
- b) A child aged between 11 and 16 years who is from a low income family and attends his or her nearest qualifying school preferred by his or her parents on grounds of religion or belief and who lives more than 2 miles but less than 15 miles from the school.

3. Walking routes to schools

When determining whether the child's home is within the statutory distance, there must be a walking route to the qualifying school that is 'available'. If the nature of the route is such that the child cannot reasonably be expected to walk to school, even when accompanied by a responsible person, then the Council will deem it 'unavailable'. In determining what is 'reasonable', the Council will take into account the latest national guidance issued by Road Safety GB – please refer to section E2 for further details and also Appendix 1 for details of the assessment process.

4. Children with SEN and / or a disability

There is no automatic entitlement to travel assistance for a child or young person who is the subject of a statement of special educational needs or other formal assessment outcome or agreement. Assistance will be given where the distance criteria has been met or when a child / young person has been identified as having a specific need as set out below:

- a) Long term¹ severely restricted independent mobility arising from factors such as:
- *a physical disability e.g. severe cerebral palsy which may necessitate the daily use of significant mobility aids such as a wheelchair;*
 - *a medical condition resulting in severe persistent pain and / or extreme fatigue, an example of this might be juvenile arthritis;*
 - *a medical condition resulting in serious persistent health and safety risks. Examples of this might be intractable epileptic seizure disorders. Or,*
- b) Significant lack of awareness of common dangers and lack of age appropriate independence skills, so the child could be at significant risk when travelling to school. This could be caused by factors such as:
- *severely restricted communication skills. Examples might be profound hearing impairment or severe autism or severe language disorder;*
 - *a sensory impairment resulting in significantly restricted mobility, e.g. a severe visual impairment;*
 - *significant learning disability, e.g. a child with severe learning difficulties who is unable to assess risk and adapt to everyday situations;*
 - *severe difficulties with interpreting complex social situations or being able to cope with unexpected change, e.g. a pupil with Asperger's Syndrome who has very little awareness of personal danger;*
 - *severe behavioural emotional and/or social difficulties in comparison with other children of their age.*

5. Children at boarding or residential schools

Where the Council arranges for a child to board at a school, pupils will be entitled to assistance if they meet the usual distance criteria. Transport will be provided in accordance with the boarding arrangements.

Where a parent has, without the agreement of the Council, decided to educate the child at a boarding school, no assistance with transport will be available from the Council.

¹ Long term describes something that is likely to last for at least a year or for the rest of the life of the person affected. This can include intermittent or sporadic conditions such as epilepsy or multiple sclerosis

6. Children with temporary medical conditions

Where a child is temporarily unable to travel to school independently, as a result of an accident, planned surgery or an illness, then travel assistance may be available to the usual school attended. Requests for transport to an alternative school will generally not be approved. Requests should be made to the Medical needs Team Manager on 0300 123 5012. Supporting medical advice must accompany the request detailing:

- a) full medical details of the condition, including timescales for recovery;
- b) written medical confirmation regarding the child's fitness to return to school;
- c) the likely period for which revised travel arrangements may be needed;
- d) the type of vehicle needed, where appropriate, for example, where the child is in a full body cast;
- e) any manual handling risks.

All decisions will be based on the facts provided, taking into account the needs of the child, the availability of appropriate transport and any significant increase in the costs. A review date, based on medical evidence, will be set when the travel assistance is agreed. Where this is not possible, all arrangements will be reviewed in relation to the specific circumstances.

7. Children permanently excluded from school

A child permanently excluded from a school will be provided with assistance to his or her next mainstream school provided it is both the nearest suitable /qualifying school and is outside the statutory walking distance from home.

When considering the admission of children under the Council's Fair Access Protocol, which operates outside normal admission procedures, the nearest schools to the child's home address will be identified to determine which school should be offered. The Council will look at available provision and identify with the child, their parents and other relevant agencies which school should be approached. The travelling distance to each school will also be taken into account. Children who are placed under the Fair Access Protocol will be considered for transport as if the named school was their nearest suitable (qualifying) school.

If the Council places a permanently excluded child in a Pupil Referral Unit or similar alternative provision, this will be regarded as a qualifying school for the duration of the placement.

The transport needs of children who attend an alternative provision because of a fixed term exclusion from a school or academy will be a matter for the school and parents to arrange.

8. Children placed in alternative provision

Where the Council arranges for a child to receive education other than in a school, or in alternative provision, the location where education is provided will be considered as if it were a school when determining eligibility for free transport. In determining reasonableness, the Council will take into account the cost of the proposed travel assistance and the availability of alternative arrangements.

Where a parent or carer has decided to educate the child other than at school, no assistance for transport will be available from the Council.

9. Children with a disability

Where a child has a disability, under the Equality Act 2010 Disability Discrimination Act 1995 and 2005, reasonable adjustments will be made, as appropriate, in the application of this policy.

10. Parents / carers with a disability

Travel assistance may be provided for a young person reflecting the practical impact of the disability of either or both of his or her parents. Each such instance will be considered on its own merits at the discretion of the Council. Documentary evidence will be required to support any request for assistance on these grounds, e.g. latest notification of highest level of DLA for mobility or a medical consultant letter outlining the nature of the parent's / carer's disability and the impact this has on them carrying out their day to day responsibilities to ensure that their child attends / travels to and from school.

11. Children in the Council's care (looked after children)

The school at which the child is placed by the Council will be deemed the 'qualifying' school for transport purposes. This is irrespective of the Council's normal zoning arrangements in order to provide continuity of educational provision for such children. The allocation of school will be reviewed as part of the child's regular Care Plan review.

12. Children in temporary residential circumstances

The following relates to the determination of entitlement to free transport on a short-term basis where families are forced to relocate temporarily to alternative accommodation owing to circumstances outside of their control:

The Council is prepared to consider applications in respect of children accommodated under a temporary / emergency arrangement, otherwise than where responsibility is accepted by Children's Social Care in (b) below, having regard to the usual distance criteria (though this requirement may be waived in the case of a child accommodated in a refuge, whose safety would otherwise be at risk). Any such temporary transport arrangements made will be subject to review as necessary and at least on a termly basis.

- b) Where school transport becomes necessary on social grounds as a result of the intervention of Children's Services, the cost of providing transport as requested should, where appropriate, be considered the responsibility of and re-charged to the requesting service.

Travel assistance may be awarded, on a discretionary basis, to provide support and stability to a child of statutory school age who is in general education and subject to a temporary change of address due to domestic violence, child protection or homelessness.

When the child / family is permanently re-housed the child will be subject to the usual eligibility criteria, but safeguarding issues will always be considered when determining this and when deciding what type of assistance should be offered.

At no time can the parent / carer delegate their responsibility for the safety of their child's journey to and from school.

13. Emergencies and requests at short notice

The Council will attempt to make arrangements at short notice when requested. However, this cannot be guaranteed, and parents / carers of children who rely upon assistance may need to make their own arrangements at their own expense in the case of an emergency. The Council will not accept responsibility for any arrangements so made by a parent.

No transport provision will be made, other than at the beginning and end of the normal school day, regardless of circumstances, that is in cases of exclusion, illness etc, if a child has to go home during the course of the school day, or during examination periods, the school, parent or carer is responsible for transport.

14. Cases agreed by the Transport Appeals Sub Committee

Notwithstanding the contents of this policy, there may be exceptional circumstances that merit consideration on an individual basis. Assistance with travel will be provided for applications that have been considered and agreed by the Council's Transport Appeals Sub Committee, in recognition of the family's individual circumstances. A copy of the Council's appeals procedure can be found on appendix 8

C. Reasons why travel assistance will not be considered

1. Children below statutory school age

Where a child is admitted as a rising five under admission arrangements agreed by the Council, a request for travel assistance will be considered as if he or she were of statutory school age. A child reaches statutory school age at the beginning of the term immediately following his or her fifth birthday. No travel assistance will be provided at lunchtimes or at any time other than the normal start and end of the school day. Travel assistance between these times will remain a parental responsibility.

The Council does not provide travel assistance to a nursery or pre-school setting for mainstream pupils. However, arrangements may be made for a child below statutory school age with SEN to attend a special school nursery or a similar setting offering special needs provision. When making such arrangements the normal eligibility criteria for children of primary school age, including walking distance, will apply.

Transport arrangements to attend a special school nursery or similar setting are provided on a discretionary basis. Parents / carers are advised not to rely upon the provision of travel assistance to enable attendance.

2. Children attending a non-qualifying school (parental preference)

A child will be ineligible for transport if he or she attends a school (mainstream or special) which is not their qualifying school, where this is as a result of parental preference.

When expressing a preference for a school other than the qualifying school, parents / carers are strongly advised to consider their commitment to providing transport for the whole duration of their child's attendance at that school and to consider whether their ability to provide or pay for that transport is likely to continue over that period of time.

Where a child is withdrawn by a parent / carer from one school and placed in another school, travel assistance will not be provided unless the child is eligible from the home address to the new school. Such a transfer of school will be regarded as an expression of parental preference. Parents are strongly advised to seek to resolve difficulties locally wherever possible without withdrawing the child from school.

Where a parent's / carer's preferred school is further away from the child's home than another school that can meet their child's special educational needs, the Council may name the preferred school on the statement with explicit reference in Part IV of the statement that the parents will endorse and agree to meet the costs of all transport needs for their child to attend the preferred school.

3. Children attending a school on the grounds of religion or belief

The Council has a duty to have regard to any wish of a parent / carer for their child to be educated at a particular school on the grounds of the parents' / carers' religion or belief. However, there is no general statutory duty that requires local authorities to provide free transport to faith schools, except in the following circumstance:

Where a child, aged between 11 and 16 years, is from a low income family and attends his or her nearest qualifying school preferred by his or her parents on grounds of religion or belief and who lives more than 2 miles but less than 15 miles from the school.

Except in the circumstance outlined above, the Council will not generally accept applications where a denominational school is not the nearest available educational establishment and the distance criteria set out in section B1 is not met.

4. Post 16 students

The Council is required to consider annually whether and to what extent it supports the travel needs of post 16 students. This assessment is published annually by the end of May on the Council's website at www.cheshireeast.gov.uk/schooltransport

Travel assistance will not be provided to students over the age of 16 who are attending either a school sixth form or college of further education (full or part-time). Exceptions are made for students who would previously have qualified for transport i.e. pre 16, as a result of their special educational needs.

Raising of the participation age

The Government is increasing the age to which all young people in England must continue in education or training, requiring them to continue until the end of the academic year in which they turn 17 from 2013 and until their 18th birthday from 2015.

Raising the participation age (RPA) does not mean that young people must stay in school; they will be able to choose one of the following options post-16:

- full-time education, such as school, college or home education
- an apprenticeship

- part-time education or training if they are employed, self-employed or volunteering full-time (which is defined as 20 hours or more a week).

There is no statutory duty for local authorities to provide travel assistance to post 16 students, irrespective of the raising of participation age.

The 16-19 bursary fund

The 16-19 bursary fund helps 16 to 19 year olds continue in education, where they might otherwise struggle for financial reasons. Providers of education, training or employment can distribute the discretionary funds to support any student who faces genuine financial barriers to participation such as costs of transport, food or equipment. Providers have the freedom to decide the scale and frequency of bursary payments.

The 16-19 bursary fund is administered by providers. Young people should apply directly to their academy, school, college or other training provider for support from the scheme.

5. Change of address

When there is a change of address, a pupil's transport entitlement will be reviewed under the policy in existence at that time.

Travel assistance will not be given to maintain a child's place at a school if the family moves house within Cheshire East to a more distant address from the child's school, and where a nearer suitable school exists. However, if no place is available at the nearest qualifying school within the statutory walking distance from the new address then assistance would normally be given to the next nearest qualifying school.

Families moving house are reminded that if they move to an address in another authority, their child will then become subject to the policies of the authority into which they have moved.

Parents of a child with special educational needs, currently receiving transport who move house within Cheshire East should provide at least one month's notice to the SEN Team and to allow their eligibility to be reassessed. The SEN Team may offer to move the child to a nearer suitable school bearing in mind any special circumstances, for example, examinations or children in their final year. Should this offer be refused the current school may be deemed as a 'parental choice' and may not meet the criteria of this policy.

6. Sibling, brother, sister

Assistance given for one child in a family will not create a precedent for any of his or her brothers or sisters or other children living at that address. Each child's case will be treated individually and separate applications for assistance must be made for each child. If the transport policy has changed

since another sibling received assistance, the younger sibling will be subject to the new transport policy.

7. Part time attendance, detention, after school clubs, etc.

Travel assistance will not be provided at a time other than standard school times e.g. home during the day or late after school, including payback, detention, sporting or other after school activities, clubs or societies. Pupils are expected to complete a full school day and fit into the normal timing of transport.

Where a pupil's/student's day starts or finishes earlier or later the parent / carer would generally be required to make other travel arrangements outside of the Council provision.

8. Other circumstances where travel assistance will not be considered

Travel assistance will not be considered:

- a) on account of regular work commitments or domestic difficulties. Parents / carers are expected to take responsibility for ensuring their child attends school and that any necessary travel arrangements are made / funded;
- b) for extracurricular activities or between institutions within the school day. For journeys of this nature, the organising school or institution will be responsible for travel arrangements;
- c) to attend dental, medical or other non-educational appointments;
- d) in the event of sickness, where a child has to be collected early from school (or returned to residential school midweek);
- e) for parents / carers to attend review meetings;
- f) for children attending work experience;
- g) for children attending an induction day at another establishment;
- h) for children to accompany a friend home;
- i) following misbehaviour occurring on transport which threatens the health and safety of staff and / or other pupils (see the Council's Code of Behaviour for Children);
- j) Following a school closure or reorganisation, other than where the application meets the eligibility criteria set out in this policy

D. Type of travel assistance / support offered

1. Usual travel assistance

The type of travel assistance offered is at the Council's discretion and will be the most cost effective option. The Council is under an obligation to minimise public expenditure. Only where there is no reasonable alternative available will travel by minibus / taxi be provided for the entire journey.

There is an expectation that all children will travel by public transport and a travel pass will be issued, unless either no public transport is available or the child's needs are such that this would not be appropriate (as decided by a relevant Officer). Parents may be required to provide medical or other supporting evidence where there is a request for provision other than by public transport.

2. Other types of travel assistance

Where public transport is not available or appropriate, the following forms of travel assistance may be arranged:

- a) a travel pass for use on a private service contracted to the Council;
- b) an annual cycling allowance;
- c) an annual parental mileage allowance / grant for reimbursement of reasonable travel expenses;
- d) travel by minibus or (in exceptional circumstances) a taxi

3. Passenger assistants

Passenger assistants are not provided for journeys undertaken on mainstream transport. For children with SEN, access to a passenger assistant may be necessary if there is specific evidence of behaviour that poses an identified risk to the child's or others' safety during travel or where the child would become severely anxious or distressed without close supervision or support during the journey. The provision of a passenger assistant will be reviewed annually.

Passenger assistants are generally only provided where the child has:

- a) a severe physical condition;
- b) a medical condition requiring immediate treatment;
- c) severe behavioural difficulties.

Except in exceptional circumstances, passenger assistants will not be provided for:

- d) pupils attending mainstream schools;
- e) hearing impaired pupils;

- f) **where there are fewer than three pupils in a vehicle.**

4. Independent travel training

Secondary aged pupils who have been assessed as requiring travel assistance because of their special needs will receive support for independence and mobility training as part of their school curriculum. This has the aim of reducing their reliance on individual transport, in preparation for adult life.

Plans to encourage independent travel must be put in place by the school and parents / carers, working in partnership to mutually agreed targets. Progress will be evidenced at each subsequent Annual Review. This step is regarded as a positive achievement towards the child's progress in becoming an independent traveller.

E. How to make an application and deciding eligibility

1. How to apply for travel assistance

For all mainstream children, parents or carers should make a travel application either online at www.cheshireeast.gov.uk/schooltransport or by calling the Council on 0300 123 5012.

Parents / carers will be notified of the Council's decision in writing and, if successful, assistance is effective from the date of receipt of application or as soon thereafter as practicable. Assistance will not normally be provided retrospectively.

Children undergoing formal assessment for special educational needs will have their transport needs considered as part of that process. In cases where a child's transport need has not been assessed at the annual review or as part of the statutory assessment process, it will be necessary for a transport request form to be completed by the child's parent / carer and the SEN Inclusion Officer.

The Council will require details about the child's mobility, any special medical or behavioural conditions and any special equipment needed. The form should be passed to the Special Needs Co-ordinator at the school for endorsement.

The view of the Special Needs Co-ordinator at the school will be taken into consideration when assessing the need for transport.

2. How eligibility is decided

Requests for transport will be assessed, in accordance with this policy, by officers of Cheshire East Transport or the SEN Team.

Distance

Eligibility will normally be agreed when the child meets the 'distance from school' criteria or other criteria as outlined in section A of this policy. The distance between home and school is measured (using a digital mapping system) from the child's home gate or drive nearest to the school to the nearest available gate or entrance of the school grounds and by way of the shortest available walking route.

For applications under the 'low income' criteria, evidence that the family receives a qualifying benefit will be required prior to any travel arrangements being made.

Walking route to school

The Council expects to provide travel assistance where it has judged that, on grounds of road safety, no available walking route within the statutory distance exists. The Council recognises that not all routes are available for a child to walk to and from school. A route is considered to be unavailable when a child cannot be expected to walk to school, accompanied as necessary by a responsible person, in reasonable safety.

Guidelines for how the assessment is undertaken are published by Road Safety GB – a national road safety organisation that represents local government road safety teams across the UK and is a suggested standard by the Department for Education. This guidance is used by the Council in order to determine whether a particular route encompasses road safety hazards that may be sufficient to make the route unavailable. The assessment must take into account a variety of factors, including:

- Widths of available footway, highway, bridleway etc;
- Traffic flows;
- Road collision records;
- Crossing points;
- 'Step-offs' from the highway, such as roadside verges

General points for the assessment of walking routes to schools

- a) All roads – urban and rural – are potentially dangerous. Provision of transport is considered and provided only where road conditions are exceptionally or abnormally hazardous. The Council considers that the most appropriate means of ensuring children can safely travel to school is through road safety education, and parents and schools are expected to educate children in road safety matters from an early age.
- b) Parents are responsible in law for ensuring their children receive an appropriate education which in most cases includes ensuring regular attendance at school. The law also requires parents to ensure a child is accompanied on their journey to and from school by an adult if necessary, with no age limit for the child prescribed in law for this responsibility. The Council expects parents to make suitable alternative arrangements if they are unable to personally accompany the child.
- c) Parents are responsible for ensuring their children have suitable clothing and footwear, reflective clothing or other visibility aids, torches etc.
- d) It is expected that traffic along assessed routes will abide by all road traffic regulations, including remaining within posted speed limits, obey one-way traffic restrictions, not park in a manner which creates an obstruction to the highway etc. The Council is entitled to expect that the police will undertake enforcement action.
- e) In accordance with the law, the Council assumes that children are accompanied by an adult as necessary. Routes are not classed as unavailable solely due to any or all of the following factors. They are, however, used to assess risks and hazards that a child may face that can be avoided if the child were to be accompanied as necessary in assessing the availability of a route:
 - Lonely routes;
 - Routes that pass close to canals, rivers, ditches, lakes, ponds etc;
 - Routes that require railway crossings if a suitable, authorised crossing is present

Detailed guidelines and the assessment process are contained within Appendix 1, which may be updated to reflect local interpretation of Road Safety GB guidance as required.

Special educational needs and / or a disability

When assessing entitlement to SEN transport, decisions will be based on written evidence from a range of sources, for example, Educational Psychologist, parents and school SENCO. A copy of the Special Educational

Needs Transport Assessment Form and Guidance Notes are available on the Council's website or from the SEN team.

Post 16 SEN students who continue their education after the age of 16, whether at school or college, can apply for travel assistance under this policy. Support with transport may be provided at least up to the age of 21 and for a maximum of three years. Transport will only be considered to the nearest appropriate school or college offering the course or similar.

Where SEN transport has not been agreed, a review of the decision may be requested. Parents / carers will need to set out details about why they are requesting a review of the decision and should include which aspects of the Council's policy they believe have not been followed correctly. Further details about the Council's review process can be found in section E2 and also Appendix 2.

3. Setting up travel arrangements

When eligibility is agreed, the Council will use the information provided to determine the most suitable type of transport (as defined in section D). The Council will take into account the needs of the individual child, their ability to travel independently, existing transport provision to the same school as well as our responsibility to procure the most cost effective suitable arrangements.

When arrangements are agreed, the Council will notify the parent / carer by sending them:

- a) details of the transport service to be provided for their child;
- b) a code of conduct / behaviour for children;
- c) useful information and contact details.

The Council will aim to make travel arrangements within 14 days, but this may take longer during busy periods. Parents / carers will be responsible for making alternative travel arrangement in the interim.

4. Changes to circumstances

If the travel arrangements made by the Council are not considered appropriate as a result of an accident, planned surgery or an illness, then a request for revisions to the transport arrangements must be made in writing to the Medical Needs Team Manager, providing the relevant information and giving a minimum of 5 days notice.

In all cases, the Council would seek information as to the possible options and associated costs. These may include:

- a) placing the child on a different route;
- b) providing a separate or different vehicle;
- c) providing a specialist vehicle with medical support;

- d) providing a passenger assistant.

If there has been a significant change in circumstances, such as a change of school or home address, a change in parent / carer circumstances or a change in the child's needs, an immediate review of entitlement and provision may be required. It is the responsibility of the parent / carer to promptly notify the Council of any change in circumstances that may affect the provision of travel assistance.

5. Deciding on travel arrangements

The Council will endeavour to follow established best practice in the provision of the most cost effective and appropriate travel assistance for each entitled child, taking into account their individual needs. The Council will make arrangements that enable children to reach school without such stress, strain, or difficulty that would prevent them from benefiting from the education provided.

Assisted travel arrangements will be designed to allow the child to travel in reasonable safety and in reasonable comfort. Factors considered will include:

- a) the child's home location;
- b) the location of the school the child is attending;
- c) the number of other children living in the area and attending the same school (or another school on route to that school);
- d) traffic conditions;
- e) the availability and accessibility of public transport and / or contract services;
- f) other operational issues that might affect the travel arrangements.

Priority will be given to travel assistance solutions that help to develop travel independence skills, so as the child grows older, they are better equipped to lead independent lives.

6. Pick-up / set down points and timing

Children will be picked-up and set-down from a convenient point or, in exceptional circumstances, from home (where the child's needs require this). The Council will notify parent / carers of the arrangements made.

A child will normally be expected to walk a reasonable distance to and from home to meet their transport. This will not normally exceed:

- a) 0.5 miles for a child attending primary school
- b) 1 mile for a child attending secondary school

It is the responsibility of parents / carers to ensure that their child is ready and waiting at the agreed pick-up point on time. Drivers are instructed not to delay longer than 5 minutes at any pick up point in order not to inconvenience other passengers. The Council will not make alternative transport arrangements if the transport is missed.

Parents / carers are responsible for their child's safety in getting to and from the pick-up / set-down point. They are also responsible for their child whilst waiting for the transport and when they leave the transport at the end of the day.

If the child has special educational needs, then parents / carers have a responsibility to present their child to and to greet the child from the transport (unless by prior notice that, due to medical conditions, they are unable to do so - this should be indicated on the application form).

Parents / carers may not normally vary the agreed pick up / drop off arrangements. Occasional minor variations may be possible, by agreement with the Council. Variations are unlikely to be agreed where the change would have a negative impact on other passengers or increase the cost of the journey. Neither passenger assistants or drivers are authorised to agree route variations.

A child's pick up / set down arrangements will be reviewed annually and children with special educational needs will be encouraged towards independence.

7. Maximum journey times

Best practice suggests that the maximum each way length of journey for a child of primary school age might be considered to be 45 minutes; whilst a child of secondary school age might be expected to travel up to 75 minutes each way. However, a child's special educational needs and / or disability might be such that it implies a shorter maximum journey time.

Journey times may exceed these limits for exceptions such as:

- a) exceptional traffic or weather conditions;
- b) attendance at a special school;
- c) attendance at a remote boarding / residential school;
- d) attendance at an alternative school / provision following exclusion.

The Council may determine lower reasonable maximum journey times in individual cases, notwithstanding the exceptional circumstances detailed above.

8. Reimbursement of reasonable travel costs

Where entitlement to travel assistance exists and there are difficulties in arranging public or other suitable transport, or where it would be exceptionally expensive, the Council may agree to reimburse reasonable travel costs, eg a mileage payment to parents / carers who are willing to transport their child to school in their own vehicle.

Parents are under no obligation to accept the offer of reimbursement of travel costs and should contact the Council or visit the website for further information.

9. Sustainable travel.

The Council has legal duties, under the Education and Inspections Act 2006, to promote sustainable modes of travel for children of compulsory school age and young people of sixth form age. These duties include:

- Produce sustainable modes of travel strategy and summary, on an annual basis, published each year on the website by 31 August each year;
- Assess the school travel needs of all children and promote sustainable modes of travel to school.

The Council's Sustainable Travel Policy will be updated and published in accordance with Department for Education (DfE) guidance and timescales.

10. Spare seat scheme

Where a vehicle is contracted to provide travel assistance for entitled children, and no other public transport service exists, the Council will consider applications for 'spare seats' for non-entitled children. If there are spare seats available, these may be purchased by parents / carers at a fixed charge. This charge will be set at a rate in line with the cost of provision and will be reviewed annually. A spare seat will be withdrawn (with a minimum of 1 week's notice) when:

- a) the seat is required for an entitled child;
- b) the service is withdrawn;
- c) the seating capacity of the vehicle is reduced

The withdrawal or unavailability of a spare seat will not be considered as grounds for an appeal for assistance from the Council. Parents should consider whether they are likely to be able to make and fund their own travel

arrangements should either of these occur, prior to them taking up a school place or moving house.

The Council will not be responsible for any alternative travel arrangements for any non-entitled children who are affected by changes to school contract routes.

Full details of the scheme, along with current charges will be published on the Council's website.

11. Behaviour on transport

The Council may decide to impose a temporary ban or withdraw travel assistance, as it considers appropriate, in the case of any child whose behaviour during the journey to or from school is not of an acceptable standard. In addition, schools can impose a number of sanctions ranging from detention to exclusion in order to deal with persistent misbehaviour on school transport.

The Council publishes a code of behaviour for children, which can be found on the website. This code will be sent to children at the time that travel arrangements are confirmed.

F. Review of eligibility / provision and withdrawal of / changes to travel assistance

1. Review of eligibility

Generally, travel assistance will be awarded for entitled children until such time that they reach the end of their statutory education at the school attended or are due to transfer from primary to secondary school.

Travel assistance will be reviewed and, where appropriate, automatically renewed by the Council each year without the need to re-apply (with the exception of non-entitled children who purchase a 'spare seat').

In the event of a change of address or school taking place earlier than the above, notification must be provided to the Council so that the child's eligibility can be re-assessed in accordance with the policy.

2. Route planning and route reviews

The Council regularly reviews transport provision and individual transport routes. A review may result in a change of arrangements to be provided. Wherever possible notice will be given to parents / carers of any proposed long-term changes to transport provision.

Consultation with parents / carers will not normally take place as part of a route review. This is to enable route reviews to be carried out in a timely and

efficient manner and to avoid raising parental expectations that preference for a particular form of provision will override cost-effectiveness or efficiency.

Parents may receive notification at any time that the type of travel assistance for their child is to be changed as a result of a review. Changes may involve:

- a) new pick-up and set-down points;
- b) changes to timings;
- c) changes to the contractor employed;
- d) withdrawal of a passenger assistant;
- e) mode of transport, e.g. transfer from taxi to bus / public transport

Wherever possible, notice will be given of any changes, but some may need to be made at very short notice, for example as a result of sickness, road closures or the termination of a contract with a vehicle operator.

Children who are not entitled to transport assistance, e.g. children who have purchased a place on existing transport under the Council's spare seat scheme are not included in the reviewing or planning of transport routes.

3. Changes to travel assistance for children with SEN and / or a disability

The need for travel assistance and the type of provision required will be reviewed on a continuing basis and at least once a year. Where possible, the review will be undertaken following the child's statutory annual SEN Statement review. Any changes will be implemented from the beginning of the next school term, or sooner by mutual agreement.

Where a child's special educational needs indicate that he or she is particularly sensitive to change, the anticipated impact of any proposed change will be taken into consideration. This will involve discussions with the school and / or the parent / carer. The opinion of the school will be sought prior to any changes to transport provision for a child with SEN.

Where parents / carers are unhappy with the type of travel assistance being offered for their child, a review of the decision may be requested. Parents / carers will need to set out details about why they are requesting a review of the decision and should include which aspects of the Council's policy they believe have not been followed correctly. Further details about the Council's review process can be found in section E2 and also Appendix 2.

4. Withdrawal of travel assistance

For children with a statement of special educational needs, eligibility may end following the conclusion of the Annual Review Process. If this is the case, travel assistance will be withdrawn following a 6 week notice period, or at the end of the summer term, whichever is sooner.

Where, for any reason, travel assistance has been approved / provided in error, the Council reserves the right to withdraw that provision. A minimum of 12 weeks notice will be given to allow parents / carers sufficient time to make alternative travel arrangements.

G. Complaints, appeals and contact details

Decisions as to the eligibility for travel assistance, the mode of transport and other practical matters of travel assistance will be taken by the Council's officers with particular authorisation to do so.

1. Complaints

Should a parent / carer have cause for complaint about the service provided for their child, they should first take the matter up informally with the officer or department responsible. If the complaint is not resolved to your satisfaction, it may be escalated via the Council's Corporate Compliments, Suggestions and Complaints Policy. A complaint can be made in the following ways:

- online at www.cheshireeast.gov.uk/customerfeedback
- by telephone – 0300 123 5038
- by email to letusknow@cheshireeast.gov.uk
- in writing to Let Us Know, Customer Relations Team, Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ
- in person at any of our Customer Service Centres
- by fax - 01625 504191

Further details about how to make a complaint can be found on the Council's website: www.cheshireeast.gov.uk

2. Appeals process

Stage 1

If a parent / carer disagrees with the Council's decision to refuse eligibility for travel assistance for their child, they may wish to request a review of the decision. Any requests for review must be made in writing (within 20 working days of receipt of the Council's decision letter) and should include details of any personal and / or family circumstances the parent / carer believes should be considered.

A senior officer will then review the decision within 20 working days of receipt of the parent's / carer's request and will provide a detailed written response.

Stage 2

If a parent or carer is dissatisfied with the Council's response following the stage 1 review, then they have 20 working days to escalate the matter to stage 2 and request that their case is considered by the Council's Transport Appeals Sub Committee. The Sub Committee will consider written and verbal representations from parents / carers and officers within 40 working days. Notification of the outcome will be given in writing.

Where the child in question holds a statement of special educational need, it may be that a disagreement about transport is part of a wider question of school provision and placement. In this case, it may be necessary for the matter to be considered by the Special Educational Needs and Disability Tribunal. Although this body does not hear appeals specifically about transport, it may consider it as part of a wider appeal. Officers of the SEN Assessment and Monitoring Team will discuss the appropriate means of appeal in each case as necessary.

Full details of the appeals process is attached to this policy, see Appendix 2

3. Contact details

Queries about eligibility for transport for a child with special educational needs should be directed to the SEN Assessment and Monitoring Team either by telephone on 01625 378042 or in writing to:

SEND Assessment and Monitoring Team
Macclesfield Town Hall
Market Place, Macclesfield
Cheshire, SK10 1DX
Tel: 01625 378042

For general mainstream eligibility or other school transport enquiries, you can visit the Council's website at www.cheshireeast.gov.uk/schooltransport where you will find full details, along with a list of frequently asked questions. Alternatively, you can email schooltransportenquiries@cheshireeast.gov.uk or call us on 0300 123 5012.

4. Glossary of terms

Academic Year, School Year

The academic year is deemed to start on 1st September in any given year and to end on 31st August in the following calendar year. In the exceptional case of a school whose academic year begins in August, the Council will consider whether it should take the date when that school's academic year starts as being the start of the academic year for a child attending that school.

Address, Home Address

For the purposes of home to school transport, the home address will be deemed to be where the child predominantly resides, normally with someone who holds parental responsibility. Proof of residence may be requested to confirm that a child and the child's family are resident at a specified address. The following are examples of documents that may suffice as proof of residence:

- Child or Working Tax Credits
- registration on the electoral roll
- utility bills
- bank statements
- driving licence
- mortgage or tenancy account details

The list of documents above is not exclusive and the Council may ask for permission to gain access to other local authority information, for example Council Tax or Housing Benefit records. If doubt exists, the Council may also require a parent to complete a formal statement to certify the home address. This would be discussed at the appropriate time.

Authority, Local Authority, Council

This is Cheshire East Council. Decisions of the Council are carried out in the name of the Council by its officers.

Child, Children

A child or young person of statutory school age.

Cared for Children and Children who were previously Cared for.

A 'cared for child' is a child who is in the care of a local authority or provided with accommodation by that local authority (as defined in section 22 of the Children Act 1989).

Children previously 'cared for' (as defined above) are those who immediately after being 'cared for' became subject to an adoption, residence, or special guardianship order. An adoption order is an order under section 46 of the Adoption and Children Act 2002. A 'residence order' is as an order settling the arrangements to be made as to the person with whom the child is to live under section 8 of the Children Act 1989. Section 14A of the Children Act 1989 defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians).

Disability

From 1 October 2010, the Equality Act replaced most of the Disability Discrimination Act (DDA) 1995 and 2005. However, the Disability Equality

Duty in the DDA continues to apply. The Equality Act 2010 aims to protect disabled people and prevent disability discrimination by ensuring that reasonable adjustments are made to accommodate the needs of all individuals. Under the Act, a person has a disability if they have a physical or mental impairment and the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities.

Dual Registration

The law provides for children to be registered at two separate schools in cases where a child has no fixed abode for the reason that a parent is engaged in a trade or business of such a nature as to require travel from place to place.

Alternative provision

For some children, an education outside of school can be the most appropriate option. When this is arranged by LAs, schools or a group of schools, it is called alternative provision. It can range from pupil referral units (PRUs) and further education colleges to voluntary or private-sector projects.

In individual exceptional circumstances, where an alternative form of education has been agreed, the term will be taken to include such agreed sources of alternative provision.

Boarding/Residential Schools

Boarding/Residential schools are those that provide overnight accommodation arranged or provided by the school, at the school or elsewhere.

Private Schools

Private schools may be either non-maintained or independent, according to their foundation and legal status and receive their funding either direct from parents, from charitable trusts or from places purchased by local authorities. Generally, although not exclusively, an independent school is usually one run privately for profit whereas a 'non-maintained' school is run 'not for profit' usually by a charitable body.

Publicly Funded Schools

Maintained schools are funded by central government via the local authority and do not charge fees to students. The categories of maintained schools are: community, community special, foundation (including trust), foundation special (including trust), voluntary aided and voluntary controlled. There are also maintained nursery schools and pupil referral units.

Academies and free schools are publicly funded independent schools. Some academies, generally those set-up to replace underperforming schools, will

have a sponsor. Sponsors come from a wide range of backgrounds including successful schools, businesses, universities, charities and faith bodies. Academies receive their funding directly from the Education Funding Agency (EFA) rather than from local authorities.

University Technical Colleges (UTCs) are Technical Academies for 14-19-year-olds. They offer technical courses and work-related learning, combined with academic studies. Each UTC is sponsored by a university and industry partner and responds to local skills needs. They provide young people with the knowledge and skills they need to progress at 19 into higher or further education, an apprenticeship or employment.

Studio Schools cater for 14 to 19-year-olds, delivering project-based, practical learning alongside mainstream academic study. They are small schools - typically with around 300 pupils - delivering mainstream qualifications through project based learning. Students work with local employers and a personal coach, and follow a curriculum designed to give them the skills and qualifications they need in work or to continue in education.

The Funding Agreement between the establishment and the Secretary of State provides the framework within which Academies, Free Schools, UTCs and Studio Schools operate.

Special School

Schools that provide specialist education for children and young people with complex or specific needs.

Qualifying Schools / Nearest Suitable School

The legislation defines qualifying schools as being:

- community, foundation or voluntary schools;
- mainstream academies;
- free schools;
- community or foundation special schools;
- special academies and free schools;
- University Technical Colleges
- Studio Schools
- non-maintained special schools;
- pupil referral units;
- nursery schools maintained by a local authority;
- city technology colleges, city colleges for the technology of the arts or an Academy;

independent school (if it is named as the local authority's preferred placement in the pupil's statement of special educational need).

For the purpose of secondary school transport, the qualifying school includes the three nearest schools to the child's home address (and within 2-6 miles) for low income families.

In relation to a child with SEN, an independent school (other than a CTC, CCTA or Academy) will be a qualifying school if it is the only school named in the child's statement, or it is the nearest of 2 or more schools named in the statement. In the case of special education, it will be the nearest suitable special school with places available that can provide an education appropriate to the age, ability and aptitude of the child and any special educational needs that the child has as specified in his or her statement of special educational need.

A school designated by the Council as the appropriate school for a particular child e.g. a permanently excluded child, a child with a statement of special educational needs, a child in the care of the local authority and placed at a particular school or a child placed at a particular school under the Fair Access Protocol, will normally be deemed to be the nearest suitable school for the purposes of this policy.

Low Income Families

Children from low-income groups or families are defined in legislation as those entitled to free school meals, or whose families receive the maximum level of Working Tax Credit. Annual confirmation of low-income status is required and assistance will usually be withdrawn if a family ceases to hold low-income status. To qualify the child will need to be entitled to free school meals because their parent / carer receive one of the following benefits:

- Income Support;
- Income Based Job Seekers Allowance;
- Employment Support Allowance (income related);
- Child Tax Credit with income less than £15,860.00 (unless you claim Working Tax Credit) - form TC602(A);
- Support under Part VI of the Immigration and Asylum Act 1999;
- Guaranteed Element of State Pension Credit

Out-of-County

In reference to a school, this means a school which is neither maintained by Cheshire East Council nor is an academy, free school, UTC or Studio School within the Council's boundary. In reference to a place it means a place located outside the administrative boundary of Cheshire East Council.

Parent or Carer

In this Policy, the parent will be taken to be the person with whom the child or student predominantly resides. This can include a person who is not a parent but who has parental responsibility or care of the child or student. If the person is not the birth parent or adoptive parent, then evidence may be sought to ascertain that the legal basis of the relationship. In this policy the terms parent or parents are taken to include carer or carers.

Special Educational Needs Statements

A Statement of Special Educational Need is a statement made by the local authority under Section 324 of the Education Act 1996 that specifies the special educational provision required for that child. Schools must admit a child with a **Statement of Special Education Needs** that names their school.

Statutory School Age

Children reach statutory school age at the beginning of the term following their 5th birthday. In compliance with legal requirements, children may start school in the reception class in the September following their 4th birthday. Parents / carers can request that the date their child is admitted to the primary school is deferred until later in the school year or until the child reaches statutory school age in that school year. To help younger children adjust, schools may phase full-time admission, admitting these children on a part-time basis. Any such arrangements are decided at school level.

Statutory school age ceases on the last Friday in June in the school year when the young person reaches the age of 16. No account is taken of the National Curriculum Year in which a child is being educated when determining the year in which compulsory school ages ceases.

Raising the Participation Age (RPA)

The Education and Skills Act 2008 raises the age at which young people are required to participate in education or training. This does not necessarily mean they will have to stay on at school after Year 11 as they will have a choice about how they want to participate post-16, which could be through full-time education, such as school or college; work-based learning, such as

an Apprenticeship; or part-time education or training if they are employed, self-employed or volunteering for 20 hours or more a week.

This change applies from 2013, when young people will be required to stay in education or training until they are 17 years of age and increases until they are 18 from 2015. Any enquiries regarding this document should be sent to us at:

www.schooltransportenquiries.gov.uk

Appendix 1

Assessment of walking routes to schools

1.0 Description of the Assessment Process

- 1.1 All assessments will be undertaken in accordance with the current guidance note issued by Road Safety GB in 2012 'Assessment of Walked Routes to School' and will be carried out by a professional safety assessor.
- 1.2 The assessment will assume that pupils are accompanied by a responsible person. Assessments will be carried out at the times the pupils are expected to travel to and from school and any required traffic counts will be undertaken at the busiest time of the day.

Route Overview

- 1.3 The route overview will give a general description of the route to be assessed and include a map as well as photographs highlighting any areas of concern. The following details will also be taken into account:
 - Weather at the time of the assessment.
 - Ages of the pupils and the times they are expected to walk the route.
 - Recorded collision data for the previous 5 year along the route.
 - Length / names of the roads on the route and any relevant characteristics, for example, whether the route is rural / urban, single / dual carriageway, A/B class, one-way, speed limit, and whether the route is traffic calmed.
 - Any features along the route that may need re-assessment in the future (e.g. likely change in traffic patterns or vegetation that may compromise available footway width).
 - Consideration of any alternative routes.

Footway Assessment

- 1.4 The assessment will take into consideration whether the pupils will be required to walk along a route with either a pavement, 'step-off'² or at the side of the road. The following information will be included:

² A 'step-off' is where pedestrians can step clear of the roadway onto a reasonably even and firm surface such as a roadside verge

- A record of whether there is a footway, which side of the road it is situated and if so, it's general availability, if it is of reasonable condition with even surface and sufficient width. The minimum width required will generally be deemed to be 0.5m, although each case is treated on its own merits and widths may be unacceptable or acceptable if wider or narrower than this guidance.
- If there is no pavement then the availability of 'step-offs', volume of traffic and sight lines will be taken into consideration.
- If there are no 'step-offs' then the volume of traffic and sight lines will be taken into account. The following table gives a general guidance as to the expected traffic volume on narrow roads without 'step-offs' or footways.

Acceptable maximum length of single sections of road without verges or refuge before broken by verge, 'step-off' or bend	Acceptable number of vehicles per hour by road width			
	< 3.5m Width	3.5 – 4.5m width	4.5m–5.5m width	>5.5 m width
10 meters	201-240	301-360	401-480	501-600
15 meters	161-200	241-300	321-400	401-500
25 meters	121-160	181-240	241-320	301-400
35 meters	81-120	121-180	161-240	201-300
55 meters	61-80	91-120	121-160	151-200
75 meters	41-60	61-90	81-120	101-150
120 meters	31-40	46-60	61-80	76-100
160 meters	21-30	31-45	41-60	51-75
240 meters	11-20	16-30	21-40	26-50
300 meters	6-10	9-15	11-20	13-25
500 meters	1-5	1-8	1-10	1-12

Crossing Assessment

1.5 The assessment will also note if there is a need to cross the road and whether the type of road to be crossed is a main road, significant side road, quiet side road or vehicular access to service area. The assessment will also take into consideration whether there are any crossing facilities such as zebra or puffin crossings, traffic islands or dropped kerbs. Where there is a controlled crossing (zebra, puffin, pelican or toucan crossing) traffic counts will not be required. Where there is need to carry out further assessment the following will be taken into account.

- Where there is two way (one-way or a dual carriageway or where there is a pedestrian traffic island) traffic flow of below 240 vehicles per hour the road is assessed as safe to cross. This is equivalent to 1 vehicle every 15 seconds and allows a reasonable gap time to cross a 7 m wide road at a walking speed of 3 ft (0.91m) per second. A record of any vehicle counts will be kept.
- Where traffic counts are above 240 vehicles per hour a gap count will be required. This will record the number of gaps in each 5

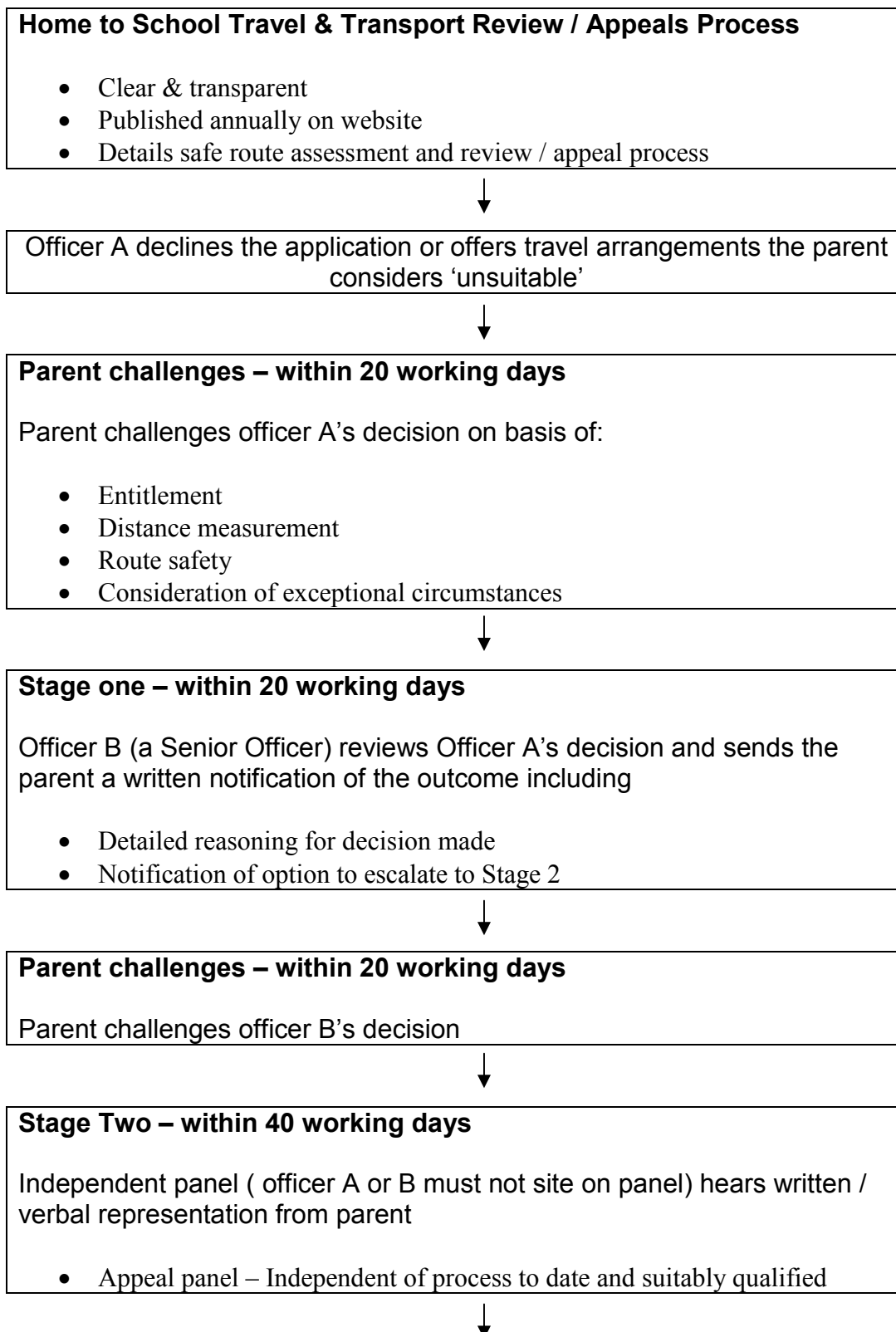
minute period that are longer than the road crossing time, using 3ft (0.91m) per second as the walking speed. Four gaps in each 5 minute period indicated a road that can be crossed without too much delay. Longer gaps will be classified as multiple gaps rather than just one gap.

- For all roads that need to be crossed there will need to be at least 4 seconds sighting time for drivers to see pedestrians and vice versa.

- 1.6 Routes that are traffic free (greenways, public rights of way, etc) will generally be considered as 'available' as long as the path is of reasonable condition and sufficient width.

Appendix 2

Home to School Travel & Transport Review / Appeals Process Flowchart



Independent Panel sends decision letter within 5 working days including
how to escalate to LGO

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Chief Operating Officer (Interim)
Subject/Title:	Key Decision 53 - Contract for Provision of Banking and Card Transaction Services
Portfolio Holder:	Councillor Peter Raynes (Finance)

1.0 Report Summary

- 1.1 Cheshire East Borough Council has a requirement to undertake a tender for the provision of banking and card transaction services. The current contracts have been in place with the Co-Operative Bank and Global Payments (formerly HSBC) since 2009 and are due to expire in March 2014.

2.0 Decision Requested

- 2.1 To delegate to the Chief Operating Officer the authority to award the contract for banking and card services for Cheshire East Council. The contract award will be made in consultation with the Borough Solicitor and the Portfolio Holder for Finance.

3.0 Reasons for Recommendations

- 3.1 The current contracts with the Co-operative Bank for the supply of banking services and with Global Payments (formerly HSBC) for card transaction services are due to expire on 31 March 2014.
- 3.2 The deadline for the submission of tenders is 25th June 2013. The date to award the contract and notify the successful suppliers has been set at 29th July 2013. In the event of the contracts being awarded to a new bank or card supplier a six month lead in time is recommended for a smooth and cost-effective transition.
- 3.3 In order to comply with the timetable for the awarding of the bank contract and to allow sufficient time for transitional arrangements to take place, if required, Cabinet is recommended to delegate the decision to award the contracts to the Chief Operating Officer.
- 3.4 The Borough Solicitor will prepare the necessary contract documentation for commencement in April 2014.

4.0 Wards Affected

- 4.1 Not applicable.

5.0 Local Ward Members

5.1 Not applicable

**6.0 Policy Implications including - Carbon reduction
- Health**

6.1 Not applicable.

7.0 Financial Implications

7.1 As covered in the report.

8.0 Legal Implications

8.1 The Forward Plan sets out the key decisions which the Leader, Cabinet and Individual Portfolio Holders expect to take over the next four months. Subject to urgency provisions, the law requires the Council to give at least 28 clear days notice ahead of any key decision being taken under executive arrangements, so that people know about them and have the opportunity to read the related report and background papers and to submit their views to the decision maker.

9.0 Risk Management

9.1 A timetable for the awarding of the contract is in place to ensure the required deadlines are met.

10.0 Background and Options

10.1 The contracts will run for 5 years with an option to extend for up to a further 2 years and will be tendered for separately, which should provide the widest range of potential suppliers. The estimated contract value over a 5 year + 2 year extension period is £700,000 for banking services and £1,050,000 for card transaction services.

10.2 The cost of changing banks can be significant and will involve additional work for a number of officers across many areas of the council over several months. A reasonably long contract period is therefore needed to ensure that the benefits of any change in banker offset the costs of change.

10.3 The Council is also provided with purchase cards by its banker. Going forward this will be procured through a framework agreement and therefore does not form part of this tender process.

10.4 In order to obtain the most cost-effective and efficient service for the Council, the transactional banking and card arrangements have been examined in detail by banking consultants, BRC Consulting Ltd to obtain a clear understanding of the services required now and in the future.

- 10.5 The existing arrangements have been reviewed and benchmarked against best practice as seen by BRC Consulting Ltd in other Councils. Potential improvements have been discussed and, where appropriate, included in the tender documentation.
- 10.6 The tender exercise is being undertaken simultaneously with Cheshire West and Chester whose banking and card transaction services contracts operate within the same timescale. Each Council will procure their contracts separately using their own procurement and legal requirements. However, the tender process for each Council will proceed along parallel paths at broadly the same time.

11.0 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

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Head of Public Protection and Enforcement
Subject/Title:	Key Decision 5 - Award of Contract for the Flexible Transport Service
Portfolio Holder:	Cllr David Topping

1.0 Report Summary

- 1.1 This report seeks approval to award the contract for a long term flexible demand responsive transport contract from 15 July 2013 until 14 July 2018. The total value of the contract is £2,300,208 over 5 years with the option to extend the contract for a further 2 years.
- 1.2 The contract will replace two interim flexible transport contracts that have been in place since spring last year following the withdrawal from the market place of two charities that had previously provided traditional 'dial a ride' services in the borough.
- 1.3 The public consultation exercise undertaken between April and June 2012 confirmed the value and importance of flexible demand responsive transport to older (especially frail) and disabled residents, as well as being a key way of addressing the Council's equality duties and discharging our statutory obligation to consider and provide for the transport needs of older and disabled residents.

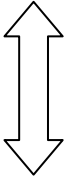
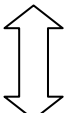
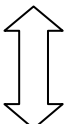
2.0 Decision Requested

- 2.1 To agree the award of contract to Tenderer 1 for the new flexible transport service with a contract end date of 14 July 2018.
- 2.2 Authorise officers to award the contract and work with the operator to plan, mobilise and start the service on 15 July 2013.

3.0 Reasons for Recommendations

- 3.1 Cheshire East Council supports flexible demand responsive transport for residents who find it impossible to use conventional fixed route bus services through disability (such as blindness / partial sight, physical disability), frailty or lack of public transport provision due to rural isolation. The existing service is provided through two interim, short term contracts which have a contract end date of 12 July 2013.

- 3.2 A full EU compliant procurement procedure has been undertaken to award a long term contract for the next 5 years, which will provide a high quality service enabling fair and equitable access to services across the borough.
- 3.3 The tender was split into two Lots:
- Lot 1 – North: Macclesfield, Wilmslow, Knutsford, Congleton, Holmes Chapel and surrounding areas
 - Lot 2 – South: Crewe, Nantwich, Sandbach, Alsager, Middlewich and surrounding areas.
- 3.4 Bidders were asked to tender a daily price for operating each Lot with 4 vehicles, 5 days a week (Mondays to Fridays). The Council received 5 tenders that were evaluated on a cost / quality scoring mechanism and MEAT (Most Economically Advantageous Tender) analysis.
- 3.5 A full analysis and evaluation of all tender submissions has been undertaken. The table below illustrates the range of scores (from highest to the lowest) for each Lot, as well as the scores for each combined tender.

Procurement Lots	Quality	Price	Total	Company
Lot 1 (North)				
<div> Highest Evaluated Score  Lowest Evaluated Score </div>	46	34.9	80.9	Tenderer 2
	42	34.2	76.2	Tenderer 1
	52	18.3	70.3	Tenderer 3
	29	38.3	67.3	Tenderer 4
Lot 2 (South)				
<div> Highest Evaluated Score  Lowest Evaluated Score </div>	42	40	82.0	Tenderer 1
	52	18.4	70.4	Tenderer 3
	21	36.3	57.3	Tenderer 5
Combined Lot 1 (North) and Lot 2 (South)				
<div> Highest Evaluated Score  Lowest Evaluated Score </div>	42	40	82.0	Tenderer 1
	52	27.4	79.4	Tenderer 3
	52	23.6	75.6	Tenderer 3

- 3.6 The highest scoring tender was submitted by Tenderer 1 – it is therefore recommended that the contract is awarded to Tenderer 1 for their combined tender across both Lot 1 and Lot 2.

- 3.7 The value of the contract is in line with the agreed budget and will provide a level of service consistent with that currently being provided. The contract includes flexibility to respond to changing demand patterns (etc) throughout the 5 year life of the contract.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including

- 6.1 The authority is required to undertake formal assessments of the transport needs of residents and of older and disabled residents in particular. With the advent of the public sector equality duty, additional care must be taken to ensure that protected groups' needs are considered, and – where possible – equality promoted and inequality minimised.
- 6.2 The provision of fully accessible demand responsive transport provides a means of accessibility for young people and the increasingly ageing population – providing access to services, as well as the opportunity for social activities which contribute to general health and wellbeing.

7.0 Financial Implications

- 7.1 The value of the long term contract (£460,000 per annum) can be met within the agreed annual budget. The contract will be awarded on a 'minimum cost' basis and therefore all fare income, including any concessionary fare reimbursements will be credited to the Council. The income from the service could be used to fund additional resources (e.g. evenings and weekends) if required.
- 7.2 In addition to providing a daily price for operating the 'core flexible demand responsive transport service' with 8 vehicles, the operator was asked to tender prices for providing additional resources, if required including; a daily price per vehicle beyond the minimum of 8, a price for each excess mile above what has been asked for, and, a price per hour for providing a vehicle and driver during evening and weekends.
- 7.3 Where there is a need to either increase or reduce the service provision this will be negotiated with the operator using the prices they have provided within their tender bid.

8.0 Legal Implications

- 8.1 There are statutory duties contained in the Transport Act for local transport authorities to support services which are deemed to meet transport needs that would otherwise be unmet. There is a specific duty to identify the needs of

older and disabled residents; such duty is also contained in the Equality Act, which imposes an overriding duty upon the authority to ensure that inequality is minimised and equality promoted through its policies and actions.

- 8.2 The contract was tendered in accordance with the Public Contracts Regulations 2006 and a full EU procurement procedure was undertaken.

9.0 Risk Management

- 9.1 The interim short term contract arrangements end on 12 July 2013 – there is no opportunity for a further extension period. To ensure no break in service provision to the existing users and ensure a smooth transition to the long term contract arrangements, there is a need to mobilise and implement swiftly to meet the 15 July 2013 start date of the long term contract.
- 9.2 A detailed Communications Plan will be developed in conjunction with the Media Relations Team to communicate the changes and ensure that the current users and wider local community are aware of the change of operator for the service. The service will continue to operate between 09.00 and 16.00, Monday to Fridays (except Bank Holidays) and is therefore consistent with the current provision.
- 9.3 The contract will be closely monitored throughout the 5 year period with regular passenger origin and destination data being provided by the operator to give accurate passenger trip information. The data will be used to evaluate the effectiveness and efficiency of the service throughout the contract period.

10.0 Background

- 10.1 To understand the transport needs of local communities and to help guide the Council's future investment in public transport provision, a consultation exercise was undertaken between 27 April and 22 June 2012. The consultation included a series of 10 engagement events held at various locations across the Borough. The results of the public consultation have been used to provide evidence and identification of transport needs.
- 10.2 As part of the consultation process, a targeted focus group session was held with representatives of older people and disability groups (e.g. Age UK, 50+ Network, Disability Resource Exchange and Iris Vision Resource Centre). This provided an opportunity to explore the needs of these protected equality groups and deepen our understanding of their transport and accessibility requirements.
- 10.3 For many older (especially frail older) and disabled residents, demand responsive transport is not only appropriate for their travel needs, it can often be the main or only way their travel needs can be met. It is therefore a key way of addressing the Council's equality duties where conventional fixed route bus services are not appropriate or available.

11.0 Access to Information

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

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Head of Environmental Protection and Enhancement and Head of Legal Services
Subject/Title:	Key Decision 6 - Crewe Green Link Road South: Contract Award and Forward Funding of Developer Contributions by Council
Portfolio Holder:	Councillor Jamie Macrae

1. Report Summary

- 1.1. This report seeks approval to award the ECI (Early Contractor Involvement) Contract for the design and construction of the Crewe Green Link Road (South) scheme to the winning Tenderer.
- 1.2. The project Steering Group have carried out a fully compliant tender evaluation of all the bids – a summary of which is included at Appendix 1
- 1.3. This report also seeks approval for the Council to ‘forward fund’ the delivery of the link road in advance of the potential availability of developer (S106) contributions to the scheme to evidence the schemes viability through the imminent CPO public Inquiry.

2. Decision Requested

- 2.1. That Tenderer 1 is confirmed as the winning Contractor for the ECI Contract for the design and construction of Crewe Green Link Road (South).
- 2.2. That the ECI Contract between the Council and Tenderer 1 is formally entered into on the terms and conditions set out in the tender following completion of a ten working day statutory standstill period in accordance with the Public Contracts Regulations 2006.
- 2.3. That this decision will permit Contract Award and Authority to Proceed with Phase 1 – ‘Design and development of Target Cost only.
- 2.4. That the winning Contractor’s proposal to undertake some limited elements of the Detailed Design work as part of Phase 1 be approved and responsibility for Change Control be delegated to the

Head of Environmental Protection and Enhancement in consultation with the Portfolio Holder

- 2.5. That the Council in agrees to forward fund the anticipated but contingent maximum developer (S106) contributions to the scheme up to a value of £8.8M in order to meet the current programme as agreed with the DfT pursuant to their programme entry confirmation letter, dated December 2011.
- 2.6. That this decision does not include the funding required to deliver the spur roads off the central roundabout.
- 2.7. That the authority to proceed from Phase 1 to Phase 2 (Scheme Detailed design and construction) and the submission of the final DfT Funding bid be subject to a future Cabinet decision when the Target Cost is known and the extent of developer residual funding is finally established

3. Reasons for Recommendations

- 3.1. To support the Council's key objective to deliver new and improved infrastructure to support economic growth.
- 3.2. The programme for Contractor appointment and subsequent development and agreement of the Target Cost for the final funding request to DfT is on the critical path of the scheme programme. As such, in order to progress the scheme, it is essential that the Award of the Contract for the delivery of Crewe Green Link Road (South) is completed as soon as possible.
- 3.3. The recommended Contractor has been selected following a robust legally compliant procurement process comprising a Pre-Qualification Questionnaire (PQQ), with the top five shortlisted tenderers then receiving an Invitation to Tender (ITT). The submitted tenders were then evaluated by the assessment panel and subject to an independent moderation process.
- 3.4. Following award, Phase 1 of the Crewe Green Link Road (South) Contract will comprise the development of the scheme design sufficiently to enable the Target Cost for scheme construction to be developed. Once an agreed Target Cost has been achieved, a further Cabinet decision will be sought to proceed with the final DfT funding submission.
- 3.5. Accepting the winning contractor's proposal to undertake some limited advance detailed design will enable a more accurate Target cost to be provided, allow for the identification of long delivery time items (such as sheet piling) and ensure the delivery phase of the scheme can advance on the agreed programme with the DfT

- 3.6. Council agreement in principle to underwriting the anticipated but contingent S106 / developer contributions to the scheme is essential to meet the current programme agreed with the DfT pursuant to their programme entry confirmation letter, dated December 2011. The Council agreement is needed now in order to confirm the deliverability and viability of the scheme at the forthcoming Compulsory Purchase Inquiry due to commence on 29th July and to enable that confirmation to be made in the Proof of Evidence which is required prior to such Inquiry.
- 3.7. The spur roads off the central roundabout would further assist in facilitating the development of the Basford East site. However, in the absence of both an agreed Masterplan for the site and a collaboration agreement between respective land owners there is little prospect of robustly assessing the cost implications of delivering these spur roads at this time.
- 3.8. The spur roads also fall outside of the funding agreed by the Department for Transport and will be considered for delivery at a later stage when there is more certainty around developer funding and any planning agreements. This is in accordance with the phased approach taken in the planning application for the link road.
- 3.9. The Council has sought to compulsorily acquire the land required for the spur roads to enable the construction of them at a later date and thereby further facilitate the delivery of development at Basford East, which is a strategic objective of the Council. A separate Cabinet decision to proceed with the construction of the spur roads will be required in due course.

4. Wards Affected

- 4.1. Haslington

5. Local Ward Members

- 5.1. Cllr John Hammond
- 5.2. Cllr David Marren

6. Policy Implications

- 6.1. The investment accords with the Local Transport Plan Implementation Plan (2011-2015) policy B2 – Enabling development.
- 6.2. This decision will contribute towards the delivery of Crewe Green Link Road (South) which will have a beneficial effect on congestion, road safety, accessibility and reduction of carbon emissions over the urban Crewe highway network.

7. Financial Implications

- 7.1. Sufficient budget provision is available within the approved capital programme to cover the Contractors tendered Phase 1 fees for Target Cost development, plus allowance for additional detailed design, additional surveys and nominal risk allowance in the 2013/14 financial year.
- 7.2. The DfT are, subject to a final funding submission following agreement of the Target Cost, committed to contribute 60% of the overall scheme cost, up to a maximum of £15.724M.
- 7.3. The DfT funding does not include a contribution to the Spur roads off the central roundabout and would require a separate agreement as part of any future development of the adjoining land.
- 7.4. The Phase 1 fees for this work will constitute part of the overall cost of delivering the scheme.
- 7.5. The Phase 1 fee estimate provided in the winning tender from Tenderer 1 is £346,847 and includes costs for design development, preparation and negotiation of Target Cost up to the Notice to Proceed for Phase 2 (Completion of Detailed Design and Construction).
- 7.6. It is recommended that some programme critical detailed design and surveys are to be brought forward from Phase 2 and are undertaken as part of Phase 1 – providing an estimated outturn cost of £518,237 for Phase 1.

Build Up of Phase 1 Estimated Outturn Costs:

1	Tenderer 1	£346,847
2	Programme Critical Detailed Design (25% of 1) including rail underbridge, environmental mitigation, site establishment, site clearance, advanced drainage works	£86,712
3	Surveys including pre-construction surveys i.e. birds; rail surveys i.e. OLE and condition surveys of existing rail assets, supplementary site investigation	£60,000
4	Contingency at 5% (Ref 1-3)	£24,678
	Total	£518,237

Note: Inclusion of costs for Ref 2 and 3 in Phase 1 will reduce Phase 2 Target Cost.

- 7.7. Since the original funding bid the scheme design and estimates have been further refined and an expected outturn cost of £23m is predicted including an allowance for risk and land costs associated with the CPO.

- 7.8. The cost of Phase 2 construction of the scheme which will include any remaining detailed design will be further refined during Phase 1 through the development of the Target Cost. Final approval, and thus liability for the full estimated costs will only accrue after a final Cabinet decision to proceed with the scheme is taken.
- 7.9. Contributions to the scheme are expected from both the Basford West and Basford East developments. However, it is proposed that the Council commit, in principle, to forward fund the anticipated but contingent developer (S106) contributions to the scheme up to a combined maximum value of £8.8m. This is based on the current anticipated maximum delivery cost of the scheme including land, fees, construction and an element for risk.
- 7.10. A signed S106 agreement with the Basford West developer is already in place which (calculated at current price indices) could potentially deliver a contribution of £3.8m. This funding cannot be drawn down until the development to which the S106 relates is commenced at the Basford West site.

The Basford East (or other developer) contribution required would be the difference between the final scheme cost, direct council funding (through LTP resource) and any Basford West funding achieved.

- 7.11. At the time of the original funding bid the council was advised of the likelihood of the council having to forward fund the Basford East contribution to the scheme. This was anticipated to be £5m.
- 7.12. The Capital Programme for 2013-16 has an approved budget for the scheme of £19.4m. Prior year spend relating to this scheme amounts to £1.7m and the total budget provision may require revision when the Target Cost is confirmed. The current capital budget includes an allocation of £5.87M for developer contributions. The allowance will need to be refined following the completion of the Target cost for the scheme or the use of additional Local Transport Plan resource explored.
- 7.13. The required forward funding of the developer contributions will have an impact on cash flow for the Council and therefore will result in a loss of investment income. There is also an element of risk that the required developer contributions from the Basford East site will not be realised and will require direct funding from the Council's own capital resources.

8. Legal Implications

- 8.1 The construction of the Crewe Green Link Road South is approved in the three Year Plan. The Council has undertaken a legally compliant procurement exercise and has identified a preferred

supplier. The contractual terms provide a 2 phased approach and the Council is not obliged to proceed to the construction phase should it so decide.

- 8.2 A Compulsory Purchase Order has been made to deliver the scheme. Objections have been received and a public inquiry will be held, commencing 29th July. Following the inquiry the Secretary of State will either confirm or decline to confirm the CPO. He could confirm the CPO with modifications to the extent of the CPO land
- 8.3 There cannot currently be any certainty that developer (s106) contributions or Community Infrastructure Levy (CIL) will be available to part fund the scheme. The High Speed 2 project will necessitate changes to development proposals at Basford West and the Basford East landowners will review their masterplans and proposals. These changes, reviews and revised masterplanning and development proposals could delay receipt of developer contributions and could reduce the quantum of the contributions anticipated. The National Planning Policy Framework advises local planning authorities to be flexible where revisions to s106 contributions are sought, in order to prevent planned development being stalled.
- 8.4 Legal advice will be required to ensure that anticipated s106 contributions can be justified robustly under regulation 122 of the CIL Regulations 2010 (as amended) and the Council must be mindful that (a) any committed s106 contribution will only be received if and when the relevant developer decides to implement its planning consent and any specified payment conditions triggered and that contributions must be used in accordance with the provisions of the relevant s106 agreement (b) after the earlier of April 2014 and the adoption of the CIL schedule the number of s106 contributions there can be to the project will be limited to five in respect of obligations entered into on or after 6 April 2010.

9. Risk Management

- 9.1. Delay in the agreement of Target Cost could delay the start of Phase 2 (construction) and this could in turn put the Christmas 2014 Network Rail possession at risk.
- 9.2. As reported in Legal Implications, there is a possibility that the Secretary of State will decline to confirm the Compulsory Purchase Order (although this is considered unlikely). Also, the Secretary of State's confirmation, if made, will be subject to judicial challenge and could, in principle, be quashed.
- 9.3. In the unlikely event that funding is not received from the DfT or in the event that the CPO is not confirmed or, having been confirmed, is quashed, CEC would be liable for Phase 1 Contractor costs

incurred. There is a break clause in the Contract in the event of no progression to Phase 2.

The break clause in the contract protects the Council's position over a range of scenarios – including: Insufficient funding to develop scheme, failure of statutory processes such as the CPO or simply a decision to not proceed with the scheme.

- 9.4. It is anticipated that in order to de-risk the construction programme and also enable development of a more robust target cost some of the Phase 2 detailed design will be undertaken during Phase 1.
- 9.5. At the time of the original funding bid (September 2011) it was anticipated that by the time of the final funding submission to the Dft (January 2014) the Basford West developer would have commenced development, thereby validating the S106 agreement and allowing the S106 funding to be collected.
- 9.6. The Basford West developer has still not made a formal commencement of work, citing the economic climate and the viability of the development. However, a revised, more viable, mixed use application for the site has now been registered and is due for consideration by the Strategic Planning Board in June/July.
- 9.7. Having said this, the recently announced Government 'Initial Preference' for a northern extension of the High Speed 2 rail line has a potential impact on the Basford West proposals.
- 9.8. The council has recently been successful in attracting a contribution from the Department for Transport (DfT) 'Pinch Point' fund to the spine road which runs through the Basford West site. The DfT's funding is available until March 2015 at the latest.
- 9.9. A further 'Pinch Point' funding bid, made by the Highways Agency, to provide for an improvement to the operation of Junction 16 has also been successful. The Highways Agency are required to deliver this scheme by March 2015
- 9.10. These measures, taken together, are anticipated to strengthen the likelihood of the Basford West development taking place in the short term and increases the likelihood of the S106 funding being realised.
- 9.11. An update on the status of the development will be given when final funding approval is requested.
- 9.12. The Basford East site is allocated for employment development under the extant Crewe and Nantwich Local Plan. It is proposed as the site for a mixed use development in the emerging Cheshire East Local Plan. Masterplan proposals originally developed for the

site would be affected by the Government's High Speed 2 proposals which have lead to a 'pause' in the development of the associated planning application.

- 9.13. In the event that developer contributions to the scheme cannot be secured so as to repay Council forward funding it may be that the Council could recoup the funding through the Community Infrastructure Levy. However, this levy is currently not expected to be in place until 2015
- 9.14. The current scheme costs have been estimated through best practice and based on professional advice from both a consultant contractor and professional land valuation experts.
- 9.15. All costs valuations and estimates will be further updated to give the most accurate picture possible prior to the Final funding submission to the DfT and inform the final expected level of forward funding required.

10. Background and Options

- 10.1. Options for the delivery of Crewe Green Link Road (South) were evaluated by the Project Board in Spring 2012 and the Early Contractor Involvement (ECI) form of contract was selected as the most suitable to deliver the scheme. This method integrates the Contractor during the design development (Phase 1) when the Contractor will develop a Target Cost for the scheme's detailed design and construction (Phase 2).
- 10.2. The anticipated timetable for the award of the contract is:

Activity	Date(s)/Time
Project Steering Group (PSG) Approval of the tender evaluation report and the preferred contractor (Tenderer 1)	22 April 2013
Cabinet Decision	28 May 2013
Call-In Time by Members (5 working days) complete	5 June 2013
Notification of result of Evaluation to all Tenderers	6 June 2013
Standstill Period (Objection Period) Duration: 2 weeks	7 June to 16 June 2013
Finalise Contract Documents incl tender amendments	29 May – 16 June 2013
Award of Contract	17 June 2013
Signing of Contract	18 June – 28 June 2013
Contract Commencement	1 July 2013

- 10.3. The CGLRS ECI Contract is a bespoke contract with the Conditions of Contract based on the NEC3 Engineering and Construction Contract (ECC) Option C, Target Cost with Activity Schedule, containing two key Phases; 1 & 2.

Phase 1: The period from ECI Contract Award through to Notice to Proceed to Construction including agreement of the Target Cost, comprising the development of a Target Cost Design and agreement of the Final Target Cost.

Phase 2: The period from Notice to Proceed to Construction through to the completion of the whole of the Works and associated contract defect period. Phase 2 is divided into two sections:

- Completion of the main construction (Phase 2A);
- Aftercare and management of environmental landscaping and planting (Phase 2B).

- 10.4. The expectation is that having the Contractor appointed early during the development of the scheme design will result in greater programme and cost certainty for scheme delivery, and will greatly reduce the construction and buildability risks; both of which will be important to the Council for Crewe Green Link Road (South).
- 10.5. The CPO for the land required to deliver the scheme is currently progressing. A Public Inquiry is planned to commence 29 July 2013, and subject to the outcome, Land Entry is forecast for mid May 2014. As such it is important that the Contract for the scheme's design development and construction is let as soon as possible and that the council can demonstrate that a viable funding package is in place to deliver the scheme. Appointment of the contractor is on the critical path on the programme to achieve target cost agreement and final DfT submission by early 2014
- 10.6. The Phase 1 fees are based on the information provided within the tender documentation. Tenderer 1 has also proposed undertaking some limited elements of Phase 2 detailed design and surveys, which would deliver further programme savings and lead to a more robust Target Cost. Any such additional work within Phase 1 would need to be agreed via Change Control.
- 10.7. The Council will pay the actual costs incurred by the Contractor during Phase 1 delivery. The Contractor will run an open book accounting system and the Council will have the option to audit final accounts. Phase 1 fees will be included in the final scheme cost package for DfT funding approval.

11. Access to Information

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

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1

Executive Summary**1.1 Purpose of the Report**

1.1.1 The purpose of this report is to:

- Outline the tender and evaluation process followed to award a Contract for the Crewe Green Link Road South project.
- Provide a summary of the evaluation results; and
- Recommend a Contractor to be awarded the contract to deliver the works.

1.2 Project Background

1.2.1 The Crewe Green Link Road South project comprises the construction of a new 1.1km long dual carriageway, providing a link south of Crewe that will reduce congestion in the area and open up development land. The new highway links into two existing roundabouts to the north and south of the project, and creates a new roundabout at the mid-way point to provide access to development land on either side of the road. The project also involves the new highway passing beneath an existing railway line, which necessitates the construction of a new bridge to carry the existing railway over the new highway.

1.2.2 Procurement options for the scheme were investigated in early 2012 and the recommended option of a bespoke contract based on the NEC Option C (Target Cost) with Early Contractor Involvement (ECI) was approved by CEC.

1.3 Tender Process

1.3.1 The project went out to Tender on 14 December 2012 with all Tenderers returning their submissions on 22 February 2013.

1.3.2 The Tender was let on a competitive basis, following a Pre-Qualification Process, to five Contractors.

1.4 Evaluation Results

1.4.1 The results of the evaluation are summarised below:

Tenderer	Compliance Check (Pass / Fail)	Initial Evaluation (Pass / Fail)	Quality Score (%)	Financial Score (%)	Overall Score (%)	Overall Rank Position
Tenderer 1	Pass	Pass	70	30	100	1
Tenderer 2	Pass	Pass	66.2	28.7	94.9	2
Tenderer 3	Pass	Pass	66.8	25.7	92.5	3
Tenderer 4	Pass	Pass	55.9	27.3	83.2	4
Tenderer 5	Pass	Pass	43.3	27.9	71.2	5

1.5 Recommendation

1.5.1 It is recommended that Tenderer 1 should be awarded the Contract to deliver the Crewe Green Link Road South project.

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Head of Highways and Transport
Subject/Title:	Key Decision 7 - Contract for the Supply of Liquid Fuels
Portfolio Holder:	Councillor D Topping

1.0 Report Summary

- 1.1 Cheshire East currently has a contract with GB Oils Limited for the supply of Liquid Fuels via a Government Procurement Service (GPS) Framework Agreement. This contract expires on 31st May 2013 and work has been ongoing to manage arrangements for the re-tender of this contract. This report outlines the options for the new contract.

2.0 Decisions Requested

- 2.1 Members are requested to approve the use of an existing public sector framework arrangement as outlined in section 11.2. The framework is available to the Council via the AGMA agreement and is awarded on the basis of a mini competition managed by the Yorkshire Purchasing Organisation. The arrangement is available to the Council until 30th September 2015.

3.0 Reasons for Recommendations

- 3.1 In order to put in place a new contract for the supply of Liquid Fuels that will deliver a cost effective and quality solution for the Council.

4.0 Wards Affected

- 4.1 No impact on any specific wards.

5.0 Local Ward Members

- 5.1 No impact on any specific wards.

6.0 Policy Implications

- 6.1 No significant policy implications.

7.0 Financial Implications

- 7.1 The level of spend on Liquid Fuels is approximately £1,600,000.00 per annum.
- 7.2 The spend figure above is calculated from the usage data of all Cheshire East establishments including schools.
- 7.3 The aim of the new contract will be to make additional cost savings and by utilising the PRO 5 Framework Agreement Ref: 301 we will be able to take advantage of the rebate scheme operated by the YPO which may attract up to a 0.65% dividend depending on baseline spend per annum.

8.0 Legal Implications

- 8.1 The YPO agreement has been identified as a framework agreement that meets the Council's requirements and is compliant with the Public Contracts Regulations 2006. The YPO framework agreement was entered into for an initial term of 24 months from 1st October 2011 but can be extended for a further period of 24 months, hence the need to undertake a further mini competition for the period from 1st October 2013 should the framework agreement be extended by YPO. The Council would enter into a call off contract once a mini competition exercise has been concluded. The terms of the contract would be drafted by Legal services in accordance with the overall terms of the Framework Agreement.

9.0 Risk Management

- 9.1 All contract agreements are closely monitored throughout the contracted period to ensure that the Council continues to obtain and maximise value for money and consistent levels of service. A requirement of the contract is for continuous improvement throughout the term of the contract to ensure that best value is achieved.
- 9.2 To enhance visibility and control over the procurement of Liquid Fuels, management information reports will be requested from any future provider to assist with the monitoring of energy consumption data and costs. If the contract is fully utilised by the whole Council, the management information report will provide accurate spend data for the supply of Liquid Fuels.

10.0 Background

- 10.1 Cheshire East currently has a contract with GB Oils Limited for the supply of Liquid Fuels via a GPS Framework Agreement. This contract expires on 31/05/2013 and work has been ongoing to

manage arrangements for the re-tender of this contract. Various procurement options were reviewed and a decision was taken to utilise the PRO 5 Framework Agreement Ref: 301.

- 10.2 With mounting pressure to deliver savings in an environment of reducing budgets and increased resource constraints, collaboration between public sector organisations is becoming more important than ever – thus utilising the PRO 5 Framework Agreement Ref: 301 with other AGMA authorities.
- 10.3 PRO 5 has put a Liquid Fuels framework in place, which is open for all Local Authorities to use.

11.0 Options

11.1 FORMAL PROCUREMENT PROCESS

Due to the level of spend on Liquid Fuels a re-tender of the contract will inevitably require a formal procurement process to be undertaken. The Council could go out to tender detailing specific requirements for Cheshire East. However, this is not recommended due to the timescales involved and the cost of tendering. It is considered that there would be no benefit in this approach over and above the collaborative options already available – the Council would be dealing with the same supply market and not able to leverage demand with other Local Authorities.

11.2 USE EXISTING FRAMEWORK

Another option is to board an existing framework. The PRO 5 Group has put a Liquid Fuels framework in place, which is open for other authorities to use. This framework has been let by the Eastern Shires Purchasing Organisation (ESPO) on behalf of the PRO 5 Group – the Yorkshire Purchasing Organisation (YPO who are a member of the PRO 5 Group) will conduct mini-competitions on behalf of the Association of Greater Manchester Authorities (AGMA) and therefore as Cheshire East is a member of AGMA we are permitted to utilise this arrangement. The outcome of the procurement process via a mini-competition conducted on behalf of all the AGMA authorities (of which Cheshire East is a member) by the Yorkshire Purchasing Organisation (YPO) using the PRO 5 Framework Agreement Ref: 301 (PRO 5 is a public sector buying consortium consisting of CBC, ESPO, NEPO, YPO and GPS) and award a contract for the period initially being 01/06/2013 – 30/09/2013 and thereafter 01/10/2013 – 30/09/2015 following a further mini-competition. This would be a corporate contract and can be utilised by all Cheshire East establishments including schools.

11.3 BENEFITS

The benefits of the framework and the reason that the framework was set up are to:

- Harness the substantial leverage of public sector spend to achieve maximum value for money.
 - Minimise duplication of effort by removing the need for individual organisations to tender or re-tender .
 - Increase market competition.
 - Enable small councils to benefit from the leverage that the Pro5 Group are best placed to secure.
 - Enable authorities to have access to improved management information.
 - Enable authorities to take advantage of the YPO rebate scheme and achieve savings.
- 11.4 Another option is to utilise the new framework that the GPS will establish – however this will not be in place until September 2013, thus meaning we would not have a contract for Liquid Fuels for a 3 month period. We would also not be able to deliver savings to the same degree as we could by utilising the PRO 5 Framework Agreement Ref: 301.

Joint Working with AGMA

- 11.5 Discussions have taken place with AGMA and they too are utilising the PRO 5 Framework Agreement Ref: 301.
- 11.6 It is therefore recommended that members endorse the use of the PRO 5 Framework Agreement Ref: 301.

12.0 Access to Information

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

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Head of Commercial Strategy, Business Innovation Performance
Subject/Title:	Key Decision 8 - Creative Design and Print Framework Agreement
Portfolio Holder:	Councillor David Brown

1.0 Report Summary

- 1.1 Since April 2010 Cheshire East Council has not had an in house creative design and print service. This means that when these services are required by the authority, they are procured externally by a number of different council services within the authority.
- 1.2 In September 2010 Cheshire East Council put in place a contract for Creative Design and print services with a single provider. This contract expired on 15 April 2013.
- 1.3 This report requests authorisation to implement a new Creative Design and Print Framework Agreement. This new Framework Agreement will provide a value for money and flexible creative design and print service for the authority.
- 1.4 The Framework Agreement holds a notional value of between £800k and £1.2m over the period of the contract which is two years, with the option to extend for one year and then one more year, a potential total of four years.

2.0 Decision Requested

- 2.1 Following an OJEU procurement process, the Portfolio Holder for Strategic Communities be given delegated authority to appoint the successful bidders to the Creative Design and Print Framework Agreement.

3.0 Reasons for Recommendations

- 3.1 The existing Creative Services contract expired on 15 April 2013. A new contract is required to ensure that Cheshire East continues to procure Creative Services, Design and Print in line with EU procurement law.
- 3.2 Since September 2010 a single provider contract has been in place to meet this need. Overall the provider has met the demand from the authority. However, over the life of this contract it has become apparent that to meet the complex and

diverse needs of the Council a multi provider option will offer greater flexibility whilst delivering a transparent and cost effective service.

- 3.3 A framework agreement means that a contract can be awarded directly to one of the named suppliers on the basis of the pricing and/or other information established in the original tender process or a mini competition can be run thus giving confidence in value for money. Also, the range of suppliers appointed will collectively allow greater access to a wider range of services.

4.0 Wards Affected

- 4.1 All wards.

5.0 Local Ward Members

- 5.1 Not applicable.

6.0 Policy Implications

- 6.1 Creating this framework will result in a better controlled and consistent process by which Creative Design and Print Services are procured thus contributing to the overall aim of the authority to ensure quality and value in public services.

7.0 Financial Implications

- 7.1 At the date of this report, there is no central budget for the procurement of Creative design and print services. Budget to procure these services sits within services across the authority. Estimated spend for the financial year 12/13 for Marketing and publicity is circa £400k.
- 7.2 In order to conduct an OJEU compliant process to put a framework in place, a notional value for the potential spend for the authority as a whole against the framework has to be estimated.
- 7.3 The notional value that has been estimated for the potential four year life span of the contract is between £800k - £1.2m.

8.0 Legal Implications

- 8.1 The aggregate value of the Council's requirement for Creative Design and Print services is such that these services must be procured in accordance with EU legislation and the Council's Finance and Contract Procedure Rules. A framework agreement enables the Council to meet its need for a service for a set period of time in order to obviate the need to undertake a wide competitive process in relation to each individual procurement. It complies with EU requirements and the Council's rules.
- 8.2 The Public Contracts Regulations allow local authorities to enter into framework agreements with a number of service providers, following a competitive tendering process, and to thereafter select from those service providers to provide particular

services, as and when required for a maximum period of four years.. The Council can choose to appoint a supplier directly based on the pricing and/or other information established in the original tender process or if the price cannot be directly determined or in order to ensure best value it can hold a mini-competition between the suppliers appointed to the framework in or to make an award.

9.0 Risk Management

- 9.1 Failure to procure services in line with EU legislation and the Council's Finance and Contract Procedure Rules puts the authority at risk of breaching these regulations.

10.0 Background and Options

- 10.1 Since April 2010 Council Services requiring “creative services” have needed to procure these from an external source. ‘Creative Services’ includes design, print and general publicity and marketing material.
- 10.2 In order to comply with EU legislation, these services must be procured in a managed and value for money manner. This is also critical to achieve economies of scale and to consistently manage the brand and hence the reputation of the authority. A contract for provision of this service has been in place for some time. This has been with a single provider and this contract expired on April 15 2013.
- 10.3 An analysis of the contract has taken place and whilst the contract has largely met the requirements from the Council, the opportunity to implement an improved service model has been considered. Experience to date has shown that greater flexibility and value for money can be achieved by appointing a framework of providers rather than a single supplier.
- 10.4 A procurement exercise has been undertaken to establish a framework of approved suppliers. This will consist of four providers. The procurement process has followed OJEU legislation through the North West Chest. This was a comprehensive evaluation process based on the following criteria; cost and value for money; creativity; innovation; timescale compliance and ongoing support. The process included answering a series of questions addressing these issues and submitting a response to a creative brief designed to allow them to demonstrate their competence against these criteria.
- 10.5 The contract details were posted on the North West Chest and initially we received 215 Expression of Interest. Following this 50 companies completed Pre Qualification Questionnaires and returned them to us. These questionnaires were rigorously evaluated against comprehensive evaluation criteria using appropriate scoring principles.
- 10.6 This resulted in 7 companies being invited to tender, 2 of which subsequently chose to withdraw. Following this a final 5 companies were invited to the final round of the process, the Clarification interview.

- 10.7 Permission is now being sought to delegate responsibility to the Portfolio Holder for Strategic Communities to appoint the successful bidders to the Creative Design and Print Framework Agreement

11.0 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

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Executive Director Of Strategic Commissioning
Subject/Title:	Key Decision 9 - Procurement of New Case Management System
Portfolio Holders:	Cllr Janet Clowes (Health and Adult Care Services) Cllr Rachel Bailey (Children and Family Services)

1.0 Report Summary

- 1.1 Today the Council uses the CIVICA PARIS Case Management System (CMS) to plan and deliver Adults and Children's social care services. Paris is a legacy system and no longer fit for purpose and the Council needs to procure and implement a new CMS as soon as possible.
- 1.2 This is because PARIS is now several years old and does not have the technical architecture or functions to support Council strategy to move to smarter, more effective or efficient working to support the front line, improve service delivery and reduce costs. This includes rationalising a number of other legacy systems for which the new CMS could provide the required functions, e.g. CAF. This will reduce system maintenance costs and avoid future procurement and implementation costs too. The contract with CIVICA has also expired. Plus, a recent Ofsted inspection (April 2013) into the protection of children in Cheshire East highlighted how the effective management of electronic case files can better support service delivery.
- 1.3 Therefore this report recommends that Cabinet now authorise Officers to take all necessary actions to procure a new CMS and award a five year contract to the winning bidder.

2.0 Decision Requested

- 2.1 That Cabinet approves the Council to go to the market from June 2013 to procure a new CMS. Due to the value (5 year contract £1 to £5 million) this is a key decision. The procurement of a new CMS involves issuing an 'Invitation To Tender' (ITT), an 'Invitation To Quote' (ITQ) or using an existing framework, detailing its requirements for a CMS and requesting information on how bidders will partner with the Council to implement their proposed solution. The Council will then evaluate responses from bidders against its published evaluation methodology and criteria (including value for money) to identify a winning bidder.
- 2.2 That Cabinet approves the Council to award a five year contract to the winning bidder to supply, implement and to support its proposed CMS solution by December 2013, subject to:

- A clear schedule for reviewing the performance of the supplier
- The option to extend the contract in increments of one or more years for up to five additional years after the first five or in accordance with the terms of the framework
- A clear schedule of break-points to give notice on the contract should the Council decide not to extend it after five years or earlier if the performance of the supplier is ultimately deemed unacceptable.

3.0 Reasons for Recommendations

- 3.1 The Council puts the interests of individual customers at the centre of the planning, organisation, delivery and management of its social care services and processes, in line with its statutory responsibilities.
- 3.2 A replacement CMS will rationalise a number of legacy systems in use, e.g. CAF and simplify customer, Officer and agency partner access to (and the management of) customer information. This will enable the Council to record, tell and share the customer journey, i.e. the detailed stories of the children and adults the Council and its partners work with from the moment of first contact. The Council will be able to record this journey through a continuum of need and identify and deliver services more effectively.
- 3.3 The preferred approach to procuring the new CMS is to use an existing procurement framework available via the Government Procurement Service (GPS), namely framework RM713/L2. This framework is OJEU compliant and expires 16 December 2013 and the Council prefers to finish the procurement before then to avoid the need to undertake our own full OJEU compliant tender, which could take 9 - 12 months excluding data migration and so delay implementation.

4.0 Wards Affected

- 4.1 All wards and local ward members are affected indirectly, because the Council delivers social care services to adults, children, young people and families across the whole borough.

5.0 Local Ward Members

- 5.1 As paragraph 4.1 above.

6.0 Policy Implications

- 6.1 A replacement CMS is central to the Council's response to government changes in the planning and delivery of social care services as stated in the Munroe Review of Child Protection (May 2011) and Information Governance Review Report (April 2013), led by Dame Fiona Caldicott.

- 6.2 Furthermore, a replacement CMS that rationalises legacy systems and simplifies the recording, management and sharing of detailed caseload information while removing maintenance costs and barriers to working underpins the Council's 2013-16 Three Year Plan to give real value-for-money in service delivery, underpin productivity and to focus on early intervention and prevention.
- 6.3 A replacement CMS also supports the Council to develop the delivery of services for the protection of children in Cheshire East as a result of the findings in the recent Ofsted Inspection (April 2013).

7.0 Financial Implications

- 7.1 The indicative lifecycle cost of the replacement CMS over the five year contract is £1 - £5m making this a key decision. This depends on the individual scope and cost of the product procured and other associated ongoing maintenance and support costs and fees, e.g. implementation consultancy or training.
- 7.2 This is an unavoidable but necessary and a priority, to replace several legacy systems that are no longer fit for purpose, adversely affect the Council's ability to deliver front line services and each carry separate, ongoing maintenance and support costs. This expenditure is accounted for in the Council's Adults and Children's social care budgets and ICT budget accordingly.
- 7.3 The budget for the proposed CMS would come from two sources. £2m will come from the ICT Strategy programme to cover the core system replacement, plus £3m from the Children, Families & Adults (CF&A) programme implementation budget. The full cost of the implementation will be covered from these budgets, which is in the forward plan.
- 7.4 Note that the published evaluation methodology and criteria used for the procurement will place a 30% weighting on price, calculated to give a higher score the lower the price, thereby ensuring cost effectiveness and value for money are considered for each solution proposed.

8.0 Legal Implications

- 8.1 The Council's ICT Solicitor/Legal Advisor has been fully consulted and is represented on the Project Board and Steering Group as required.
- 8.2 The Council obtained legal advice on all the proposed changes and the project approach (procurement method/route) and there are no specific or additional legal implications or risks should the recommendation at 3.3 be followed.
- 8.3 The existing CMS is out of contract and so the existing supplier is also unaffected. The rights, role and the responsibilities of the Council with respect

to the recording, management and sharing of detailed caseload information remain unchanged.

9.0 Risk Management

- 9.1 The Council is managing a number of risks to this project, including:
- 1 Procurement fails to identify a new supplier. Mitigated by using a GPS framework that contains approximately nine CMS suppliers.
 - 2 Procurement is not completed in time before the preferred route is no longer available (framework expires). Mitigated by working with the ICT Solicitor and Procurement to agree a work plan that enables the Council to award a contract before this could occur.
 - 3 Insufficient resources to deliver the project. Mitigated by re-using CFA Programme staff, putting in place key business contacts or subject matter experts, e.g. Finance, and establishing short-term project task forces to front-load work and avoid delays.
 - 4 Business Case is not approved via internal Council processes. Mitigated by continuing to develop, verify and validate the high level and detailed business case for the project.

10.0 Background and Options

- 10.1 Case management is about people. Every case is a person. The CMS records their journey as they receive the highest quality of care, advice and support for their needs from the Council and its partners.
- 10.2 The replacement CMS project will deliver an information architecture that enables the Council to better and more smartly support its frontline Children, Families and Adults workforce in Cheshire East to record, tell and share the rich stories of these journeys.
- 10.3 By replacing multiple old systems with an integrated, workflow based solution, it will be easier for the Council to identify when and where it can intervene early and provide early support for children and adults in need to prevent further needs in future. The Council will be able to record this journey through a continuum of need and identify, deliver services more effectively.
- 10.4 The replacement CMS will replace the existing virtual estate of multiple systems joined by manual interfaces between business areas with an integrated solution that shares information across services. This will be supported by giving social care professionals the right tools for the job so that they can access this information where and when they need it.
- 10.5 This is a large-scale undertaking and will impact on hundreds of staff across the Children, Families and Adults workforce. For every service a silo solution has evolved leading to a complicated array of information systems to record all interactions, observations, needs and case plans. Dismantling this architecture, constructed with the best of intentions, will be challenging. But the Council needs to take a helicopter view to ensure that the quality of

service it provides both now and in the future to the most vulnerable people is helped, not hindered, by the tools and technologies used.

- 10.6 The Council is developing a new information strategy to meet these needs that will become the road map for children, families and adults information management for the next five years (2013 - 18).
- 10.7 Central to this is replacing the existing legacy CMS and other systems. A number of options were considered:
- 1 Do nothing – retain multiple systems. Do not change CMS.
 - 2 Do minimum – retain multiple systems. Upgrade existing CMS to latest version.
 - 3 Replace CMS as is but do not incorporate any separate functions or systems, e.g. CAF.
 - 4 Replace CMS and rationalise separate functions or systems into one or as few systems as possible.
 - 5 Replace CMS and integrate with multiple other functions, systems as required, e.g. Fostering.
 - 6 Replace children and adults CMS separately and integrate with other systems as required.
- 10.8 Option 4 is the preferred approach, to be met by a single, lead supplier procured (preferably) through a framework. The solution could consist of a single database instance/implementation or separate instances for Children's and for Adults (reasonably common given the differences in data stored and processes followed).
- 10.9 The solution could also consist of a partnership of two or more suppliers (e.g. to cover CMS and children's social care financials), providing the procured CMS supplier leads on the implementation and support of the solution (i.e. a single Council – CMS supplier contract set up).

11.0 Access to Information

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	28 th May 2013
Report of:	Head of Public Protection and Enforcement
Subject/Title:	Key Decision 10 - Update on the Review of Service Delivery Options – Leisure Services
Portfolio Holder:	Councillor Janet Clowes (Health and Adult Social Care)

1.0 Report Summary

- 1.1 A key decision 12/13-19 Cabinet resolved “That approval is given to the procurement and appointment of a suitable leisure and financial consultant to review the range of potential delivery models available and recommend a preferred option for leisure and related services”;
- 1.2 This report now sets out the work to date on the various potential delivery models to secure the future of leisure services. It seeks Cabinet approval for the creation of a company that will be a charitable Trust and that the delivery of leisure services will be transferred to that company. The project is in line with the Council’s three year plan: Priority six: Redefining the Council’s role in core place-based service. It is also part of the Major Change Programme “6.1: Developing new delivery model for leisure provision”
- 1.3 The Council’s leisure facilities are currently managed ‘in-house’. In line with the need to deliver efficiencies in future service provision; this report outlines the conclusions from the options appraisal work by FMG consulting.
- 1.4 The project has been reviewed by the Technical Enabler Group (TEG) on the 2nd May and its comments have been taken into account in the writing of this report. Further work has also been undertaken on the project documentation following the TEG meeting and will be presented for endorsement to the Executive Monitoring Board (EMB) on the 14th May.
- 1.5 The current service is an amalgamation of those inherited from the three former district councils including fifteen facilities: a total of nine sites have swimming pools and two have athletic stadiums. Of these, eight are joint-use community leisure facilities shared with high schools. This process also includes the Council leisure, sport and play development team as phase 1. Annual attendance visits for 2011/12 was 2.7 million. The service has 400 plus FTE staff who will transfer to the trust and in the last financial year the council invested £9.040m in the service.

2.0 Decision Requested

- 2.1 Cabinet is asked to note the findings of the options appraisal and consultation exercise that have concluded that the most appropriate model to be that of a

charitable trust. The full options appraisal report is attached at appendix A for completeness.

- 2.2 Cabinet is asked to approve the formation of the Trust and the transfer of leisure services into it with an effective target date of 1st April 2014 with the trust being established by the end of the year at the latest. In making this decision Cabinet should take into consideration sections 9 and 10 of this report and in particular 9.1. The implementation of the 1st of April assumes that they will be no significant delays in relation to critical external dependencies (i.e.- Charity commission registration)
- 2.3 Once 2.2 has been confirmed, that delegated authority be given to the Head of Public Protection and Enforcement (SRO for the project), Borough Solicitor and 151 Officer (or the officers that are devolved those powers) to implement the preferred delivery model in consultation with the Portfolio Holder and Leader of the Council.

Reasons for Recommendations

- 3.1 There is a need to achieve best value for the services that the Council directly provides and reduce net operating cost wherever possible, whilst at the same time maintaining the best possible service for its residents in line with the Council's three year plan.
- 3.2 The review of leisure facilities and the establishment of a charitable trust means that the leisure facilities will not be privatised and a trust will also help to achieve the previous point whilst also maximising opportunity for partner engagement and promoting high quality service delivery..
- 3.3 The purpose of the options report was to deliver an appraisal for leisure services and to determine the future delivery models which also include leisure, sports and play development services,. The analysis covered both the financial and non-financial implications of different management vehicles and has covered a wide range of potential options, including:
 - Continued in-house management;
 - Outsourced management – either through a private company or an existing charitable company (Trust); and
 - Establishing a new company – either charitable or non-charitable, covering the following options:
 - Unincorporated Charitable NPDO;
 - Industrial and Provident Society (IPS);
 - Company Limited by Guarantee (CLG);
 - Charitable Incorporated Organisation (CIO);

- Limited liability partnership (LLP);

- 3.4. The report has concluded that the most viable option is a charitable trust and this should be in the form of new one created by the Council.
- 3.5 In reaching this decision members should also be aware that 4 week consultation exercise has been undertaken and the evaluation of the consultation exercise shows that 62% of the responses were supportive of charitable Trust. A number of responses were also received from Schools and Parish Councils. (The full consultation analysis is attached at appendix B)
- 3.6.1 There is a requirement for the project to go through the Councils project Gateway process for review and endorsement before a recommended way forward can be presented to Cabinet. At the time of writing this report it has been reviewed by TEG and will go for EMB endorsement on the 14th May.

4.0 Wards Affected

- 4.1 All Wards are affected.

5.0 Local Ward Members

- 5.1 All Local Ward Members.

6.0 Policy Implications

- 6.1 The Council's three year plan outcome 5 –People live well and for longer- in particular that "local people have healthy lifestyles and access to good cultural, leisure and recreational facilities".
- 6.2 The Council's Business Plan identifies efficiency savings linked to Leisure services (Priority 6. Redefining the Council's role in core place-based services- 6.1: Develop new delivery model for leisure operations).

7.0 Financial Implications

- 7.1 The financial savings associated with the establishment of trust do not currently include any potential savings due to a revision of staff terms and conditions, this will be explored in more detail and any potential savings will be in addition to those that are mentioned later in this report.

The report assessed the financial implications of the outsourcing options being considered based on the following key income and expenditure areas:

- the current net direct costs of the services;
- the impact of VAT and NNDR on the different models;
- the impact arising from central support costs;

- profit, contingency and overheads;
- the impact on pension costs to the Council and operator;
- set-up costs and timescales;
- operational changes to increase revenue or reduce costs; and
- implications of including other services within the commissioning opportunity.
- The potential to work more closely with partner organisation including Town and Parish council in alternative delivery models.

7.2 The external consultant's report commissioned to review the various delivery vehicle options calculated that the trust model delivers the highest amount of annual savings for the Council with an existing trust providing a greater level of savings than a new trust. This is mainly because an established trust has lower management costs, easier access to capital funds that can be invested to generate additional income, greater economies of scale and new expertise that a new trust could not offer in the short term. This was confirmed in the net present cost modelling of each option over a 25 year period (see table below)

7.3 There is further work required to review the figures provided in the consultant's report and to investigate further costs of implementation. In particular, the additional pension costs, the impact on the Council's support services costs and further savings that could be delivered. However it is clear the NNDR and VAT savings alone present a strong business case for the move to trust status. The report indicates that a saving of 20% of net direct service costs could be saved through NNDR and VAT benefits.

	In-House £ (Base)	Private Sector £	Existing Trust £	New Trust £	New CIC £
Total 25 year cost	£94,940,205	£91,424,170	£77,234,553	£84,664,134	£105,451,700
Net Present Cost (including set-up costs)	£60,473,754	£58,516,256	£49,477,942	£54,180,446	£67,421,434
25 Year Benefit compared to base NPC	£0	£1,957,498	£10,995,812	£6,293,307	-£6,947,681

The recommendation is to establish a new trust charitable trust as this will provide an excellent level of saving and will deliver the greatest non-financial benefits to the Council, particularly in relation to strategic priorities and integration of services. All current sites within Leisure facilities will be included.

- 7.4 The total cost of implementation of the preferred model is the region of £200k and funding is already in place for this, however members should be aware that examples from other authorities have indicated that this could be as high £400k. The costs of implementation will be monitored by the project manager, within the £200k allowance has been made for external legal advice, a dedicated Project Manager and extra capacity to support the assets service. The project being delivered within this budget will depend on whether any unexpected implementation costs are incurred, the capacity of the other corporate enablers (HR, Finance, Procurement) to deliver and if a shorter time frame is required then that recommended at 2.2 then the cost will be considerably more, further work will be required to establish a clear budget for the establishment of the charitable trust.

8.0 Legal Implications

- 8.1 Unless the Council is outsourcing the service delivery to a company that is wholly controlled by Cheshire East Council it will be necessary to undertake a procurement exercise. Contracts for the provision of leisure services are "Part B" Services for the purposes of the EU procurement rules. Part B Services contracts should ordinarily be competed under EC Treaty principles where there is a realistic prospect of cross-border interest for the award. If this arises then a proportionate level of European wide advertisement and competition should be carried out in order to open up the opportunity to fair and transparent competition in the European provider market. The form of advertisement need not be by Contract Notice in the OJEU (although this is often used as an effective way of discharging this obligation).
- 8.2 As the value of the service contract exceeds £173,934, the contract is also further subject to limited application of the Public Contracts Regulations 2006 (as amended) and in particular in relation to non-discriminatory technical specifications; requirements to treat bidders equally and in a non-discriminatory way; and also to act transparently. The level of representation on the trust board cannot exceed 20% otherwise the trust cannot be seen to be independent for charitable purposes. In order to achieve the full tax benefits a charitable trust cannot be wholly controlled. This is pertinent because the only exemption from the procurement requirements is in a situation where the services are being transferred to a company that is wholly owned and controlled company (this is called the *Teckal* exemption). External legal advice has confirmed that transferring the service to a wholly owned company (the *Teckal* company) and then subsequently transferring the company into the ownership of the leisure trust would not provide a more viable route since in disposing of the *Teckal* company, the new ownership arrangements introducing private interests would invalidate the *Teckal* status of that company and therefore it would not be able to retain the arrangement

to provide services back to the Council. Indeed, the establishment of a *Teckal* body for the purposes of an imminent onward sale could in itself be considered a single linked transaction in breach of the procurement rules.

- 8.3 In the event that Council, following due diligence, concludes that there is not sufficient cross-border interest in the leisure service, it can make a direct award to a trust however this is open to challenge. If successfully challenged then the contract could be set aside as ineffective and the staff and service will revert back to the council. If a procurement challenge is brought under the Public Contracts Regulations 2006 for the award (or prospective award) then the complainant would normally only have 30 days to bring proceedings from when they first knew, or ought to have known, the grounds of starting proceedings arising. The courts have discretion to extend this to 3 months in exceptional circumstances. Therefore, market notification (in terms of a press release or award notice in the OJEU) may be sufficient to commence time running for this purpose. This may not be attractive as it would mean drawing attention to the issue but would serve as a means to flush out possible industry objection. A challenge on the basis of a judicial review of the Council's decision on the basis of compliance with the EC Treaty principles would have to commence within 3 months from when the grounds for challenge first arose.

A complainant could raise a complaint with the European Commission which would then investigate the issue with the UK government. If it is unsatisfied with the justification in response, it could ultimately refer the issue to the European Courts. Such actions would lie against the UK government (rather than directly against the Council) which could ultimately result in the member state being fined (though this is rare). There is no time-limit for such a complaint being brought to the Commission. Expert legal advice will be required in the event that the award is challenged and this will be in addition to the external legal resource already figured into the project cost. No consideration has been made as to the length of the service delivery agreement with the trust or the lengths of leases to the trust.

- 8.4 The Council will also need to consider the risk of any funding to the Trust being deemed unlawful state aid. State Aid may arise where the Council provides aid to select undertakings (any entity which puts goods or services on the given market), which has the potential to distort competition and affect trade between member states of the European Union. The outsourcing of Glasgow's leisure and cultural services to a leisure trust was for example formally challenged on state aid grounds; the challenge was however turned down by the European Commission. It will be important therefore to ensure that state aid is properly considered as part of the decision making over the structure of the arrangements.
- 8.5 If service delivery is transferred to a trust the Council will not maintain influence over decision making and it will not be able to depend on transferring further services should it decide to do so in the future. At school

sites the council has joint use agreements in place with the schools and these will need to be honoured by the trust.

- 8.6 As the trust will be completely separate entity to the council it will have its own governance and approval process, the only representation the council is permitted is an allocation on the board of less than 20 percent a balanced trust board including elected members and senior officers would allow the Council to retain a good degree of strategic control, ensuring service delivery is aligned with the priorities of the Council.
- 8.7 A detailed outcome specification and performance management system will ensure services are focused on the priorities of the Council and local residents, with any management fee linked to the delivery of agreed outcomes.
- 8.8 Transferring the service delivery to an arm's length company such as a Trust will trigger a TUPE transfer of employees who are working in or for the leisure service immediately before the transfer.
- 8.9 The council will have to undertake the necessary due diligence to identify which employees have the right to transfer to the Trust and to be able to provide the necessary employee liability information in accordance with the TUPE regulations. The Council and the Trust will also have to comply with the Regulations consultation requirement which stipulates that consultation on changes to terms and conditions (measures) needs to be conducted in good time before the transfer. In "good time" is not defined in the regulations but a comparison is usually drawn with the timescale for redundancy consultation which is 45 days.
- 8.10 As part of the project the review of employment terms and conditions will be undertaken to ensure the future success of the trust in the leisure market.
- 8.11 Specialist pension/actuary advice will be required on pension issues and confirmation of the potential bond costs will need to be established which could be considerable in relation to the transferring staff. The Trust may well also see an increase in the employer contributions of the employees post transfer. If the Trust chooses not to offer access to the LGPS pension for any new starters it will also have to seek expert pension advice in relation to what pension fund to offer new starters and the required implementation and associated costs.
- 8.12 As part of the implementation plan, the board of trustees will be appointed and this board will become responsible for forming and recruiting to the management structure of the Trust.

9.0 Risk Management

There are number of risk associated with the project, these are captured in detail along with mitigating actions as a part of the Project governance, the

below represents the pertinent ones that it is felt necessary to bring to the attention of members.

- 9.1 Early and continued engagement with trade unions and the existing workforce even at this early stage will be key to successfully delivering the outcomes of the review and also in transitioning to a new delivery model.
- 9.2 Early and continued engagement will also be required with the Cheshire Pension fund in relation to the actuary reports required in relation to the transferring employees, bond requirements and pension changes and the completion of a Pension Admission Agreement Cheshire pension fund are already aware of the request and once a decision is made then they will be formally instructed to commence the work
- 9.3 The creation of the Trust well in advance of the anticipated transfer of Service date to ensure that the Trust is able to undertake all the necessary preparatory steps prior to the transfer and to engage in the necessary consultation both with the employees and the Council.
- 9.4 Considerable Input from Legal and Assets Services will be need to ensure the Council's ownership is protected in order to secure the future use of the assets for leisure and recreational purposes, members of staff from legal service form part of the project and allowance has been made within the implementation costs for the required assets work to be carried out.
- 9.5 There will be a number of Procurement issues that will need to be considered further as part of the in-depth review of the preferred delivery model, these will include current regulations that address asset and service transfer;
- 9.6 Guidance suggests that there are different routes depending upon whether the asset is to be transferred or a service is to be transferred.
- 9.7 The ongoing issues with the Council's physical asset stock mean that major investment will be required in the near future to deliver the Lifestyle Hubs. This level of major asset work can be incorporated into any future delivery model, but it is more complex if a private outsourcing model is selected due to the contractual nature of the relationship with a third party provider and this is compounded if the likely outcome of the asset strategy is unknown when the contract is entered into. This will be further explored as part of the review.
- 9.8 In order to achieve the fiscal benefits of a trust model, it is also likely that the existing and any future leisure facilities will be leased to the company, with appropriate safeguards around facility maintenance and service delivery.
- 9.9 Whilst a different delivery model could realise revenue budget savings in relation to changes in VAT status, care will need to be taken in respect of arrangements for future capital investment (i.e. to avoid incidence of significant irrecoverable VAT on developments).

- 9.10 Should a procurement challenge be successful and therefore the Charitable Trust is not an option the fall back position, would be the creation of an organisation under the Teckal exemption (or other option)
- 9.11 Currently the shared services SLE is being established and once this has been implemented, there may be an obligation on the Council / Trust to continue using the shared services arrangements on interim basis, and therefore savings from this element may take longer to realise- the final decision on the provider of these services will be made by the Trust.
- 9.12 Similarly the impact on the councils other support services associated with this service will need to be managed effective as part of the project. This will ensure the trust retains the necessary expenditure and staff resources to deliver the core business whilst reducing the likelihood of any residual overhead remaining with the council.

10.0 Background and Options

- 10.1 The establishment of a trust to deliver leisure operations was considered in the early life of CEC and was deemed to be the preferred delivery model at that time. The report has concluded that this is still the most appropriate option.
- 10.2 Further consideration will be given to the range of services that will constitute the makeup of the potential trust but the first phase will be the whole of the Leisure facilities services including the leisure, play and sports development service
- 10.3 Initial advice has indicated in financial terms, that a transfer of leisure facilities either via a new trust or existing trust model is likely to provide the greatest potential for savings. In non-financial terms the service and community benefits associated with a trust model provide a clear driver for setting up a new trust that can become a strong delivery vehicle across leisure and other services in the future.

Action Plan for implementation

- 10.6 In order to implement a delivery model, there is a large amount of documentation to be prepared and legal requirements to be met. This will require a specialist dedicated Project Manager with in-depth knowledge of the area and a dedicated internal project team will be needed, with this in place the preferred model should be achieved in time for the next financial year.
- 10.7 The key elements of the implementation of the trust and in order to achieve this ambitious timeframe being:
- Appointment of Board Members by the- 1st September 2013
 - Appointment of CEO and Management Team- 1st November 2013
 - Asset Surveys & Leases completed – 31st January 2014
 - Drawing up of SLA and Performance specification – 1st February 2014

- Registration with Charities Commission confirmed 28th February 2014
- Completion of Trust Business Plan- 28th February 2014
- Trust becomes fully operational- 1st April 2014

11.0 Access to Information

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MANAGEMENT OPTIONS APPRAISAL

CHESHIRE EAST COUNCIL



A

REPORT

BY

FMG CONSULTING LTD

APRIL 2013

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1. Introduction

Background

- 1.1 In February 2013 Cheshire East Council ('the Council') appointed FMG Consulting Ltd ('FMG') to undertake a management options appraisal for the future delivery of its leisure services, covering both leisure facilities and development services. The brief was subsequently expanded to include certain cultural and green space facilities / services.
- 1.2 Cheshire East is a unitary authority area with borough status which was established in April 2009 as part of the Local Government Reorganisation (LGR) process following the abolition of Cheshire County Council and the Borough Councils of Congleton, Crewe & Nantwich and Macclesfield.
- 1.3 The Council has recently taken the decision to become a "Strategic Commissioning Authority" to reflect the changed local government landscape of reduced expenditure and a greater focus on localism. This change has resulted in a need to review the future leisure, cultural and green space management options across a wide geographical area and ensure that the chosen management vehicle is fit for purpose to manage the variety of facilities currently in existence.
- 1.4 Following on from previous work examining the most appropriate leisure management options for the Council in 2009, FMG has been commissioned to provide an updated assessment of the delivery / management options for leisure and how this may link with the cultural and green spaces services taking into account the need to provide the services in the most cost effective manner whilst maintaining quality and reflecting Cheshire East's unique circumstances. Where relevant, this study therefore draws on information from the 2009 report to supplement the additional work undertaken as part of this study.

Scope of the Study

- 1.5 This options review considers the most appropriate options for the commissioning of the leisure service. The following leisure facilities are included within the review:
 - Crewe Swimming Pool;
 - Nantwich Swimming Pool;
 - Barony Sports Complex, Nantwich;
 - Shavington Leisure Centre;
 - Sir William Stanier Leisure Centre;
 - Victoria Community Centre, Crewe;
 - Middlewich Leisure Centre;
 - Holmes Chapel Leisure Centre;
 - Sandbach Leisure Centre;
 - Congleton Leisure Centre;
 - Alsager Leisure Centre;
 - Macclesfield Leisure Centre;
 - Wilmslow Leisure Centre;
 - Knutsford Leisure Centre;
 - Poynton Leisure Centre.

- 1.6 There are currently proposals in place to create new Lifestyle Centres which combine a range of leisure, library and adult day care services on single sites throughout the Borough. The proposed phasing and revenue implications of these developments are factored into the scope of this study and analysed within the financial implications section of the report.
- 1.7 All of the leisure facilities are currently operated directly by the Council which also funds the annual operational deficits. In addition to examining the most appropriate future delivery option for the leisure service, the study considers the viability of packaging the cultural and green space services (also currently operated in-house) within any potential commissioning process.
- 1.8 Following discussions with the Council, the full range of potential services that could be included within the commissioning opportunity for the leisure facilities are set out in table 1.1 below.

Table 1.1 - Potential Additional Commissioned Services

Service	Service Elements	Potentially In-Scope?
Leisure Facilities	Lifestyle Centres	Yes
	Dual-Use Centres	Yes
	Business Support Team	Yes
Sports & Play Development		Yes
Health Improvement Unit		No - retained within CEC, due to links with emerging Public Health remit
Community Halls	5 community halls	Yes
Green Space	Parks and Open Spaces	Yes
	Countryside	Yes
	PROW	Yes
Arts & Cultural Services	Archives & Local Studies	No - managed on contract by Cheshire West & Chester Council
	Youth Theatres	Yes
	Lyceum Theatre	No - managed on contract by HQ Theatres
	Knutsford Cinema	No - long lease to Curzon Cinemas
	Museums	Yes

- 1.9 As noted in paragraph 1.1, the study focusses on the leisure facilities as the main income generator and core focus of the commissioning project. However, the financial analysis and evaluation of options assesses the viability of packaging the leisure facilities management together with these other services and facilities.

Methodology

- 1.10 Our approach to the study comprised the following key tasks:

- A review of the relevant national and local strategic documentation;
- Review of the current financial and non-financial performance of the service, including site visit and a benchmarking exercise to analyse facility performance against industry benchmarks;
- An informative options presentation to members to make them aware of the possible options available and elicit initial feedback;
- A detailed options appraisal and production of an implementation plan.

Report structure

- 1.11 The draft report is structured as follows:

- Section 1 - Introduction;
- Section 2 - Local and Strategic Context;
- Section 3 - Leisure Facilities Performance Overview;
- Section 4 - Options Review;
- Section 5 - Legal Implications;
- Section 6 - Risk Analysis;
- Section 7 - Financial Implications;
- Section 8 - Evaluation of Delivery Options;
- Section 9 - Summary and Recommendations; and
- Section 10 - Implementation Plan.

Basis of information

- 1.12 It is not possible to guarantee the fulfilment of any estimates or forecasts contained within this report, although they have been conscientiously prepared on the basis of our research and information made available to us at the time of the study. Neither FMG as a company nor the authors will be held liable to any party for any direct or indirect losses, financial or otherwise, associated with any contents of this report. We have relied in a number of areas on information provided by the client, and have not undertaken additional independent verification of this data.

2. Local and Strategic Context

Introduction

- 2.1 This section of the report provides background and context to the study by reviewing:
- local demographic information and future population growth estimates to understand the current population profile and how this may change in the future; and
 - the national and local strategic context information of relevance to local service delivery.
- 2.2 The intention is to identify key factors impacting on the current facilities and services and understand the future priorities, targets and changes that will impact on the management of the services / facilities in the future.

Demographic profile

- 2.3 Cheshire East has a total population of 370,127 over an area of 1,158km². The breakdown of the ages within Cheshire East in the 2011 Census indicates that the population is ageing, with the age groups from 45+ years all represented at levels above the national average.
- 2.4 Cheshire East has a lower than average proportion of both male and females in all age groups from 15 to 34. The relatively low proportion of people of working age and relatively high proportion of older people has implications for the housing needs of the population and for the future economic prosperity of the Borough.
- 2.5 The Local Plan includes statistics that project an increase in population to 384,000 by 2029. The forecasts also predict that the population aged 65 and over will increase sharply (by 59 per cent) during the period 2009 to 2029. Additional housing will be required to cater for this demand with the largest increases in the population number being in the major towns of Crewe and Macclesfield.
- 2.6 The Annual Population Survey 2011 calculates that the unemployment rate in Cheshire East is significantly below the regional and national average. In Cheshire East, 10,600 were classed as unemployed, this equates to 5.8% which is low compared to an average of 7.8% in the North West and 7.5% across England.
- 2.7 Life expectancy in Cheshire East is higher when compared with the national average. Males have a life expectancy of 79.1 years compared to 78.3 years nationally, while females live to an average of 82.7 years compared to 82.3 years nationally.
- 2.8 According to the Census, 82.3% of Cheshire East are classed as being in 'very good health' (49.1%) or 'good health' (33.2%), with 12.8% classed as being in 'fair health'. This is positive compared to the national statistics for England where 81.4% are classed as being in 'very good health' or 'good health'. The statistics also show that 3.8% of the local population are classed as in 'bad health' with 1.1% in 'very bad health'. These figures are both below the national average figures for England of 4.2% and 1.2% for 'bad health' and 'very bad health' respectively.

- 2.9 In terms of obesity, data suggests that the number of adults in the Borough that are classified as obese is circa 63,100 or 21.7% of the adult population. This is below the national average where it is estimated that 24.2% of the population are deemed to be obese. In relation to children, the level of obesity is 18.5% in Cheshire East which is also marginally below the national position of 18.7%.

Sport England Key Performance Indicators

- 2.10 Sport England, the Governments agency for sport measure 5 key areas in relation to sport activity in the Active People Survey. The table below sets out the performance of the Borough compared to the North West and England, taken from Active People 6. (Please note however that Active People involves telephone sampling a maximum of 500 people in the Cheshire East area out of a total population of in excess of 370,000, so is an approximate measure only).

Table 2.1 - Comparison with Sport England KPIs

	Cheshire East	North West	England
KPI1 - 3x30 Physical Activity per week	16.7%*	17.1%*	16.3%*
KPI2 - Volunteering at least one hour a week	8.3%	7.3%	7.6%
KPI3 - Club Membership in the last 4 weeks	22.2%	21.7%	22.8%
KPI4 - Received tuition / coaching in last 12 months	18.4%	15.0%	16.8%
KPI5 - Took part in organised competition in last 12 months	15.3%	13.2%	14.4%

*This information is from APS5, relevant information from APS6 is not available.

- 2.11 It can be seen that participation (measured at 3 x 30 minutes per week) at 16.7% is above the national average (16.3%). However, the figure is below the North West regional average (17.1%). This trend is reversed for club membership levels. Volunteering, receiving tuition / coaching and organised competition are all above both the regional and national averages. When analysed in more detail, receiving tuition / coaching is most significantly above the averages at 18.4%, compared to 15% in the North West and 16.8% in England.
- 2.12 Table 2.2 shows the trends between 2010 and 2012 for each of the five key performance indicators. The colours represent the change from the previous year, with green indicating a positive increase and red a decrease in performance. The information is only available from 2010 due to the creation of the Unitary Authority Cheshire East in 2009.

Table 2.2 - Trends for Cheshire East in Sport England KPIs

Indicator	2010/11	2011/12
KPI1 - 3x30 Physical Activity per week observed	19.8%*	16.7%*
KPI2 - Volunteering at least one hour a week	6.3%	8.3%
KPI3 - Club Membership in the last 4 weeks	26.5%	22.2%
KPI4 - Received tuition / coaching in last 12 months	17.9%	18.4%
KPI5 - Took part in organised competition in last 12 months	14.5%	15.3%

*APS5 data therefore 2009/10 and 2010/11 data.

- 2.13 It can be seen that in the Active People Survey 5 data for 3 x 30 minute physical activity participation has reduced from 19.8% in 2009/10 to 16.7% in 2010/11.
- 2.14 For the remaining KPIs that use the Active People 6 survey (the last published measured year being 2011/12), volunteering, tuition / coaching and organised competition have all increased from the 2010/11 results, with volunteering significantly increasing from 6.3% to 8.3% in a space of a year.
- 2.15 Club membership is the only performance indicator in APS6 that has shown a decrease in the 2011/12 results. The figures have significantly dropped from 26.5% in 2010/11 to 22.2% in 2011/12.

What does this mean for Cheshire East?

- The local population will increase over the next 15+ years which will result in additional potential users for the facilities but also highlights the need to ensure facilities and services are fit for purpose and can cope with the increased demand.
- The local population appears to be healthy and relatively active, although there are still improvements that could be made in participation levels. This emphasises the need for a modern and efficient management service which continues to offer a varied programme of activities, in modern and value for money facilities, to contribute towards increasing the healthy living of residents in Cheshire East further still.
- The elderly age profile of the Borough (which is projected to become more pronounced over the next 15+ years) may impact on income from some activities and presents specific challenges that need to be addressed in terms of ensuring programming and facilities cater for all age groups within the Borough. This will be particularly crucial as the challenge for local authorities to increase participation and improve public health will be more important (and perhaps more difficult) than ever in an ageing population.

Cost of inactivity

- 2.16 Sport England commissioned the British Heart Foundation Health Promotion Research Group at Oxford University to prepare estimates of the primary and secondary care costs attributable to physical inactivity for PCTs across England. This built upon work previously undertaken on behalf of the Department of Health in 2009.
- 2.17 The cost of inactivity per 100,000 people in Cheshire East has been identified as £1.79m pa. Extrapolating this to the total population of 370,000 identifies a cost per annum of £6.62m for primary and secondary care. There is therefore clearly a significant opportunity to reduce this annual cost through increasing participation amongst Cheshire East residents.

Strategic Documentation Review

- 2.18 A headline review of key national and local market context information of relevance to local service delivery has been undertaken to identify key factors impacting on the suitability of the different management options locally.
- 2.19 We have set out below a summary of the key implications for this study from the strategic documentation review. The detailed analysis of each document and the implications for this study are contained in Appendix A.

Strategic Documentation Review - What does this mean for Cheshire East?

- There is a priority, both nationally and locally, to deliver improved services more efficiently. The government is pushing for decentralisation of service delivery through commissioning and increased involvement of local community groups. This study needs to fully consider how best the management vehicles could help enable this.
- Major financial savings are required across the Council with leisure and culture budgets and associated management and staff numbers targeted for significant savings over the next three years. This study will need to identify the management model that is best placed to deliver these savings whilst still ensuring that the Council's non-financial strategic goals can be achieved and the service quality for the community is not negatively impacted.
- Leisure has a major role to play in Cheshire East in reducing anti-social behaviour and improving health, particularly in light of the ageing population profile. Whatever future management arrangements are proposed need to ensure that this focus is not lost at the expense of a profit-driven service. The evaluation section of this study should reflect this priority when assessing the available management options.
- The population is projected to increase in the Borough up to 2030 so the quality and range of services and facilities on offer will need to be sufficient to cater for the increased demand, particularly bearing in mind the need to also improve the financial cost of the service whilst the population profile becomes older (and potentially less likely to participate).
- The Council sees its leisure facilities as a priority and is considering investing in them through the provision of Lifestyle Centres. Any developments will need to take account of the town centre first focussed development strategy and the need for investment in Crewe in particular, as evidenced by the identification of capital funds for the new Lifestyle Centre within the three year capital budget.

3. Leisure Facilities Performance Overview

Introduction

- 3.1 In order to understand how the leisure facilities are performing, a high level analysis of income, expenditure and performance information has been undertaken. This enables the identification of any significant trends and comparison of headline figures against FMG's in-house performance database, so that we can establish what scope there may be for performance improvement. This will inform which delivery vehicle may be best placed to deliver service improvement in the future.
- 3.2 The section provides an overview of the key findings, whilst the detailed analysis of net direct cost of operating the facilities and then benchmarks for key income and expenditure areas against FMG's in-house database of national key performance indicators (KPIs) are contained in Appendix C.
- 3.3 It should be noted that, whilst KPI analysis provides a useful comparison between facilities and against national benchmarks, it is not appropriate to make decisions based solely on the KPI outcomes, as the key issue is whether services are being maximised locally, not simply how they compare nationally. Considering the numbers in isolation does not take into account site specific issues such as local competition, the operational philosophy, the age, quality and design of facilities, any wider community programming restrictions due to "joint use" agreements involving schools, levels of integration of sports development and the demographics of an area. Also, direct comparison between the Council's leisure facilities should be treated with some caution as they are located over a wide geographical area with a diverse range of demographic and economic characteristics within their respective catchment areas.

Net Direct Cost of Facilities

- 3.4 This part of the report is intended to focus on the net direct operational cost of the leisure facilities. This does not cover the whole cost of the service which is dealt with in the Financial Implications Section of the report (Section 7).
- 3.5 The figures used to assess the net direct cost of the facilities and to analyse performance against benchmarks are 2011/12 actuals as these were the most recent figures from a complete financial year.
- 3.6 Table 3.1 sets out the net direct cost of the Council's leisure facilities for the 2011/12 financial year.

Table 3.1 - Net Direct Cost of Leisure Facilities

	2010/11	2011/12
Total Income	(£5,412,510)	(£5,615,186)
Total Expenditure	£8,586,617	£8,927,514
Net Direct Cost	£3,174,107	£3,312,328

- 3.7 It can be seen that the net direct cost of the facilities in 2011/12 was circa £3.31m.

Summary of Leisure Facility Performance

- 3.8 We have reviewed the financial performance of the leisure facilities based on the figures provided by the Oracle finance system with cross-reference to the income figures contained within the onsite system where appropriate. Performance has been compared against national benchmarks produced from FMG's database of leisure centre operational performance data. The key findings from this review are as follows:
- It appears that the net direct cost of operating the facilities in 2011/12 increased by £139k from 2010/11 to £3.31m. Income increased by £203k during this period however expenditure also increased by £342k. These figures should be treated with some caution as there are a number of discrepancies that the finance team are investigating regarding the recording of income for 2011/12 with circa £200k unaccounted for between the onsite till system and the Oracle finance system. In addition, the Council also introduced additional staffing costs (est at £325,000 for 5 months) in the financial year 2011/12 associated with re-introducing paying time and half for hours worked at weekends;
 - The leisure facilities in Congleton, Macclesfield and Wilmslow were the three most expensive facilities in terms of net direct operating cost in 2010/11 and 2011/12. This is perhaps not surprising as all three facilities include swimming pools which often result in increased operational costs and these facilities include higher levels of staffing (lifeguards etc) for which the costs have also been affected by the costs of implementing Council single status through paying time and half at weekends. This point is supported by the fact that the lowest operating cost facilities are Barony Park Sports Centre, Shavington Leisure Centre and Holmes Chapel Leisure Centre which are all dryside only facilities.
 - Some facilities, and in particular those that share leisure programme time allocations with an onsite high school and associated primary schools such as Middlewich, Sandbach Sir William Stanier & Holmes Chapel Leisure Centres and also Barony Sports Complex perform below benchmark levels for income generation. With the exception of Barony, all of these facilities have limited access for community use during the day (Monday to Friday) throughout the normal school year. None of these facilities have a swimming pool which always generates higher levels of public use and therefore higher levels of income. Middlewich was also adversely affected in terms of income in 2011/12 by the lack of any access to the floodlit astro-turf pitch which had been withdrawn from use by the High School pending the construction of a new replacement facility. The lower levels of community use possible at such smaller joint use sites supports the Council's considerations in relation to transferring these facilities where possible and appropriate back to the respective schools following expiry of the existing joint use agreements.
 - The best performing facilities in terms of income generation are those at Crewe Swimming Pool, Nantwich Swimming Pool, Macclesfield Leisure Centre and Wilmslow Leisure Centre. None of these facilities have the same restrictions on programming and income that occur where the facility is jointly provided with a high school.
 - Income per visit is below benchmark across the whole portfolio which is in line with the Council's corporate strategic aims to give priority to young people, the elderly and those with disabilities. We understand that headline prices have been benchmarked against nearest neighbours and are already at the higher end of comparisons, however, over a

third of all attendances are young people 16 years and under and with a further 150,000 total attendances amongst those 60 years or over. Both high priority target user groups for the Council and those that receive significant subsidies through discounted fees and charges for using the facilities.

- Health and fitness income is generally below expectations however the dual-use nature of the facilities as indicated above, the small size of some of the fitness suites and value for money pricing will be contributing factors to this. The average number of members per station across the portfolio is only 17 compared to an industry average of circa 25 which indicates that the majority of gyms have additional capacity (a latent demand report would need to be procured to confirm this). The exceptions to this are Crewe and Nantwich Swimming Pools which have 27 and 36 members per station respectively. These are the two best performing facilities in terms of income per station and are closer to the £5k - £6k income per station level which we would expect to see from an in-house operation. **However, it is important to note that the Council has recognised this and we understand that the significant recent developments over the past 12 months at Wilmslow, Macclesfield, Shavington, Crewe, Knutsford and Sandbach (alongside minor improvements to equipment at Holmes Chapel, Alsager and Middlewich) has had a significant positive impact on income generation and membership levels, such that the 2012/13 financial performance will be in line with or exceed industry benchmarks in most cases - this clearly supports the benefits of investing in a 'quality' offer and supports the plans for upgrades at Nantwich Pool (nearly complete), Congleton, Poynton and a further more significant upgrade, at Alsager and Sandbach.**
- Swimming and sports hall income compared to benchmark is reasonable in a number of the facilities. The leisure centres at Macclesfield and Wilmslow in particular are performing close to / above benchmark for both of these KPIs. If the additional VAT benefits that a trust operation can access were factored in, many of the facilities would be performing close to the benchmark level in these areas. There are however, a number of facilities (smaller joint use centres in particular, due to the inherent restricted daytime community access required by the shared arrangements with a high school) that perform significantly below benchmark for sports hall income which leads to questions about the need to continue operating all of the dual-use facilities which mainly offer large, 6 court sports halls. This analysis supports the Council's long-term thinking around the asset planning for rationalisation and the provision of new Lifestyle Centres.
- Performance against expenditure benchmarks is below expectation, particularly in relation to staffing costs which are often over 100% of income at many of the facilities - however, this is clearly impacted by the decision regarding enhancements, which we understand added £325,000 for 5 months of 2011/12 and has added c.£750,000 in the current year. This is also reflected in the fact that the overall cost recovery percentage is below benchmark across all facilities with the exception of Shavington Leisure Centre and Macclesfield Leisure Centre.
- Utilities costs are reasonable at many of the facilities considering the age of the asset stock however there are some facilities where the utilities costs should be interrogated to understand the reasons for the high costs compared to the benchmark level. Knutsford, Poynton and Sandbach Leisure Centres are all dual-use facilities which have very high utilities costs although this could be partially attributable to the lack of ability to accurately split utilities consumption / costs between the school and the leisure centre elements which may lead to some degree of subsidy of the schools premises being incurred by the Council via the leisure service. The utilities costs for the dual use Middlewich Leisure Centre in particular are above the benchmark level which is a

concern because this dual-use facility does not have a swimming pool (although the same issue may apply as at the other dual-use facilities). Finally, Nantwich Swimming Pool has high utilities costs at £61 per square metre. These high utilities costs may be partially related to the provision of the heated outdoor pool.

- Maintenance expenditure is below benchmark across the portfolio which could be looked at as a positive in terms of controlling expenditure however is a concern if the upkeep of the assets is not being invested in for financial reasons as it will lead to long-term increases in major maintenance issues and reductions in income due to increased service disruptions and user dissatisfaction / attrition rates. It is noted that maintenance expenditure appears to have decreased significantly between 2010/11 and 2011/12. The responsibility for the maintenance budget now resides centrally with the asset management team. It is crucial that maintenance expenditure does not decrease further still (unless there is a clear plan for long-term disposal of an asset) as the resulting savings in expenditure are likely to be negated by reductions in income and increased long-term maintenance problems.
- Although there is some marketing spend in the individual cost centres for some of the leisure facilities the amounts are negligible and so have not been recorded in table 3.18. Marketing spend is not allocated per leisure centre as there is a central marketing team which works across all of the leisure facilities. The marketing team spent £39,353 in 2011/12 on marketing activities (this does not include the cost of the staff time i.e. their salaries and wages or associated expenses). Adding on the £1,502 spent on-site results in a total marketing spend of £40,855. This is the equivalent to 0.7% of income and is low when compared to the benchmark of 2.1%. This may be one of the contributory factors as to why performance against the income KPIs was predominantly below the benchmark levels across all of the facilities.
- It is acknowledged that the financial performance at some of the leisure facilities is understated because the true level of income and costs relating to school dual-use status and long-term hire of rooms by the Adult Services team are not accurately reflected in the levels of income / recharges allocated to each facility. This would impact positively on a number of KPIs and overall financial performance if accurate recharges were included.

4. Options Review

Introduction

- 4.1 Having outlined in sections 2 and 3 the current 'offer' and financial performance, the remainder of the report focuses on future provision, starting with an overview of the different options available generally for management of leisure & culture.
- 4.2 There are a number of different management options available for the Council to consider, each with their own advantages and disadvantages. It may be that one model covers all the facilities and services or that specific models will suit some of the facilities / services and not others.
- 4.3 We have grouped the management options under consideration as follows:
- Continued in-house management;
 - Outsourced management - either through a private company or an existing charitable company (Trust); and
 - Establishing a new company - either charitable or non-charitable trust
- 4.4 The text in this section provides a description of each option, their key characteristics and relative advantages and disadvantages.

In-House Management

- 4.5 This option involves the retention of the Council's existing management model, potentially with some operational efficiencies and improvements made in order to generate financial savings and improve performance. Although this model will be very familiar to the Council, we have set out the key features and advantages and disadvantages to allow proper comparison with the alternative options.
- 4.6 The key characteristics of continued in-house management by the Council are as follows:
- the Council takes direct responsibility for the management and operation of the facilities and services;
 - any staff employed in the operation of the facilities are employed by the Council;
 - the Council gathers all income generated by the facilities;
 - the Council is responsible for all expenditure incurred in the delivery of the services;
 - the services continue to use the central support services of the Council;
 - the operating risks of the services remain with the Council;
 - the maintenance of the assets remains with the Council;

- there are no set up costs associated with this option and no timescale issues.

4.7 The table below sets out the advantages and disadvantages of in-house management.

Table 4.1 - In-house management - advantages and disadvantages

ADVANTAGES	DISADVANTAGES
The Council retains complete strategic and day to day control of services	The Council misses out on potential revenue savings from NNDR relief and VAT
The Council retains professional and operational expertise of services' management and staff	The Council retains liability for the operational performance of the services
Workforce remain within the local government framework and pension scheme (as appropriate)	The Council retains liability for the capital maintenance costs associated with the facilities and any capital funding requirements
Shares central support costs with other departments	Misses opportunity to improve management of the services by accelerating decision-making processes and providing greater autonomy to staff
Cross-relationships with other local authority services	Can have limited access to entrepreneurial spirit and flair (risk and reward)
No set-up costs or lead-in time required	Limited access to the benefits of developing new opportunities and from economies of scale

Summary of In-House Management

4.8 Under this option, there is no change, unless the Local authority can consider other self-financing investment options, the rationalisation of facilities or an operational review to improve the financial position. This solution will not address the risk transfer issues, provide a single focus for the service or protect the service from likely service cuts that will face local government over the coming years.

Outsourced Management

- 4.9 If the Council was to outsource the management of the service(s) through a procurement process, there would be likely to be two types of bidders:
- private sector organisations (often using 'hybrid' trusts); and
 - existing charitable organisations (trusts).
- 4.10 These two types of organisations have different structures, characteristics and advantages and disadvantages, however would be likely to be directly competing for the right to deliver the service(s) should the Council choose to outsource to an external organisation through a procurement process.
- 4.11 The third option to outsource the leisure facilities presented in this section is via a trade sale of the assets to an existing private sector commercial operator such as Virgin Active. This would usually be achieved through a property transaction rather than a procurement process.

Private Sector Management

- 4.12 Following the introduction of Compulsory Competitive Tendering (CCT) to sport and recreational services in 1989, a number of companies were set up to respond to the opportunities of CCT in operating and managing public leisure facilities.
- 4.13 Since then, there are a number of private companies that have emerged to operate in the public sector sport and recreation market managing facilities and services on behalf of local authorities under contract. These include, by way of example, DC Leisure, Parkwood Leisure, Leisure Connection, SLM and Serco Leisure plus others.
- 4.14 The key characteristics of private contractor management are as follows:
- the Council would be the "client" and would manage operations under a contract agreed by both parties which would include a specification and performance measurement system;
 - the management opportunity would typically be defined by a number of key heads of terms, including:
 - a fixed contract term (typically ten to fifteen years);
 - a management fee payable by the local authority to the contractor (potentially incorporating surplus share arrangements); and
 - a service specification setting out the Council's requirements in respect of the delivery of the management services (typically including aspects such as pricing, programming, customer care, cleaning, opening hours, maintenance and quality management).
 - the contractor undertakes management of the facilities, gathering all income generated by the facilities and being responsible for the majority of costs incurred by the facilities;

- typically, the Council would retain some responsibilities (usually in respect of structural repairs and maintenance) and incur costs in respect of these responsibilities;
- staff are employed by the private contractor via a transfer under the TUPE regulations;
- the operating risks of the services are transferred to the contractor. The contractor would incorporate its own profit (risk) margin within the management fee agreed with the Council and achieves this profit margin by delivering the projected financial performance;
- the Council would monitor the operational performance and service standards delivered by the contractor, such that any failures to perform may be subject to financial deductions;
- the private contractor will use their own central support costs and will not need to use those of the Council, which potentially has an impact on the central resources of the Council.

Hybrid NPDO Management

- 4.15 In recent years, most of the established private management contractors have started to offer a "Hybrid NPDO" management model (and some also offer charitable models). This model is a legal vehicle with charitable objectives, which can access discretionary NNDR benefits, but is not a charitable company or provident society and not recognised by the Charity Commission, thus removing the opportunity for any significant VAT benefits.
- 4.16 As with private sector contract management, the Council could enter into a management arrangement where some of the management of the facilities and/or services are subcontracted to the NPDO. Under such circumstances, the Council could benefit from revenue savings provided by this model through discretionary NNDR relief (75% saving on NNDR costs).
- 4.17 However, discretionary rate relief, as accessed by the Hybrid Trust option, provides a lower level of NNDR savings than the Charitable NPDO option (as outlined later in this section). Further to this, it should be noted that, due to the government's Business rates Retention Scheme which is being introduced in April 2013, the fiscal benefit from NNDR savings is likely to be less of an advantage to local authorities over the next 7 years until 2020. This issue is discussed in more detail in the financial implications section of this report.
- 4.18 The hybrid organisation may also benefit from additional grant and sponsorship opportunities as external organisations are probably more likely to grant-aid and/or sponsor a NPDO than the local authority itself.
- 4.19 Currently, the hybrid structure would not benefit from the potential savings generated by the different treatment of VAT within a charitable management structure due to the fact that the Hybrid NPDO is not viewed as a registered charity.
- 4.20 The advantages and disadvantages of the Hybrid NPDO option are broadly the same as the private contractor management option, as set out in the table overleaf. The only discernible difference is that the hybrid option offers additional NNDR savings as detailed above.

Table 4.2 - Advantages and disadvantages of private contractor management

ADVANTAGES	DISADVANTAGES
Contractor likely to maximise opportunities for income generation and economies of scale	The Council no longer manages day to day operation of the facilities and services (reduced control)
The Council is likely to be able to transfer considerable operational risk over to the private contractor	Contractor may prioritise commercial rather than social objectives e.g. profit (unless stipulated in the contract)
Broader expertise and experience of the private contractor	Potential loss of community focus (unless stipulated in the contract)
Access to capital finance to provide investment into facilities and services	Staff are transferred to the private contractor under TUPE, although pension benefits may be comparable only
The Council can enter into a long-term contract with performance guarantees	Capital finance can be more expensive than that provided by the public sector
The Council has greater certainty of cost in relation to the on-going revenue subsidy	

Use of an Existing NPDO

- 4.21 Where the Council decides not to set up a new NPDO but wishes to obtain some of the fiscal advantages associated with a NPDO structure an alternative option is to use an existing NPDO that has already been set up by another party.
- 4.22 There are many existing leisure trusts that have been set up by other local authorities and, once established, have started bidding for new contracts in other local authority areas. Examples include Greenwich Leisure Limited, North County Leisure, Fusion Lifestyle Ltd and Freedom Leisure. Many of these organisations also operate cultural facilities such as community halls and theatres and some, such as Wigan Leisure and Culture Trust or Rochdale Link for Life, were specifically set-up to offer a full range of leisure, cultural and green space services.
- 4.23 This option provides a similar fiscal solution to the new NPDO option (which is outlined later in this section) without the set up costs, but also provides the benefit of sharing risks across other leisure contracts that the NPDO holds and their associated economies of scale (similar to the private management option but normally on a smaller scale).
- 4.24 The key characteristics of management by an existing NPDO are as follows:
- responsibility for the management of the leisure facilities is transferred using a contract and specification;

- the NPDO would typically be a registered charity with a board of voluntary trustees and is independent of the Council;
 - the Council would lease the facilities to the NPDO and would typically provide an annual management fee to the NPDO, reflecting the likely operational subsidy of the facilities;
 - any staff employed to manage and supervise the facilities would be employed directly by the NPDO and transferred under the TUPE regulations;
 - the NPDO undertakes management of the facilities, gathering all income generated by the facilities and being responsible for the majority of costs incurred by the facilities;
 - typically, the Council retains some responsibilities (usually in respect of structural repairs and maintenance) and incurs costs in respect of these responsibilities;
 - the operating risks of the services would transfer to the NPDO.
- 4.25 NPDOs have become very popular for the public sector seeking to achieve VAT and NNDR savings. A Charitable NPDO would be able to access mandatory NNDR relief which can be topped up with discretionary rate relief which the Council have the option to grant.
- 4.26 However, the ability for NPDOs to generate significant capital funding, without a track record, is not yet established and therefore capital funding from local authorities is likely (and normally cheaper to finance) if major capital investment is required.
- 4.27 The ability to access external funding grants is cited as an advantage of the NPDO model. However, it should be noted that grant funding streams in general are limited for leisure facilities at the present time.

Table 4.3 - Advantages and disadvantages of an existing NPDO

Advantages	Disadvantages
Savings on NNDR costs (although limited by the new Business Rates Retention Scheme - see Section 7)	The Council loses direct control of services and manages through a lease and contract
Savings from the different treatment of VAT	Difficulty in attracting significant capital investment
Greater financial and managerial autonomy	Capital finance can be more expensive than that provided by the public sector
Potential benefits from additional external funding opportunities	The Council retains ultimate liability for the operational performance and capital liabilities of the services
Opportunity for considerable community and staff involvement in the management of services	Staff are transferred to the NPDO under TUPE, although pension benefits may be comparable only

Advantages	Disadvantages
Benefits of having a single issue focus for the leisure team	Potential loss of local community focus (unless stipulated in the management contract) due to its lack of local representation
Operational risks potentially transferred to the NPDO from the Council	
May have access to capital finance, but this will be subject to levels of security and trading history	

Trade Sale

- 4.28 We have assumed that a Trade Sale in this context is the disposal of the leisure assets and thereby local authority leisure provision to a third party to operate as they see fit. This could include operators in the commercial leisure market, such as Fitness First, Virgin Active etc. who may be looking for leisure premises in this area. In this instance some form of leisure services are likely to be continued and staff may be transferred under TUPE arrangements.
- 4.29 However, this option is unlikely to be applicable to the Council's cultural and green space services as these services do not particularly involve the operation of income-generating assets to the extent that leisure does (particularly since the outsourcing of the management of the Lyceum Theatre to HQ Theatres and the outsourcing of the Knutsford Cinema to Curzon Cinemas).
- 4.30 It is also possible that other private equity companies or businesses would take an interest in the acquisition of these sites to provide either alternative or complementary services (e.g. sports retailer etc.). It could also cover the acquisition of the land for other commercial uses.
- 4.31 The key characteristics of trade sales are as follows:
- the local authority would receive a capital receipt from the disposal of the assets;
 - the sale could be a freehold sale or a long leasehold (for example 125 years);
 - staff may transfer under TUPE to the new owner, subject of course to the continuity of sport and recreational services;
 - all operating and asset risks would be transferred away from the Council to the third party;
 - the value of the purchase would take into account the potential income stream to be generated from the operation of the facilities, any covenants on the land and for the future land value that may be achieved in current or alternative uses;
 - the purchaser will need to finance the cost of the acquisition as well as the operating deficit, unless revenues can be improved from a change in the business model or priorities i.e. a more commercial focus offering facilities at a premium price.

- 4.32 It should be noted that it is very unlikely that a commercial operator would be interested in acquiring more than one or two of the Council's leisure facilities at most. This is because the major commercial health and fitness operators require a significant catchment area population that only large towns and cities can provide.
- 4.33 Further to this, it is highly unlikely that any form of concessionary pricing scheme will continue, given the need to generate a return on investment. This will likely result in exclusion of a number of target groups due to their inability to pay commercial rates.

Table 4.4 - Advantages and disadvantages of a trade sale

ADVANTAGES	DISADVANTAGES
Local authority receives a capital receipt	Local authority has no leisure facilities under its control from which to provide public sport and leisure services.
Local authority transfers all the risks of operating the facilities to the new owner	New owners may seek to remove any leisure facilities and services in the future and replace with more commercial focus
Allows the new owners to manage the business on a commercial basis that may increase investment and employment	May be politically difficult to achieve
Access to future capital investment for the facilities and provide leisure services on a commercial footing	Likely to be unpopular with users on lower incomes as new facilities may incur a premium price
Staff will transfer to the new owner under TUPE for as long as the leisure facilities are provided	Focus on the provision of a commercial facility offering around health and fitness at a premium rate at the expense of a subsidised community leisure offering
	Staff are transferred to the NPDO under TUPE, although pension benefits may be comparable only

Establishing a New Company

- 4.34 The third overarching option for the Council is to establish a new organisation to run the leisure facilities (and potentially also take on some or all of the cultural and green spaces service areas). There are many forms which the organisation could take including:
- Unincorporated Charitable NPDO;
 - Industrial and Provident Society (IPS);
 - Company Limited by Guarantee (CLG);

- Charitable Incorporated Organisation (CIO);
- Limited liability partnership (LLP);
- Community Interest Company (CIC).

4.35 The text below explains the key features, advantages and disadvantages of these options in more detail. It is worth noting that these different types of company structure are often classified under the umbrella of Social Enterprises. A social enterprise is a company which:

- has a clear social and/or environmental mission set out in their governing documents;
- generates the majority of their income through trade;
- reinvests the majority of their profits;
- is autonomous of state;
- is majority controlled in the interests of the social mission; and
- is accountable and transparent.

4.36 All of the different structures discussed in this section can therefore be termed social enterprises - indeed, Greenwich Leisure Limited (which manages leisure services in the south east of England) is often used as a case study of a successful social enterprise.

4.37 The majority of the vehicles noted above are considered to be NPDO's - non-profit distributing organisations, for which there are a number of common characteristics.

Non Profit Distributing Organisations

4.38 A Non Profit Distributing Organisation (NPDO) is an organisation that is not able to distribute profits or surpluses to a third party, for example shareholders, but must use these profits or surpluses to reinvest in the organisations objectives to improve services.

4.39 The key characteristics of the operation of services by a new NPDO are as follows:

- the Council will enter into a contract and specification for the management and operation of the service / facilities;
- the assets, as per other options, will be transferred under a lease to the new NPDO;
- in return for the services and management of the existing facilities, it will receive an agreed fee from the local authority, probably in the form of an annual grant or perhaps a management fee;
- the operating risks of the services would theoretically transfer to the new NPDO. However, in reality, the new NPDO may not have the financial resources to absorb unforeseen operational losses and may request additional funding from the Council;
- the new NPDO may be a charity to take advantage of the fiscal benefits including VAT and NNDR relief;

- the NPDO will often have limited opportunity to raise capital finance, as it may have limited security and no trading history;
- a new NPDO will be likely to include many of the existing management team but may attract other senior officers to the team (finance, HR or legal for example).

Table 4.5 - Advantages and disadvantages of a new NPDO

ADVANTAGES	DISADVANTAGES
Management team are likely to understand the business, demographics and market together with the opportunities that this provides	The Council loses direct control of the services and facilities and it uses the contract and lease as a control mechanism
Opportunity for considerable community and staff involvement in the management of services	Staff are transferred to the NPDO under TUPE, although pension benefits may be comparable only
Operational risks potentially transferred to the NPDO from the Council	Capital finance can be more expensive than that provided by the public sector
May have access to capital finance, but this will be subject to levels of security and trading history	If the NPDO gets into difficulty, it is likely that the Council may have to support the NPDO
Benefits of having a single issue focus for the management team	Asset risk is likely to remain with the Council
May access VAT and NNDR benefits if structured correctly	Lengthy and complex NPDO set-up and transfer process
Greater financial and managerial autonomy of the NPDO	New NPDO may not be able to demonstrate track record of expertise to potential customers and investors
Potential benefits from additional external funding opportunities	Difficulty in recruiting trustees of suitable expertise and calibre

- 4.40 Over recent years the market has seen substantial growth in the use of these organisations to operate sport and recreational services for local authorities. There are a number of NPDO structures available to operate and manage sport and recreation facilities and services as set out in paragraph 4.34.

Unincorporated NPDO

- 4.41 The NPDO is made by a declaration of trust and a trust deed that sets out the terms, objectives and functions of the NPDO together with the names of the trustees. It is registered with the Charities Commission who regulates the NPDO. The objectives are created so that they cannot be amended without the approval of the Charities Commission. The NPDO has tax benefits associated with VAT treatment of sales and purchases and NNDR

relief (although the benefits from NNDR relief are not as significant for the Council following the introduction of the Business Rates Retention Scheme - see Section 7).

- 4.42 It should be noted that under the Unincorporated NPDO, the Trustees have personal liability and they are jointly and severally liable for any liability that accrues to the NPDO. Although it is possible to obtain insurances for these liabilities, this particular option is not seen as being appropriate for the management and operation of sport and recreation services due to the potential liabilities that may occur. For this reason we have not examined this trust structure in any further detail.

Industrial and Provident Societies (IPS)

- 4.43 These societies are corporate bodies which have limited liability and are registered under the Industrial and Provident Societies Act 1965. To be registered, the business must fall within the conditions of the Act in that the IPS is set up to carry on an industry, business or trade and is a bona fide co-operative society or the society is for the benefit of the community.
- 4.44 They were previously regulated by the Financial Services Authority although this changed on 1st April 2013 to the newly formed Financial Conduct Authority following the implementation of the Financial Services Act 2012.
- 4.45 Where an IPS is formed for charitable purposes, it will be deemed to be an exempt charity and enjoy the benefits available to other charitable bodies. The IPS does not need to register with the Charity Commission.
- 4.46 Under the IPS, each member has only one vote which can impact on the decision making process and where a local authority wishes to have a level of control through "shareholding" this option dilutes the voting rights of the local authority as more individuals become members.
- 4.47 This structure obtains the benefits of NNDR relief and VAT treatment where it is formed for charitable purposes.

Company Limited by Guarantee (CLG)

- 4.48 A charitable company limited by guarantee is a legal entity incorporated under the Companies Act 1985. Unlike the most common company structures, it does not issue shares but instead the members of the company undertake to guarantee to contribute a sum of money (normally a nominal value) in the event that the company is wound up,
- 4.49 The members of the company have limited liability to the level of their guarantee. These companies are regulated by the Charity Commission and are also subject to the requirements set out in the Companies Acts. It is considered that this approach offers flexibility compared to other NPDO models and they are able to change their rules to meet the needs of the business.
- 4.50 The Directors of the Company are called the Trustees and it is they that are responsible for compliance with the Companies Act and Charities Act and this requires a higher level of skill and knowledge in the company's administration.
- 4.51 This structure has the benefit of receiving NNDR relief and VAT benefits as registered charities.

Charitable Incorporated Organisation (CIO)

- 4.52 The CIO is a new legal form for a charity. It was first introduced in Chapter 8 of the Charities Act 2006, but applications to register new organisations as CIOs were not accepted until December 2012 due to the complexities of the new legislation and the resources to implement these changes. The legal framework for the CIO is set out in the Charities Act 2011 and in two sets of regulations and an Order from 2012.
- 4.53 The CIO is a new corporate structure designed specifically for charities. Most charities have been choosing to adopt a corporate structure (company limited by guarantee) because this can offer several benefits over unincorporated structures. These benefits include:
- the members and trustees are usually personally safeguarded from the financial liabilities the charity incurs, which is not normally the case for unincorporated charities; and
 - the charity has a legal personality of its own, enabling it to conduct business in its own name, rather than the name of its trustees.
- 4.54 Most charities that currently opt for a corporate structure set up as a company limited by guarantee under company law. This means that they are subject to dual regulation by the Charity Commission and Companies House. In light of this, many in the charitable sector have long expressed a desire for a corporate structure designed to meet the needs of charities.
- 4.55 The CIO was created in response to requests from charities for a new structure which could provide some of the benefits of being a company, but without some of the burdens. Under this structure the charity only has to register with the Charity Commission and not Companies House. It can also enter into contracts in its own right and its trustees will normally have limited or no liability for the debts of the CIO. The same fiscal benefits relating to NNDR and VAT are attributable to the CIOs.
- 4.56 The Charities Commission has produced two model constitutions for a CIO:
- the foundation model for charities whose only voting members will be the charity trustees; and
 - the association model for charities that will have a wider membership, including voting members other than the trustees.
- 4.57 In practice a CIO using the foundation model will be run by a small group of people (the charity trustees) who will make all key decisions. There may be no time limit on how long charity trustees may serve and they will probably appoint new charity trustees.
- 4.58 A CIO using the ‘association’ model will have a wider voting membership who must make certain decisions (such as amending the constitution), will usually appoint some or all of the charity trustees (who will serve for fixed terms), and may be involved in the work of the CIO.
- 4.59 Like companies, which must have both members and company directors, all CIOs must have members and charity trustees. Depending on the CIO’s needs, the same individuals can be both members and charity trustees, or there can be a wider membership made up of people who are not the charity trustees.

- 4.60 Disadvantages of becoming a CIO include registration time (within 40 days compared to same day service for companies) and that CIOs may struggle to access lending services from banks. CIOs will not have to keep a public record of liabilities, as companies do. Because of this, lenders will have no way of determining if they have outstanding debts, which could make them less inclined to take on the risk of lending. If a CIO wishes to borrow money, the individual trustees may be called upon to give personal guarantees, which defeats one advantage of incorporation. If an organisation is likely to want to borrow money, CIO status may not be appropriate.
- 4.61 The 'newness' of the model also makes this an un-tested route for service delivery in the leisure and culture field.

Limited Liability Partnership

- 4.62 A Limited Liability Partnership (LLP) is a business entity which was introduced to the UK in 2000 and is governed by the Limited Liability Partnership Act 2000. An LLP is a corporate body and is legally independent of its members in comparison to a normal Partnership, where legal existence is dependent upon its members.
- 4.63 LLP members have limited liability i.e. one partner is not responsible or liable for another partner's misconduct or negligence. Therefore, LLP members cannot lose more than they invest, unless fraudulent trading or personal neglect is suspected.
- 4.64 LLPs do not pay corporation tax but their members do in relation to their share of profits generated in a tax year. Another advantage is that LLP members do not need to hold general meetings and keep records of meetings unlike normal limited companies. LLPs are commonly used by solicitors and accountants.
- 4.65 The Council would not set-up a LLP itself; however LLPs can be used by local authorities as joint ventures in partnership with external enterprises - although these should be approached with caution and would require detailed legal advice. Further to this a LLP would not achieve the optimum fiscal position in terms of tax and NNDR benefits, for which it is ineligible.
- 4.66 Another disadvantage is that LLPs find it difficult to ensure that their assets are dedicated to public benefit. There is no clear way of 'locking' the assets of a LLP to a public benefit purpose, other than by applying for charitable status. The Community Interest Company is intended to meet this need.
- 4.67 It is unlikely therefore that a LLP would prove a suitable vehicle for future delivery of leisure facilities and services.

Community Interest Company

- 4.68 A Community Interest Company (CIC) is a type of company introduced by the Government in 2005 under the Companies (Audit, Investigations and Community Enterprise) Act 2004, designed for social enterprises that want to use their profits and assets for the public good.
- 4.69 CICs are intended to be easy to set up, with all the flexibility and certainty of the company form, but with some special features to ensure they are working for the benefit of the community, including a community interest test and limitations on dividends and how assets are dealt with (the asset lock).

- 4.70 Brio Leisure in Cheshire West and Chester is the first leisure-based Community Interest Company in the UK. It manages 17 of Cheshire West and Chester Council's sports and recreational sites, including 11 leisure centres, three golf courses and three entertainment venues.

Community Interest Test

- 4.71 This is assessed by the Regulator and defined as "A company satisfies the community interest test if a reasonable person might consider that its activities are being carried on for the benefit of the community".

Asset Lock

- 4.72 CICs are intended to use their assets, income and profits for the benefit of the community they are formed to serve and therefore must embrace some special additional features to achieve this. They are subject to an 'asset lock' which ensures that assets are retained within the company to support its activities or otherwise used to benefit the community.

- 4.73 The main elements of the asset lock are as follows:

- CICs may not transfer assets at less than full market value unless they are transferred to another asset locked body (such as to another CIC or a charity);
- if its constitution allows a CIC to pay dividends (other than to another asset locked body - essentially another CIC or a charity) these will be subject to a cap that limits the amount of dividend payable. A similar cap applies to interest payments on loans where the rate of interest is linked to the CIC's performance;
- on dissolution of a CIC any surplus assets must be transferred to another asset locked company (a local authority is not an asset locked company).

- 4.74 The key characteristics of the CIC are as follows:

- the same body cannot be both a CIC and a charity, a CIC may well be a useful way of operating a charity's trading activity. It could be established in such a way that it could pass some, or all, of its profits to the charity to finance its charitable activities;
- the concept of community is important to understand as it can have a wide range of meanings from the population as a whole to the residents of a particular area or a group of people suffering from a particular disadvantage;
- a CIC cannot be used solely for the financial advantage of a limited group of people, for political purposes or for the benefit of the employees, directors or members of a single organisation;
- the basic legal structure for CICs is a limited liability company. They can either be incorporated as a new company, or converted from an existing company;
- the CIC will operate in the same way as any other company and will have a separate legal identity; the ability to enter into contracts and own assets in its own name; and flexibility in borrowing and fund raising. The separate legal identity means that a CIC will continue to exist despite changes in ownership or management;
- the directors can be paid and will have the same rights and duties as any other directors;

- the members (shareholders) of a CIC will have the same governance and decision-making role as in any other company, but they (and the directors) will be under a stronger obligation to have regard to the wider community which the company serves and involve stakeholders in its activities than might otherwise be the case;
- people dealing with a CIC (such as banks and suppliers) are familiar with dealing with companies and therefore have confidence in dealing with the CIC structure;
- CICs will produce accounts and annual returns just like any other company, which will be available on the public record. Further transparency will be achieved by the annual CIC report;
- the asset lock and other features will give confidence to those funding CICs (particularly those not looking for any financial return) that the assets will be used for the benefit of the community and not unduly benefit the CIC's members or employees;
- CICs do not receive tax breaks from the Inland Revenue by virtue of their legal status and are liable for corporation tax;
- there is no general exemption from VAT for social enterprises that undertake trading activities.

4.75 In some circumstances local government may provide discretionary rate relief to social enterprises if they are for charitable purposes but this is up to the individual local authority discretionary rate relief policy.

Table 4.6 - Advantages and disadvantages of a CIC

ADVANTAGES	DISADVANTAGES
Management team are likely to understand the business, demographics and market, together with the opportunities that this provides	The Council loses direct control of the services and facilities and instead it uses the contract and lease as a control mechanism
A focussed and driven team that will seek to drive the business and profitability for the benefit of the community	Staff are transferred to the NPDO under TUPE, although pension benefits may be comparable only
Operational risks potentially transferred to the CIC from the Council	Capital finance can be more expensive than that provided by the public sector
Access to capital finance, but this will be subject to levels of security	If the CIC gets into difficulty, assets cannot be transferred back to the Council as the Council is not an asset locked body
Strong community focus as annual report on community benefits must be provided to Regulator	No VAT benefit on sports and recreational services
May access NNDR benefits (discretionary)	Could have limited track record and may not be able to demonstrate expertise to potential customers and investors

ADVANTAGES	DISADVANTAGES
Asset lock prevents distribution of physical assets to other parties at less than market value and places restrictions on dividend payments	

Sport & Play Development

- 4.76 Having set out the key characteristics, advantages and disadvantages of all types of management options, included in table 4.7 is a summary of the advantages and disadvantages of including the sport and play development service under the selected management options being considered, based upon consultation and research of the service.

Table 4.7 - Inclusion of Sport & Play Development

Option	Advantages	Disadvantages
In house	<ul style="list-style-type: none"> Existing service has strong links/established relationships with schools, clubs, NGBs, Universities, PCT and other partners Continued access to central support services (HR, legal and IT support) from the Council Service covered by Council policies on equality of opportunity and other legislation Maintain current branding, reputation and core values 	<ul style="list-style-type: none"> Financial pressure on Council which may impact on this discretionary service As a public body, the service may be restricted in terms of the types of grant aid that is available Although perceived as more secure by staff, local authority sports development services are under threat throughout the country and there is no guarantee of job security
Private Sector	<ul style="list-style-type: none"> Council can purchase outputs in line with their policies - using an outcome based approach, the private partner has to mould their services to meet agreed outcomes Strong culture of performance and accountability in delivering targets Potential for reinvestment in service No direct political influence, albeit the outcomes will be set in line with Council priorities 	<ul style="list-style-type: none"> Not many private contractors have experience of running a sports development service The service will probably be perceived as being primarily for profit / to support facility programming, rather than sports development - this may detract certain community partners and funders from being involved Working to a contract / specification is necessarily less flexible, making it more difficult to mould services to changing Council/ Partner priorities

Option	Advantages	Disadvantages
Existing NPDO	<ul style="list-style-type: none"> • As private sector although performance and accountability could be reduced if a clear outcome-based contract is not in place • eligible to apply for funding from government and other funding agencies due to 'not for profit' status • potentially eligible for VAT exemptions on any charges made for services • a tried and tested model which has been around successfully for many years - many early NPDOs set up to manage facilities have now included sports development in their offer, given the obvious links between the services 	<ul style="list-style-type: none"> • may not have the influence that the In House operation has currently with partners and funders - the current operation appears to be very well respected and linked, which would need to be protected • focus of the NPDO may be on facilities rather than the sports development service, meaning that some of the wider health & wellbeing targets may become less important compared to generating activity in the facilities • Working to a contract / specification is necessarily less flexible, making it more difficult to mould services to changing Council/ Partner priorities
New NPDO	<ul style="list-style-type: none"> • As existing NPDO above, however the localised nature of the new NPDO in terms of trustees / directors means that some of the key development partners could well be trustees in the new vehicle • Current team have detailed knowledge of the service and would transfer with the facilities staff 	<ul style="list-style-type: none"> • As existing NPDO above

- 4.77 The externalisation of the Sport and Play Development Service may provide the flexibility and a dynamism that can be difficult to achieve within the constraints of the in-house structure and could enable improved decision making and a more flexible staffing structure. There may also be greater opportunities for staff to diversify into other areas of the private sector/NPDO businesses, together with fiscal benefits that cannot be achieved in-house.

Procurement regulations

- 4.78 One of the key issues around a local authority setting up its own NPDO is whether this approach contravenes the public procurement regulations and the value for money principles used by public bodies. In all cases, we would strongly recommend that specific legal advice is obtained on this, prior to confirming a way forward. We therefore set out below simply an overview of key considerations, rather than any opinion.
- 4.79 Public contracts in the UK are presently governed by the Public Contracts Regulations 2006 ('the Regulations') which implements the provisions of the EU Directive (2004/18/EC). These Regulations set out the procurement requirements for different types of public sector contracts, and while these Regulations may exclude certain types of contracts from their regime, there remain overriding considerations that need to be taken into account to ensure that the EU principles of transparency, equal treatment, non-discrimination and proportionality are at all times maintained (it should be noted that the proposals to revise the existing public procurement rules are being negotiated through the EU Competitiveness Council. The revised directives could be adopted in 2013, but this is dependent on various factors including discussions with the European Parliament. Transposition of the revised directives will then follow; the current proposal would require member states to implement the new rules within 18 months of the new directive being published in the Official Journal of the EU).
- 4.80 The Regulations currently require certain contracts to advertise in the Official Journal of the European Union (OJEU) and follow the procurement rules set out in the Regulations where the procuring entity is a 'contracting authority'; the contract is a public works, services or supplies contract; and the estimated value of the contract is above the specified financial thresholds.

Part B service contracts

- 4.81 The Regulations however only apply a lesser regime to Part B service contracts, which are residual contracts i.e. contracts that are considered to only be of interest to bidders within the country where the contract is to be carried out, and which includes recreational, cultural and sporting services e.g. leisure contracts.
- 4.82 Although Part B contracts, (including leisure contracts), do not need to comply with the full rigours of the Regulations, the procuring entity must never the less ensure that the EU principles of non-discrimination, transparency, equal treatment, and proportionality are maintained in order to avoid any possible challenge.
- 4.83 Therefore when procuring a Part B contract, procuring authorities should be mindful of the EU principles at all times, as increasingly these principles are seen overriding specific national laws and as such these contracts should be advertised in a proportionate manner.
- 4.84 The above all assumes that this is a services contract (procuring a contract with the private sector, existing NPDO etc.) that may require procurement, however there is the alternative of a grant arrangement.

Grant and lease arrangements

- 4.85 Setting up a NPDO and paying a grant to the NPDO would not be deemed to be a services contract and as such would be outside the provisions of the Regulations. In such a scenario the local authority will be divesting itself of the facilities on a lease arrangement and will

not be providing any services and therefore the provisions of the Regulations will not apply. This is a grey area but has been used alongside local authorities "well-being" powers to set up NPDOs to provide leisure and cultural services.

- 4.86 There are however drawbacks to this grant approach in respect of the VAT situation, as the one off grant payment from the Council would not include VAT. This could potentially mean that there is additional irrecoverable VAT for the NPDO, negatively impacting on its financial position.
- 4.87 It should be noted however that it has been known in the past where Councils have entered into these grant arrangements that HMRC is convinced by the leisure NPDO that the transaction should be treated as a payment for services and that VAT can be attracted and is therefore recoverable, irrespective of the fact that for procurement purposes this same contract has been structured as a grant and not a services contract.

Teckal exemption

- 4.88 Within the context of complying with EU procurement regulations, the Teckal exemption has been referred to by a number of authorities looking to provide services without opening them up to formal procurement. Teckal is a reference to a case against an Italian local authority, which contracted directly with a consortium set up by several local authorities (including the awarding authority) without an EU-compliant public procurement process.
- 4.89 The court held (ECJ judgement reference C-107/98) that procurement rules do not need to be complied with where the winning provider is:
- controlled by the awarding authority/authorities in a manner “similar to that which it exercises over its own departments” - structural control; and at the same time
 - it carries out the essential part of its activities “with the controlling authority or authorities” - economic dependency.
- 4.90 These two aspects are now commonly referred to as the Teckal Test, which sets out that the procurement rules are applicable only if the contracting entities are both distinct in law (i.e. separate legal entities / companies) and are not structurally controlled or economically dependent.
- 4.91 Therefore, for certain types of new delivery vehicle, this exemption could apply, however, in the case of charitable vehicles where independence is necessary, then it is unlikely that the exemption will apply.

Freehold vs leasehold

- 4.92 In all the options it is generally assumed that the Council will grant a lease / licence to the operator, such that they are in rateable occupation of the premises for NNDR purposes. The normal practice is that this lease / licence is coterminous with the contract and is forfeited if the contract is terminated. Thus the assets revert back to the Council on any termination of the contract.
- 4.93 This approach protects the Council in relation to getting back the land and buildings in the event of contract termination or business failure by the operator - for example, if the operator becomes insolvent, the contract is usually terminated and the assets revert to the Council.

- 4.94 Given the length of contracts is very rarely longer than 25 years, there does not appear to be any reason for considering disposing of the freehold of the sites to the operator in any of the scenarios presented.

What if things go wrong?

- 4.95 For each option there are different implications associated with wanting to end the arrangement / change the terms. These are summarised below, but it is recommended that legal advice is sought in all cases before considering ending or amending a contract / lease.

- ***Contractor / Trust liquidation***
in the event that the contractor or trust goes into liquidation, then the facilities would revert back to the Council as the contract and lease would be terminated. The Council would then need to either re-tender the operation or provide the services directly;
- ***Poor performance by the contractor / trust***
The contract / grant agreement should include specific performance requirements and KPIs, which are monitored on a quarterly basis. Poor performance can then be addressed via performance improvement plans or financial deductions from the management fee / grant. For this system to operate, a robust service specification and performance monitoring system is required;
- ***Concerns over members of staff***
This would normally be reported to the contractor / trust for them to take action appropriately. However, it is unusual for the Council to be able to control this directly, as the staff will be employed by the contractor / trust;
- ***Asset failure***
if there is a major asset failure (e.g. roof collapse), then this would normally be the responsibility of the Council, such that the Council has an obligation to repair the problem or if it does not, then to pay loss of income to the operator. The Council therefore needs to ensure its responsibilities are managed appropriately to avoid unforeseen financial costs. However, if a full repairing and insuring (FRI) lease has been granted, which is sometimes the case for trusts, then the asset failure is the responsibility of the operator;
- ***Council wishes to terminate the contract or change the scope***
If the Council wishes to voluntarily terminate the contract then it would normally be liable to pay loss of profits to the contractor, plus all associated breakage and redundancy costs. The same scenario would apply if the Council wished to remove one or more facilities from the contract, unless this was foreseen at the outset and a partial termination opportunity written specifically into the contract. In terms of a local trust with no other contracts, the situation may be slightly different in that it is less likely to be charging loss of profit as without the contract the trust would not survive so it would be liquidated. Also, there is more scope for a 'negotiated' solution with the trust in terms of changes in asset stock.

Summary of Options

- 4.96 There are a number of options highlighted in this section for the future management of the Council's leisure facilities, many of which could incorporate the other Council functions identified in Section 1. The options to be taken forward for further assessment are set out in Table 4.8.

Table 4.8 - Options for Detailed Analysis

Management option	Detailed Analysis?	Justification
In-house	Yes	Current management model so forms the base option to compare all other options to.
Private Management (Hybrid)	Yes	Analyse together as both options are potential outcomes of a procurement process to externalise the management of the facilities to an existing management vehicle.
Existing NPDO	Yes	
Trade Sale	No	Unlikely to be market demand for existing Council facilities. Very limited examples of trade sales occurring in other places. Would not deliver any of the Council's non-financial strategic aims and likely to result in exclusion of key user groups due to pricing and access controls.
LLP	No	Unlikely to be financially viable and no ability for asset lock. If Council is considering setting up a new company, recommended models would be CIC, CLG or CIO, all of which offer greater fiscal and community benefits.
CIC	Yes	Offers benefits of external company with ability to asset lock.
CLG / CIO	Yes	Could take either form as outlined in this report section although CIO is very new and untested structure. Analyse as one option as fiscal benefits are similar across both options.

- 4.97 At a headline level the key decision for the Council to consider is whether it wishes to contract with an external organisation (in which case it will carry out a procurement process open to private contractors and existing trusts) or does it wish to set up a new management vehicle (in which case it must consider the merits of the different structures set out in this report and confirm the legal powers on which it can do so).
- 4.98 It is possible that the additional Council services which could be added into the commissioning opportunity could be added into any of the above management options however, in reality, it is rare to have an externalisation of all of these services in a single contract. We have summarised in the table below our emerging thoughts on the most realistic options for the combination of facilities and services based on the strategic fit and our knowledge of the marketplace.

- 4.99 For the purposes of the table we have grouped the options together into procuring an existing organisation or setting up a new organisation. The table assumes that the leisure facilities are the core base to the commissioning opportunity as there could clearly be a large number of different opportunities if each of the services was examined in isolation (e.g. a green spaces only trust for example) although the establishment of multiple new management vehicles by the Council would not be advisable from a fiscal, service integration or management perspective.

Table 4.9 - Potential Packages of Facilities and Services

Management Option	Leisure Facilities	Sports & Play Development	Community Halls	Arts & Culture	Green Spaces
Existing Organisation	✓	×	×	×	×
Existing Organisation	✓	✓	×	×	×
Existing Organisation	✓	✓	✓	×	×
New Organisation	✓	×	×	×	×
New Organisation	✓	✓	×	×	×
New Organisation	✓	✓	✓	×	×
New Organisation	✓	✓	✓	✓	×
New Organisation	✓	✓	✓	✓	✓

- 4.100 The financial and non-financial merits of these options are discussed later in this report in Sections 7 and 8. With a new organisation in particular, there are clear opportunities for phasing the transfer of facilities and services, based on the 'readiness' of the service to transfer and the ability of the organisation to deliver the required services.

5. Legal Implications

Introduction

5.1 This section deals with the following matters:

- property and leases;
- transfer of employees; and
- pensions.

Property and leases

- 5.2 Under an outsourcing arrangement, it is normal for all the assets to be transferred to the new operator under a lease arrangement, which provides exclusive use of the facility to undertake the provision of leisure services. This is important to ensure that the new operator can access VAT and NNDR benefits (if applicable).
- 5.3 It is common practice for the lease to be co-terminus with the contract so that where a contract is terminated, the leases also fall (are determined) at the same time. Normally the leases are "bare" leases, with all the controls around maintenance, advertising and use etc. to be included in the service specification.

Dual-Use Sites

- 5.4 There are a number of dual-use facilities within the leisure portfolio. All the schools have joint use agreements in place, of which the terms and obligations will be addressed in any future contract and service specification. It is normally very common for these dual use sites to have a lease to the Council from the County Council or Schools, which can be sub-leased to a new operator.

Transfer of employees

- 5.5 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (referred to below as TUPE 2006) is the main piece of legislation governing the transfer of an undertaking, or part of one, to another.
- 5.6 The regulations are designed to protect the rights of employees in a transfer situation enabling them to enjoy the same terms and conditions, with continuity of employment, as formerly. TUPE 2006 entirely replaces the Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI 1981/1794). TUPE 2006 applies to all relevant transfers including service provision changes where services are outsourced, 'insourced' or assigned to a new contractor.
- 5.7 TUPE regulations were introduced to comply with relevant EC Directives concerning transfers of undertakings. Further statutes and regulations have an effect on TUPE and include:
- The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 (SI 1995/2587);

- The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999 (SI 1999/1925);
- Pensions Act 2004, especially sections 257 and 258; and
- The Transfer of Employment (Pensions Protection) Regulations 2005 (SI 2005/649).

- 5.8 In 2005, the Government issued a code of practice on workforce matters in public service contracts. This Code set out an approach to workforce matters in relation to public sector service contracts which involve the transfer of staff from a local authority to a Contractor or in which staff originally transferred out from the local authority as a result of an outsourcing or a retender of a contract.
- 5.9 The intention of the Code is to ensure that the Council selects only those Contractors who offer staff a package of terms and conditions which will secure high quality service delivery throughout the life of the contract.
- 5.10 These must be sufficient to recruit and motivate high quality staff to work on the contract and designed to prevent the emergence of a 'two-tier workforce', dividing transferees and new joiners working beside each other on the same contracts. It should be noted that the current Government abolished this Code in March 2011, although some local authorities are still including the key principles in their contract documentation.

Pensions

- 5.11 In relation to pensions, the Staff Transfer in the Public Sector and the Transfer of Employment (pension protection) Regulations 2005 do not oblige the new employer to provide the same pension scheme, but states that a "broadly comparable" scheme should be provided. The Regulations have the effect that employees employed by the previous employer when the undertaking changes hands automatically become employees of the new employer on the same terms and conditions.
- 5.12 Therefore the employees' continuity of employment is preserved, as are their terms and conditions of employment under their contracts of employment (except for certain occupational pension rights). Occupational pension rights earned up to the time of the transfer are protected by social security legislation and pension trust arrangements.

Pension arrangements for new joiners to an outsourced workforce

- 5.13 Normal market practice is that the operator will offer new recruits taken on to work on the contract beside transferees one of the following pension provision arrangements:
- membership of a good quality employer pension scheme, either being a contracted out, final-salary based defined benefit scheme, or a defined contribution scheme. For defined contribution schemes the employer must match employee contributions up to 6%, although either could pay more if they wished;
 - a stakeholder pension scheme, under which the employer will match employee contributions up to 6%, although either could pay more if they wished.
- 5.14 However, we note that the Council has not signed up to the Principles of Good Employment Practice for Government, Contractors and Suppliers.

- 5.15 On a retender of a contract, it is usual for a new service provider to offer one of these pensions options to any staff who transfer to it and who had prior to the transfer a right to one of these pension options, in line with the regulations noted above.

Admitted Body Status

- 5.16 The admitted body status guidance explains the regulatory position provided for in the Local Government Pension Scheme (Administration) Regulations 2008 (as amended). It covers how external providers, such as companies or third sector organisations, can be admitted to the LGPS and sets out the pensions considerations that have to be taken into account when employees transfer from a local authority to an external operator.
- 5.17 Under this arrangement, a new operator may apply for Admitted Body Status to the Local Government Pension Scheme. This means that employees transferred will continue to enjoy the benefits associated with their current local government pension scheme.
- 5.18 It should be noted that there can be an additional cost relating to the employers pension contributions associated with the transfer of staff from the local authority to another organisation.

Pension adjustment

- 5.19 The transfer of the staff under TUPE using an Admitted Body Status may impact on the level of the Employers Contribution that the Council is required to make. It will require a revised valuation, taking into account the number of remaining staff, their age, salaries etc. to determine the amount that is required to be recovered by the Council and likewise the Employers Contribution rate will need to be determined for the staff transferring to the new admitted body scheme.

Auto-Enrolment

- 5.20 The government has introduced a new law to make it easier for people to save for their retirement. It requires all employers to enrol their workers into a qualifying workplace scheme if they are not already in one. At present, many workers fail to take up valuable pension benefits because they do not make an application to join their employer's scheme. Automatic enrolment is meant to overcome this.
- 5.21 This is a key risk area to be aware of as it could significantly increase employee costs for whatever organisation is managing the services / facilities at the time. The automatic enrolment scheme started in October 2012 with each organisation being allocated a staging date depending on the size of the organisation.
- 5.22 On this date any employee who meets the following criteria will automatically be opted-in to the pension scheme:
- is not already in a qualifying workplace pension scheme;
 - is at least 22 years old;
 - is below state pension age;
 - earns more than £8,105 a year; and
 - works or ordinarily work in the UK (under their contract).

- 5.23 Part-time workers who earn less than the amount identified above can ask to take part if they want to and, if they earn more than £5,564, their employer will be obliged to make a contribution too. Those aged under 22, or over state pension age and still working, can also opt-in in the same way.
- 5.24 According to Council information, the next staging date for the Council is 1st October 2017. There are currently 366 full time equivalent (FTE) staff working within the leisure centres (and another 766 casual employees - FTE figures not available). Of the 366 FTEs, 204 currently pay into the pension scheme at the following rates:
- employer contribution rate of 21.8%;
 - employee contribution rate of 5.9%.
- 5.25 Clearly there is a large risk of staffing costs increasing in 2017 when the additional 162 staff members are automatically enrolled, although it should be noted that a proportion of these people either may be too young (i.e. below 22 years of age) or may opt-out of the scheme as their employee contribution is too much for them to afford at this stage. Under the legislation, staff are entitled to opt-out of the scheme. Those who opt-out will be automatically enrolled again every three years by an employer, or after three months at a new job, at which point they will need to complete the opt-out process again.

6. Risk Analysis

Introduction

6.1 This section provides an overview of the risks that impact on the different management options in the context of the Council. These risks include:

- operating risk;
- third party income risk;
- equipment obsolescence risk; and
- building and plant risk.

Balancing Risk with Value for Money

- 6.2 In general terms, from the Council's perspective, each management option may have a different level of risk and consequently will have a potential cost to the Council and the operator. The principles of risk management are generally that risks should be allocated to the party best able to manage the risk.
- 6.3 This approach provides improved value for money, as the operator does not need to include any contingency or additional provisions within the annual management fee for risks that they cannot fully manage and it ensures that the Council is not paying the operator for a risk that it is best able to manage itself (e.g. the building structure).
- 6.4 We have already provided details of the characteristics associated with each of the management options, which include elements of risk, however this section seeks to provide further detail of the headline risks and who is best able to manage these.

Balancing Risk with Service Quality

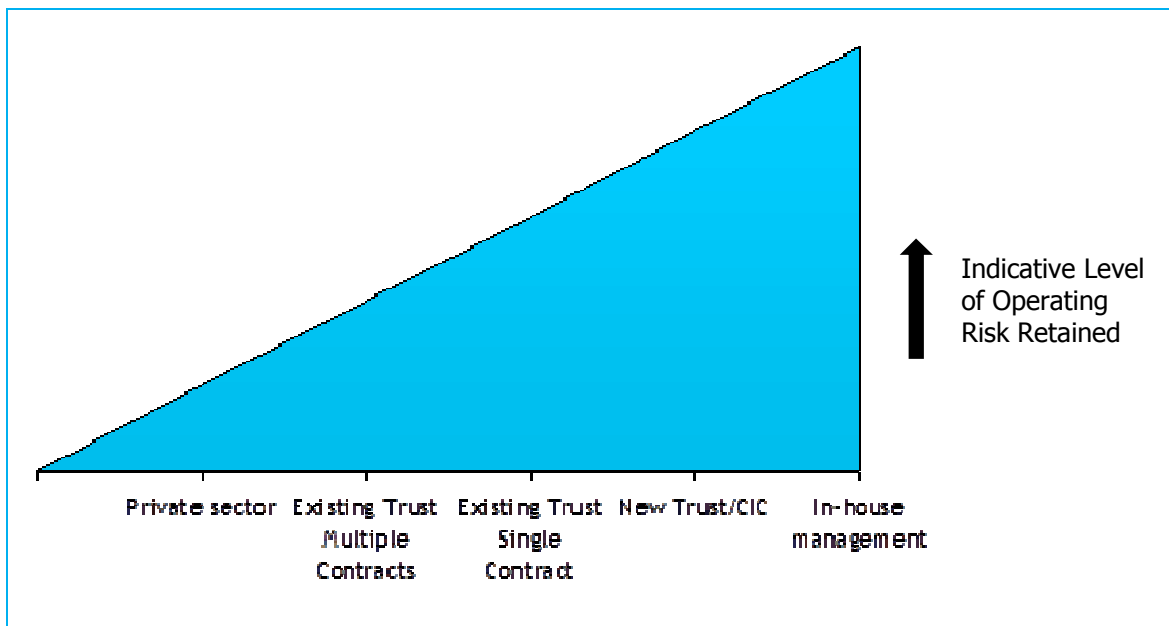
- 6.5 Service quality is a measure of how well a delivered service matches a customer's expectation. The main reason to focus on quality is to meet customer needs while remaining economically competitive, which means that satisfying customer needs is very important for a business to survive, which is especially important where a business is reliant upon income from users.
- 6.6 On that basis, the operator needs to find a balance between meeting customer expectations within the financial constraints imposed upon it from the cost of providing the service and managing the risk.
- 6.7 The private sector and to a certain extent the existing NPDO management options have always faced the issue of balancing service quality with cost. Without this fine balance, most of these businesses would not survive, albeit that with public sector provision, some of the financial risk is met by local government through a grant or management fee.

- 6.8 New NPDOs normally have the comfort that any variation in income or costs may be met from a change in the level of annual grant funding, but more recently, some of these NPDOs have found that the annual grant is fixed and they do not have the resources (human and cash) or commercial acumen to bring about quality services within their limited resources, which results in a downward spiral of reduced income, reduced services to compensate for the reduced income until ultimately the NPDO fails or is amalgamated with other existing NPDO operators. (There are a number of examples of failed leisure trusts across the country).
- 6.9 Service quality and risk are however directly linked. By managing the risk through maintaining buildings, replacing equipment at the end of its economic life, focussing on the operating costs that are important to delivering income and providing services that meet the needs of customers, a quality service is more likely to ensue.
- 6.10 In summary, all management options need to address this balance of service quality and financial competitiveness and it will be the option that can deliver the experience and can manage these risks the most efficiently (through direct management or from cash reserves across its business) that will provide the best value for money solution.

Operating expenditure risk

- 6.11 The level of risk associated with the operation of sport and recreational facilities is down to the experience of the management and the likely liquidity of the business. The failure to use resources efficiently, managing price sensitivity and programming requirements for users, marketing and branding and also price changes for services (e.g. utilities) are likely to lead to additional costs on the business.
- 6.12 The Audit Commission Report in June 2006 made it clear that the private sector option was likely to require fewer subsidies than other management options and one of the key reasons for this would be the experience of the management team and the size of their businesses to absorb fluctuations in income and costs.
- 6.13 Figure 6.1 provides an overview of the risk across the different management options.

Figure 6.1 Indicative assessment of operational risk to the Council under each option



- 6.14 Under the terms of the contracting arrangements, a new trust, private operator or an existing trust are more likely to have to take responsibility for the operating costs and income and manage these themselves within an agreed contract framework, although it should be noted that with a new trust or CIC set up by the local authority, this risk may fall back to the Council through an increase to the annual grant or management fee to provide the service.
- 6.15 In general, the private sector operator is more likely to have the resources to manage and sustain any short term losses arising from operating risks occurring. This benefit needs to be considered against the more commercial focus of a private sector operator compared to the management options that retain more risk for the Council i.e. in-house or setting up a new company such as a company limited by guarantee or a community interest company.

Third party income risk

- 6.16 One of the key drivers to determining the level of annual management fee is the assumptions relating to income. Income from users is used to offset the operating costs of the leisure facilities but income is more sensitive to market changes than operating costs. The gearing effect of a reduction in income can be high when translated to a change (%) to the management fee.
- 6.17 The key drivers in the management of income levels are:
- marketing and branding;
 - reaction to changes in the market;
 - opportunities to recognise new ideas (market knowledge and innovation); and
 - ability to implement changes to the business model.

- 6.18 Again, similar to the levels of risk associated with operating expenditure, income follows the same pattern where a management contract is in place, with the private sector leading the level of risk transfer with the in-house option being the lowest in terms of transfer of this risk.
- 6.19 The new trust may not perform as well as the existing trust as it is likely that the new trust may have less commercial experience than the existing trust. In addition, an existing trust may have other contracts to spread their risks across. The CIC may have the commercial expertise to manage income risk if the right management team is put in place, but if it is set up internally by the Council, the CIC risk profile is similar to the new trust option.

Equipment obsolescence

- 6.20 This risk is associated with the replacement (or refreshment) of equipment at a time that is earlier than planned. It is similar for the refreshment of the interior of the building (e.g. painting of walls, doors etc.). This risk results in either a one off cash flow cost (the bringing forward of the works) or an additional cost (the works not identified at the commencement of the contract).
- 6.21 Good asset management strategies and systems are important to ensure that equipment is maintained correctly and replaced at proper time intervals and also that these costs are identified in the maintenance plans when the annual management fee for the contract is set.
- 6.22 The failure to maintain equipment etc. can lead to unavailability of equipment leading to deductions for poor performance or at worst the closure of the facility and loss of income. The onus is on the experienced technical team to understand not only the importance of the maintenance regime but the implications maintenance has on income generation and also the control of maintenance costs.
- 6.23 Experience is again key with the management of this risk. The private sector and some larger trusts employ suitably qualified and experienced personnel to assess and optimise the economic life of the equipment and ensure that maintenance is carried out efficiently to minimise cost. New trusts or CIC's set up by local authorities may not have this level of experience and may be exposed to additional risk when compared to the private sector and existing trust options unless there is a transfer of experienced technical staff at the Council who will be on the TUPE list by the nature of the amount of time they spend on the leisure service.

Buildings and plant

- 6.24 Under management contracts it is likely that the maintenance and responsibility for the structure and foundations of the asset remains with the Council (for example roof / walls / foundations / underground services). It is unlikely that an operator (under any of the options) would wish to take the risk on the assets without a full structural survey and a condition survey, and even then it is unlikely that they will take all of the risk.
- 6.25 Although the probability of the risk occurring is low, were the risk to occur, this may result in a substantial liability which the operator would not be able to sustain. On that basis, and in common with most management-only contracts, this risk will remain with the local authority (as per the current in-house management arrangements).

- 6.26 Experience suggests that although operators will not take the structure of the building as a risk, agreements on the plant and building fabric may be taken, with caps on liabilities etc. with the operator. This allows the operator to include in their price an amount to cover the capped liability of the risk, if it were to occur and allows some level of coordination or repairs and maintenance by the on-site team.
- 6.27 In contrast, the trade sale will transfer responsibility for the assets away from the Council together with the risks associated with them.

Risk mitigation

- 6.28 Providing that the risks are allocated to those best able to manage these, there are mechanisms that are used to provide improved value for money to the Council in certain areas. These areas of risk mitigation are covered through the management contracts or finance and management agreements between the Council and the operator. These include:
- benchmarking and income share arrangements;
 - performance bonds;
 - liability caps on certain expenditure areas; and
 - contingency sums.

Benchmarking of income and costs

- 6.29 It is difficult for an operator under any option to provide certainty over their costs and income over a period of more than 5-10 years, without having to increase their risk provision in the event that income does not materialise, or, for example, key activities become outdated.
- 6.30 In order to provide a value for money solution, some management contracts will have a 5 year review, where the operator can compare their costs with other similar facilities and agree that where the costs of providing elements of the service (e.g. utility costs) are greater than originally planned the additional cost will be shared between the Council and the operator.
- 6.31 This has also been used on income projections where as a result of a change to the demographics or additional competition (supported by the local authority) income is adversely affected resulting in an additional cost to the operator. This cost can be shared with the Council and the operator and therefore the operator reduces their risk contingency accordingly (and management fee), which may result in a much-improved VFM solution.

Performance Bond

- 6.32 It is common with any type of outsourcing arrangement to ask the operator to provide a performance bond to the Council where there is a default arising by the operator in terms of their failure to meet the contractual obligations between the Council and themselves. This bond should be sufficient to cover as a minimum any costs arising from a re-tender, any breakage costs incurred by the Council and in some cases, the cost between the original contractors price and the new operators price (although this latter element is now rare).

Income Share Arrangements

- 6.33 The management fee will include a level of profit that the operator requires to cover the risk of operating the facilities. Experience of other management contracts suggests that the local authority can seek a sharing arrangement of any "super profits" that are generated by the operator. These super profits are shared in different ratios depending on the level of super profit and reflect the risk associated with the operation of the facilities, however a 50:50 share is not unusual.

Liability Caps

- 6.34 The use of liability caps on maintenance and uninsured losses are seen as providing value for money to the Council as the operator does not need to increase its risk contingency (and management fee) to cover these low probability but high cost risks. The Council shares in the risk, but receive a lower management fee at the commencement of the contract and accepts that, if the risk was to occur, the operator will meet the first part of the liability and only then will the local authority have to step in.

Contingency Sums

- 6.35 As part of the management fee, the operator will include a contingency within their profit for risks that may occur. This provision is normally an aggregate of the risks that may arise following an assessment of the probability of the risk occurring and the value of that risk. The higher the contingency the higher the management fee, although the overall bid price for contracts is undertaken in a competitive environment.

7. Financial Implications

Introduction

7.1 This section covers the financial implications of the outsourcing options being considered and includes:

- the current net direct costs of the services;
- the impact of VAT and NNDR on the different models;
- the impact arising from central support costs;
- profit, contingency and overheads;
- the impact on pension costs to the Council and operator;
- set-up costs and timescales;
- operational changes to increase revenue or reduce costs; and
- implications of including other services within the commissioning opportunity.

7.2 A copy of the financial model database which includes the base budget, service adjustments and the VAT analysis is shown in Appendix B to this report.

Current net direct costs

7.3 The table below sets out the current net direct costs of the leisure facilities service which are based upon the 2011/12 actuals. It excludes all financing, support service and below the line items. The additional Council services that could be added into the commissioning are addressed later in this section.

Table 7.1 - Summary of Net Direct Cost of Leisure facilities Service

Cost Centre	Description	Net Direct Cost	Likely Transfer?
Leisure Facilities	Management of leisure facilities	£3,312,328	Yes
Senior Management	Senior Management budget	£112,010	No
Leisure Services Manager	Leisure Services Manager budget	£87,714	No

Cost Centre	Description	Net Direct Cost	Likely Transfer?
Leisure Facilities Management	Leisure Facilities Management team	£261,306	Yes
Business Support	Business support team	£170,607	Yes
Marketing	Marketing team	£60,489	Yes
Optimisations Card	Centre membership scheme	(£7,124)	Yes
Males Bank and Crewe Golf Clubs	Golf courses	(£31,871)	No
Miscellaneous	Small cost centres - Grounds Maintenance, Luncheon Clubs, Ludford Centre, JU Sandbach and France Hayhurst Centre	£3,076	'JU Sandbach' cost centre only - £2.50
Cost	Net	£3,968,534	£3,797,608

- 7.4 The net direct cost of the facilities service in 2011/12 was therefore £3,968,534. Of the service elements likely to transfer under TUPE, the net direct cost of service was £3,797,608. We have assumed that the Senior Management and Leisure Services Manager budgets would remain within the Council on the client side, providing the future client monitoring function which is discussed in more detail later in this report.

National Non Domestic Rates

- 7.5 Non-Domestic Rates is a tax on properties not in domestic use, e.g. hotels, offices, public houses, schools and shops. The amount payable is calculated by multiplying the Rateable Value of the property by the National Rate Poundage set by the Government.
- 7.6 Under the Local Government Act 1988, different legal entities are entitled to mandatory or discretionary relief from the payment of National Non-Domestic Rates. Discretionary relief is down to the policies approved by each local authority. Table 7.2 sets out a summary of the historic position in terms of what relief has been available.

Table 7.2 - Potential NNDR Relief

Property Eligible for Relief	Type of Relief	Amount of Relief	Financial Implications
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Property Eligible for Relief	Type of Relief	Amount of Relief	Financial Implications
Property wholly or mainly used for charitable purposes, which is occupied by a registered charity or charity shop	Mandatory	80%	Funded by NNDR pool (Government)
	Discretionary	Up to a further 20%	25% funded by NNDR pool and 75% funded by Local authority NET SAVING TO LOCAL AUTHORITY 85%
Property, all or part of which is occupied for the purposes of a non-profit making club, society or other organisation and is used for the purpose of recreation	Discretionary	Up to 100%	75% funded by NNDR pool and 25% funded by Local authority NET SAVING TO LOCAL AUTHORITY 75%

- 7.7 The requirements for obtaining NNDR relief require the property to be eligible for relief but other tests include the Contractor holding a lease / licence (being in rateable occupation) for the premises and that it has control over the staff managing the services from the property.
- 7.8 The level of discretionary rate relief awarded would be considered by the Council on a case by case basis. We have set out in the table below the level of discretionary rate relief likely to be awarded under each management option, based on our interpretation of the Council's Discretionary Rate Relief Policy.

Table 7.3 - NNDR Relief Available Under Each Management Option

Management option	Mandatory (80%)	Discretionary	Total Potential Annual Saving
In-house	×	×	0%
Private Management (Hybrid trust)	×	✓ (25%)	25%
Existing NPDO (trust)	✓	×	80%
New CIC	×	✓ (25%)	25%
New NPDO	✓	✓	100%

- 7.9 However, as from April 2013, the Department for Communities and Local Government's (DCLG) new Business Rates Retention Scheme implemented following the Local Government Resource Review will have a significant impact on the actual savings that awarding NNDR relief will deliver for the Council. Under the new proposals, which begin in April 2013, the

mandatory and charitable reliefs that Trusts currently receive will be retained, however any changes in NNDR costs between baseline re-sets (the first re-set period will be for 7 years from April 2013 to 2020) will be shared 50:50 between central and local government.

- 7.10 This means that the Council's baseline (the amount it receives from NNDR receipts) will be set from April 2013 until April 2020 and if the Council subsequently awards further rate relief to other organisations during this period it will have to meet 50% of this cost. Therefore, whilst setting up a new NPDO may result in the NPDO receiving 100% rate relief, the saving to the Council will actually only be 50% in this circumstance.
- 7.11 As a result of this new legislation, we have included the following NNDR saving levels within our financial model (N.B. the full saving could be realised from 2020 onwards after the first baseline re-set). They are based on the 2011/12 total NNDR bill for the facilities of £625,614.

Table 7.4 - Assumed NNDR Savings to the Council

Management option	Total Potential Annual Saving %	Total Potential Annual Saving £	Total Potential Annual Saving to Council
In-house	0%	£0	£0
Private Management (Hybrid)	25%	£156,404	£78,202
Existing NPDO	80%	£500,492	£250,246
New CIC*	25%	£156,404	£78,202
New NPDO	100%	£625,615	£312,807

* Assuming the CIC is awarded discretionary rate relief.

- 7.12 It should be noted that this is still extremely new legislation and there are different interpretations of its implementation / impact with some authorities entering into pooling arrangements with other authorities. We have interpreted the new legislation as set out above however will review these figures in light of any formal policies adopted by the Council once available.

Value Added Tax

- 7.13 As a general principle, the status of the purchaser of a service will determine the amount of VAT that can be recovered by that purchaser on its costs of providing the service.
- 7.14 A common principle is that the purchaser can claim VAT on the costs of providing its services in the same percentage of the VAT it charges on its services. For example, where a purchaser provides services, 90% of which are subject to VAT, then the VAT that it pays on purchases to provide the service can be recovered at 90%; thus the purchaser will have a 10% non-recoverable VAT cost.
- 7.15 The different management options provide, as a very broad principle, the following VAT recovery rates (subject to the level of the management fee in comparison with other income):
- local authority - 100%;

- private sector - 90%; and
- NPDO - 10%-20% (depending upon the level of the management fee).

7.16 On this basis, where any of the above management options incur capital expenditure, it can have serious implications on the overall cost of a capital project, as the non-recoverable element will also need to be added to the capital payments for the project, although there are a number of ways in which this risk is mitigated. Local authorities have special rules regarding the recovery of what would be non-recoverable VAT, but even then there is a limit sometimes to the amount that they may recover.

Transferring Service Operations to a third party

7.17 When a NPDO or private sector contractor consortia takes over the management and operation of the facilities for the Council, they will normally become the principal in providing the supply of services to the public. Where this arises, there will be two main aspects for the Council to consider:

- the effect that capital costs will have on each of the parties to the arrangements; and
- the VAT liability of supplies of services made by the Contractor to the public and how this affects its own VAT recovery position.

7.18 In terms of capital expenditure, if the principal to the supply cannot recover all the VAT payable on these works, this could adversely impact on the Council's finances as they could lose all their exempt VAT benefit. Furthermore where the contractor or NPDO cannot reclaim all the VAT (their irrecoverable VAT) they will add this back to the contract price which the Council will need to finance.

7.19 In terms of VAT on supplies, each of the providers has a different VAT status in that the services provided have different VAT rates depending upon the service provider, which again can impact on the level of the management fee charged for providing the service, for example swimming lessons are VAT exempt when provided by an NPDO but not when provided by the private contractor.

7.20 The indicative fiscal benefits associated with each of the options are set out in Table 7.5 based on our interpretation of the income contained within the Oracle finance system. As part of the implementation plan for the preferred option the VAT status and sums of income in the Oracle finance system should be clarified and the potential VAT savings confirmed.

Table 7.5 - VAT Savings under each option

Facility	In-House	Private Sector	Existing NPDO	New NPDO	New CIC
Base income net of VAT	£5,622,615	£5,622,615	£5,622,615	£5,622,615	£5,622,615
Additional VAT payable/(benefit) on Income compared to Council	£0	£240,183	(£760,717)	(£760,717)	£240,183

Facility	In-House	Private Sector	Existing NPDO	New NPDO	New CIC
Irrecoverable VAT on Purchases	£0	£23,377	£359,646	£351,224	£22,289
Net VAT adjustment/(saving) from Council Base	£0	£263,560	(£401,071)	(£409,493)	£262,472

- 7.21 It can be seen that the private sector option is required to pay more VAT on its income than the Council does by £240,183 which means that if the private sector operated the facilities the income they could retain would be lower than that of the Council (for example swimming lessons are subject to VAT for the private sector, but not the Council).
- 7.22 Likewise the NPDO does not have to account for VAT on sport and leisure income, whereas the Council has to pay VAT on certain services, and therefore charging the same prices would mean the NPDO would keep more of the income than the Council is able to do so by c£761k per annum.
- 7.23 The general principle of recovering the VAT paid for supplies and services is that it can only be reclaimed in the same proportion as the income that is subject to VAT for services provided to users. In calculating the "VAT recovery rate" it is necessary to establish the income that is subject to VAT plus also taking into account the income from the management fee, which is also subject to VAT.
- 7.24 The financial model calculates that the VAT recovery rate for the Council is 100%, private sector is 96% and the NPDO options are circa 40%, which means that the VAT on expenditure which is incurred will be partly recovered in these proportions. The recovery of VAT by the NPDO is normally circa 10% but with the management fee (operating subsidy) this improves the recovery rate significantly.
- 7.25 The table above sets out the amount recoverable compared to the base Council position. It can be seen that the private sector cannot recover circa £23k but the NPDO options cannot recover over £350k which will need to be added to the cost of providing the leisure service under their management approach.

Central Support Costs

- 7.26 The leisure centre management element of the service which is likely to transfer to any outsource management vehicle (as defined in table 7.1) incurs approximately £3.4m of additional support service costs, plus £2.325m of notional financing costs.
- 7.27 It is assumed that the financing costs represent depreciation of buildings and equipment and do not represent cash budgets that would be available for transfer to a new management vehicle or could be saved following a transfer of the service to an alternative provider.
- 7.28 On that basis, this section deals with the accounts described as 'support service' costs which are the recovery of the cost of providing central support functions of the Council which totalled £3.4m in 2011/12.

- 7.29 Table 7.6 sets out a summary of the central support charges allocated to the leisure centre management element of the service.

Table 7.6 - Central Support Recharges

Central Support Service Department	2011/12 Recharge
Assets	£2,416,706
Audit	£15,835
Chief Executive	£29,811
Communications	£33,177
Corporate Improvement	£10,071
Customer Services	£105,314
Democratic	£85,169
Directorate Management	£74,595
Facilities	£45,700
Finance	£84,351
Financial Services	£54,805
Head of Borough Treasurer & Head of Assets	£10,261
Head of Policy & Performance	£5,778
Human Resources & Organisational Development	£145,789
ICT	£179,227
Insurance & Risk	£34,627
Legal	£35,760
Plan & Perform	£3,106
Procurement	£30,922
Total	£3,401,005

- 7.30 From experience, it is difficult to establish the exact level of savings from central support services that can be achieved from the outsourcing of a service, as current recharges are not usually allocated on an actual service usage basis, but more commonly are distributed over the local authority on a per head, per computer, per m2 basis. Likewise, where an outsourcing occurs, managers of these central support functions will need to consider the redistribution of workloads and subsequent impact on staffing levels before calculating any savings to be made.
- 7.31 At the time of preparing the report we had not been provided with the details of the overall Council-wide central support services costs and number of employees (broken down by central support service department), which would allow us to provide an indicative estimate

of the potential savings that the Council may achieve as a result of the outsourcing. However, having discussed the methodology of calculation / allocation of central support costs with the Council it appears that in previous years different approaches were utilised by different departments. Given that the Council is currently reviewing its methodology of calculation / allocation of central support costs with the aim of improving the accuracy and consistency of the methodology used across the Council, we would recommend to the Council that it considers the residual impact on all central support costs following a decision on the future management arrangements of the leisure and culture service, in light of the updated central support cost calculations for the services.

- 7.32 What is clear is that an existing trust or private contractor would not require the services of any of the Council's central support functions, given that they will have their own 'head office' support teams. Therefore, savings could potentially be made as a result of an outsourcing. The Council should bear in mind that this is not a simple pro-rata calculation as, for example, a theoretical saving of 0.25 of an FTE would not necessarily equate to an actual saving of 0.25 of a central support post.
- 7.33 Based on our experience of other similar studies we have included an indicative saving of 15% of the central support costs for the service from outsourcing. We have seen very few examples where Councils have been able to save higher levels than this due to the reasons discussed above.

Profit, contingency and overheads

- 7.34 Under the different management options, the operator will seek to make a charge for their profit and contingency. There is no strict guide to the level of these, which is dependent upon how busy the leisure contracting market is, the level of risk transferred to the Operator from the Council and the Operators' own pricing mechanism.
- 7.35 There are some trends in the market, bearing in mind that the private sector normally have shareholders which need to see a profit to see a return on their investment, existing NPDOs normally need to set aside operating surpluses as contingency against changes in income and costs or to pay a "service" fee to their parent company and new NPDOs need to generate cash reserves to meet unexpected changes in income or service costs.
- 7.36 Similarly, the Operator will seek to recover its central support costs / overheads through its contracts, and the amounts are normally a percentage of income to finance these. Again, different models use different percentages, on the basis that the "Head Office" costs are distributed over a number of contracts, which in turn spreads the cost.
- 7.37 Table 7.7 sets out the percentage applied to income to cover profit and contingency and overheads under the different management options, calculated from the current base income and adjusted for the impact on VAT.

Table 7.7 - Calculation of profit / contingency and overheads under each option

Services	In House	Private Sector	Existing NPDO	New NPDO	New CIC
Income (incl. VAT benefit)	£5,622,615	£5,382,433	£6,383,332	£6,383,332	£5,382,433
Rate % - Central Overheads	0%	5%	5%	5%	5%
Rate % - Profit and Contingency	0%	5%	5%	2.5%	2.5%
Total Amount (£)	0	£538,243	£638,333	£478,750	£403,682

- 7.38 The private sector normally are able to spread their legal, finance, personnel and IT costs over a vast number of contracts. The existing NPDO could be similar but this could vary depending upon the size of the NPDO and the number of contracts it holds. The private sector has shareholders to satisfy so a higher level of 'profit' has been allocated when compared to a new Trust / CIC.
- 7.39 A new trust or CIC would have additional costs which it will have to pass directly to this contract (including for example IT services, accountancy, accommodation costs, support staff etc.), rather than spread across a number of contracts (e.g. an accounting system). We have also assumed a £250k per annum provision for senior management staff such as a Finance Director and Chief Executive. This results in an overall allocation of circa 8% of income for overheads and senior management costs for a new trust or CIC.

Pensions

- 7.40 The impact of a large number of staff leaving the Council's pension scheme may have implications on the employers' contribution rate, as the value of the fund, the current and future liabilities to meet pension payments and the age of those remaining within the scheme and who continue to contribute will change.
- 7.41 It is essential that the value of the change in the employers' rate is determined to ensure that the financial projections take into account the current actuary projection of the pension fund assets and liabilities.
- 7.42 The Council will need to take actuarial advice to understand the long-term implications for pensions. It will need to:
- decide whether the new operator must seek Admitted Body Status;
 - calculate the required employer contribution rate from the operator;
 - understand the level of pension deficit - this is likely to remain with the Council and not be transferred; and

- decide if a bond is required from the new operator (and to what value) to cover potential shortfalls in the pension fund at the expiry of the contract or whether the Council will act as guarantor.

- 7.43 As this area requires specialist advice, we have not included any sums for an increased pension cost at this stage. Similarly, we have not included any additional sums for additional costs in relation to automatic enrolment of staff within the pension scheme in 2017 as this will be the same across all options and so does not provide a differentiator in terms of level of savings / additional costs.
- 7.44 We have included a £25,000 cost per annum as provision for a pension bond. A pension bond protects the local authority from loss in the event that the external company defaults in payment of contributions to the pension fund or there is a deficit on expiry of the contract.

Set Up Costs and Timetable

- 7.45 Each management option will have a different lead in time to set up. Outsourcing a contract to a private sector provider or an existing NPDO will require a contract, leases and a specification but the new NPDO will also require the appointment of trustees, delivery of company documents, registration with the Charity Commission etc. and potentially the recruitment of senior key staff (Chief Executive/Finance Director etc.).
- 7.46 The advisor fees are estimates and will be dependent upon whether the Council uses its own legal services to procure the contract and leases for the new arrangements or it uses external advisors. Where the Council uses its own legal team, the estimates on advisor fees is likely to reduce by circa £40,000 to £50,000.
- 7.47 Furthermore, under these outsourcing options, the Council would need to consider the impact and cost of monitoring any future contract. We have assumed that this role could be fulfilled within the budgets retained in the Council for Senior Management and Leisure Services Manager.
- 7.48 The table below sets out the estimated costs and timeframe for delivery of the transfer of services. These costs have been incorporated within the net present value calculations (see Appendix B).

Table 7.8 - Summary of set up costs and timetable

Services	In House	Private Sector	Existing NPDO	New NPDO / CIC
Timeframe	0 months	12 months	12 months	12 - 18 months
Advisor Fees - legal, financial and procurement	£0	£50,000 - £80,000 +	£50,000 - £80,000 +	£150,000 - £250,000

Opportunities to Increase Revenue and Reduce Costs

- 7.49 So far this section has covered the financial impact that will result mainly from structural characteristics of the various potential management options. However, there are a number of areas where, in a competitive tendering process, we believe that external contractors would seek to increase income and reduce expenditure and pass the benefit of these savings back to the Council through the management fee.
- 7.50 We have identified potential areas which may be targeted in table 7.9. Latent demand assessments and a more detailed operational review would need to be carried out to confirm the exact level of increases / savings that could be achieved however we have made estimates based on the results of the benchmarking process, site visits to each of the facilities and our experience of evaluating bids from leisure contractors.
- 7.51 It is worth reiterating that this analysis is based on the 2011/12 data and we understand that a number of these opportunities are already being delivered through recent investment in the sites and resultant improvements in income generation. It should be noted that potential for additional income at joint use facilities is often restricted by the terms of existing legal agreements.

Table 7.9 - Potential Operational Efficiencies

Service Area	Description	Potential Financial Impact
Fitness income at Macclesfield Leisure Centre	Fitness income was significantly below benchmark for this quality of facility and location. Increased by c35% (£1.5k extra per station) for existing operators and £750 per station for new companies.	Existing Operators - £76,500 pa
		New Trust / CIC - £36,250 pa
Fitness income at Wilmslow	Fitness income was significantly below benchmark for this quality of facility and location although noted that competition is strong in the area. Increased by c20% (£1k extra per station) and £500 per station for new companies.	Existing Operators - £41,000 pa
		New Trust / CIC - £20,500 pa
Fitness income at Congleton	Fitness income is significantly below benchmark for this location considering the limited local competition. Increased by c50% to achieve c£5k+ per station by existing operators on basis that they would invest capital immediately into the facility.	Existing Operators - £41,000 pa
Investment into fitness facilities at Congleton	To achieve the above income increase it would be necessary to invest capital into improving the fitness suite. Assumed £250k investment depreciated over 5 years	Existing Operators - £50,000 cost pa for first 5 years
Swimming income at Congleton	Swimming income is very low for a facility in this location considering the relative lack of	Existing Operators - £88,000 pa

Service Area	Description	Potential Financial Impact
	local competition. 50% increase in swimming income to c£700 per sqm of water by existing operators. 25% increase for new companies.	New Trust / CIC - £44,000 pa
Utilities costs	Utility costs assumed to decrease by 5% due to economies of scale provided by large private contractors as evidenced in recent bids.	Private contractor - £69,000 pa
Income at dual-use sites	Income is low at these facilities (often for good reason) however this is an area that existing contractors will always target. Assumed 10% increase by private contractor, 5% increase by existing trust and 2.5% increase by new organisation.	Private contractor - £200,000 pa
		Existing Trust - £100,000 pa
		New Trust / CIC - £50,000 pa

7.52 The above operational income and expenditure changes have been incorporated within the financial projections. It should be noted that, whilst these changes might seem significant, we are confident that they are prudent as they still result in performance below benchmark levels (albeit considerably closer to benchmarks) and below levels we have witnessed on similar bids for other leisure management contracts.

7.53 In summary, the projected level of operational changes are as follows:

- Private management contractor - £509,500 net saving per annum; (however this will be constrained by the current joint use agreements that are in place)
- Existing trust - £340,500 net saving per annum;
- New trust - £152,750 net saving per annum;
- New CIC - £152,750 net saving per annum.

7.54 Staffing costs are also high when compared to benchmark level which is something that would be investigated by an external operator however further work would be required to establish whether this is related to the number of staff and staffing structure or the rates of pay so we have not made any assumptions in relation to reduced staffing costs. We understand that the costs associated with recent changes in terms and conditions amount to c.£750,000 pa in the staffing budget and it is unclear whether any of these changes could be revisited to reduce the overall cost.

Summary of Management Fee and Total Cost to the Council

7.55 A summary of the management fee and all the adjustments included within this section for each of the options is shown in table 7.10.

Table 7.10 - Summary of Adjustments and Management Fee

	Private Sector £	Existing NPDO £	New NPDO £	New CIC £
Current Net Direct Cost budget (In-House)	£3,797,608	£3,797,608	£3,797,608	£3,797,608
NNDR Savings	-£78,202	-£250,246	-£312,807	-£78,202
Pension Bond	£25,000	£25,000	£25,000	£25,000
Operational Changes	-£509,500	-£340,500	-£152,750	-£152,750
Central Overheads, Profit and Contingency	£538,243	£638,333	£478,750	£403,682
Management Team	£0	£0	£250,000	£250,000
VAT Impact	£263,560	-£401,071	-£409,493	£262,472
Revised Management Fee	£4,036,650	£3,471,915	£3,676,308	£4,239,284
Central Support Cost Savings (Year 3 figures)	-£510,151	-£510,151	-£510,151	-£510,151
Retained Landlord Maintenance Responsibilities*	£150,000	£150,000	£200,000	£200,000
Total Cost to Council	£3,676,558	£3,108,973	£3,366,157	£4,197,659
Saving compared to In House	£121,049	£688,634	£431,451	-£521,101

* Contingency sum for retained landlord maintenance responsibilities in addition to current maintenance spend. Higher sums allocated for new trust/CIC as they will have less reserves so Council may need to retain more asset risk.

- 7.56 The table above identifies the financial impact on the changes that are likely to be achieved under each of the management options being considered. The main issue for the private sector option is that it has a worse VAT position than the Council and it cannot deliver a significant rate relief on its business rates compared to the NPDO (Trust) options. In addition to the net direct cost of the service, the private sector needs to add the recovery of its overheads and profit.
- 7.57 In terms of the two trust options, the main additional costs are similar to that of the private sector option with the addition of significant irrecoverable VAT. The main benefits are the savings in VAT on income and NNDR which lower the overall cost compared to the in-house option. The new trust produces lower savings than an existing trust because it has increased management costs and less access to the capital funds, economies of scale and new expertise that an existing trust could offer.

- 7.58 A new CIC is not as financially viable as the other options because it does not produce the same level of VAT / NNDR savings or provide access to the capital funds, economies of scale and new expertise that an existing trust or private contractor could offer.
- 7.59 It should be noted that there will be some variances to these costs from year to year as a result of set-up costs, a phased approach to central support cost savings and the depreciation of capital invested by existing operators. The full impact of this is set out within the net present value calculations below.
- 7.60 In addition to the changes in management vehicle, the Council has been considering a programme of asset changes in terms of investment and rationalisation as highlighted previously in this report. The full financial impact of these changes on the preferred option is set out in section 10.

Net Present Cost / Value of Options

- 7.61 The table below provides a comparison of the cashflows over 25 years from 2014/15 (including set-up costs in 2013/14) and converts these into a current value using a discount rate of 3.5% (excluding inflation) in accordance with HM Treasury Green Book. The cashflows are negative (i.e. payments to the management vehicle / costs incurred) so we have labelled this as a comparison of net present costs. The full calculations are contained within Appendix B.

Table 7.11 - Comparison of Net Present Values / Costs

	In-House £ (Base)	Private Sector £	Existing NPDO £	New NPDO £	New CIC £
Total 25 year cost	£94,940,205	£91,424,170	£77,234,553	£84,664,134	£105,451,700
Net Present Cost (including set-up costs)	£60,473,754	£58,516,256	£49,477,942	£54,180,446	£67,421,434
Benefit compared to base NPC	£0	£1,957,498	£10,995,812	£6,293,307	-£6,947,681

- 7.62 Table 7.11 demonstrates that the net value over a 25 year period would be in the region of £2m if contracting with a private contractor, £11m if with an existing trust, £6.3m if setting up a new trust and a cost of £6.9m if setting up a new CIC. This financial benefit can then be compared to the non-financial implications discussed in section 8 of this report.

Scale and Scope of Commissioning Opportunity

- 7.63 The Council is also considering adding other in-house services to the new management vehicle as set out previously within this report. The 2011/12 net direct costs (excluding all central support costs, capital financing and below the line costs) of each of these services are set out in table 7.12.

Table 7.12 - Net Direct Cost of Additional Services

Cost Centre	Income	Expenditure	Net Direct Cost	Notes
port & Play Development	£529,127	£872,861	£343,734	Excludes £288,285 of support services & capital financing costs etc.
ommunity Halls	£41,184	£97,919	£56,735	Excludes £61,983 of support services & capital financing costs etc.
rts & Cultural Services	£31,863	£855,310	£823,447	Excludes £298,796 of support services & capital financing costs etc.
reen Spaces*	£458,199	£1,976,022	£1,517,823	No below the line / notional costs stated as figures are budget, not outturn.
et Cost	-1,060,373	3,802,112	2,741,739	

* Figures for green spaces are 13/14 budget figures and not 11/12 actuals

7.64 The net direct cost for the additional services being considered for inclusion in the new management vehicle are circa £2.74m however the following should be noted:

- **Community Halls** - the cost includes for the five community halls named in Section 1 only, community halls management costs are included in the overall arts and culture cost centre and there are no maintenance costs included in these figures, which would require a transfer of budget from the Council's asset management team;
- **Arts and Cultural Services** - this includes all cost centres with the exception of Archives, Knutsford Cinema, the Lyceum Theatre and the remainder of the community / civic hall costs which have been excluded. Management cost centres for cultural facilities and the community halls are included within these costs. There are no clear maintenance costs for the museums although there are grants to the museums which might include provision for some of these costs;
- **Green Spaces** - includes costs for the three service elements named in Section 1 only. Figures are 2013/14 budget figures rather than 2011/12 actual outturn figures.

7.65 A detailed line by line financial analysis should be carried out once the Council decides which services it may incorporate within the new management vehicle and when they are likely to be incorporated. The more detailed investigation into the line by line nature of the income and expenditure needs to be carried out to properly assess the impact on the VAT position of the new management vehicle and other potential fiscal savings, however the following headline key points can be identified from our initial review:

- Only £14,996 of NNDR expenditure is identifiable from the numbers provided which limits the potential savings that could be provided in this area;

- Accurate maintenance costs need to be identified within the figures to ensure that all relevant costs are factored into the affordability assessment;
- Only £300,223 of the income identified is from 'fees and charges'. The remaining circa £700k is either from recharges or, in the majority of cases, grants. We would need to understand the exact nature of these income lines however, considering the type of services we are assessing, it is quite likely that a large proportion of the income will be grant-based and thus not vatable income. This therefore limits the savings that a charitable trust can produce in this area;
- Circa £60,000 of VAT benefit would be generated on vatable income of circa £300,000 by a charitable trust. However, applying the circa 40% VAT recovery rate of the trust (as identified previously in this section) to the net expenditure of £1.60m (net expenditure when staffing expenditure is excluded from the above stated costs) would result in circa £189,000 of additional irrecoverable VAT. Whilst this is a very high level calculation, it identifies immediately the potential issues with adding services into a trust that have significant expenditure with low associated income. In this scenario, over £100k of additional savings would need to be found purely to maintain the services at their existing cost due to the negative impact on VAT.

7.66 The VAT issue is clearly a significant concern in relation to the future sustainability of the other services, particularly the green spaces. This would need detailed further analysis before transferring these services to a third party provider or trust.

8. Evaluation of Delivery Options

- 8.1 In assessing the range of options for future delivery and management of the leisure, culture and green space facilities and services, a robust evaluation mechanism is required which is based on bespoke local needs and balances financial and non-financial implications appropriately.
- 8.2 This section sets out the evaluation framework, following the service review and consultation undertaken to date. It is intended that the following options will be evaluated using this framework:
- Retention of In-house Management;
 - Outsourcing procurement process leading to contract with a private sector operator using a 'hybrid' trust or an existing NPDO;
 - Establishment of a new social enterprise (which could include a charitable trust or CIC - further discussion on this is provided in section 9).

Evaluation criteria and process

- 8.3 This evaluation process will help inform recommendations about the most efficient and effective management option.
- 8.4 Following the strategic review and consultation with Council officers and elected members, the main drivers identified by the Council for this study are as follows:
- Degree of strategic control by Council;
 - Impact on service delivery;
 - Impact on staff;
 - Provision of a service in line with Corporate objectives;
 - Impact on residual costs;
 - Ability to transfer risk;
 - Opportunity for partner / community involvement;
 - Flexibility for future asset plans / changes; and
 - Flexibility for future inclusion of additional services / facilities.
- 8.5 A brief definition of these criteria is set out overleaf.

Degree of strategic control by the council

- 8.6 It is likely that the Council will want to retain as much influence and control of the service as possible to enable the service to reflect the strategic objectives of the Council and any changes to these.

Degree of operational control by the council

- 8.7 The Council currently has day to day operational control at each of the facilities and this could potentially reduce depending on which management vehicle is selected.

Impact on service delivery

- 8.8 This focuses on which of the management options can bring about further improvement in service efficiency and effectiveness, comparing market understanding of the strengths and weaknesses of the options plus local understanding of the current situation.

Impact on staff

- 8.9 In house management would have little or no impact on staff as this would be a continuation of the existing arrangements. Other management options would involve TUPE staff transfers and other change processes, which would have a greater impact on staff.

Provision of a service in line with Corporate objectives

- 8.10 Delivery of the Council's objectives is crucial. Therefore, this is a high priority for the management options review.

Impact on residual costs

- 8.11 The service currently utilises a range of central services (HR / payroll / accounting / asset management etc.). In other delivery options these central services may not be required which could impact on residual costs for the Council - for example, the Council will retain these central support costs, but with a smaller portfolio of services over which to distribute the costs.

Ability to transfer risks

- 8.12 Transferring to a new form of management model may enable some of the risks associated with running this service to be transferred away from the Council. The level and type of risk transfer will depend on the selected option. Some of the key risks were outlined in section 6 of this report.

Opportunity for partner / community involvement

- 8.13 The Council wishes to 'future proof' existing partnership arrangements that contribute to innovative and effective services to the local community. The level of community and partner engagement possible will be different across the various options.

Flexibility for future asset plans

- 8.14 We have already noted some of the Council's plans for asset transfers and delivery of new Lifestyle Centres, which will impact on future management arrangements. Any future vehicle therefore needs to include sufficient flexibility for inclusion of these changes over the next 5-10 years. Also, there may need to be flexibility to account for transfers under the Localism agenda or changes to the joint use agreements.

Flexibility for future inclusion of additional services / facilities

- 8.15 As noted in this report, there are clear opportunities for packaging of a number of facilities and services in future delivery arrangements, which means that the chosen approach needs to be sufficiently flexible to allow inclusion of additional services / facilities in the future.

Weightings

- 8.16 On the basis of advice received following discussion with the council, the following weightings have been set.

Table 8.1 - Weighting of non-financial criteria

Non-financial criteria	Weighting
Level of Council strategic influence	10%
Impact on service delivery	15%
Impact on staff	10%
Correlation with Corporate objectives	15%
Impact on residual costs	5%
Ability to transfer risk	5%
Partner/community involvement	10%
Flexibility for future asset plans	15%
Flexibility for future inclusion of additional services / facilities	15%

- 8.17 Table 8.2 overleaf contains an analysis of each option against the stated criteria. Each option is given a raw score out of 10 for each category, which is then weighted according to the priorities noted in table 8.1.

Table 8.2 - Analysis and scoring of each option

Criteria	Weighting	In-house	Outsourcing (private contractor / existing trust)	New Social Enterprise
Level of Council strategic influence	10	10 Retaining the service in house would give the Council maximum control at both a strategic and operational level.	6 Some protection through management contract and management fee, but likely to be less than in trust scenarios, with less flexibility to adapt to changing priorities. Changes would be via the formal change mechanism in the contract, although minor changes would likely be agreed on an informal basis.	8 A balanced trust board including elected members would allow the Council to retain a good degree of strategic control, albeit there cannot be more than 20% influence.
Impact on service delivery	15	6 Steady improvement in services over recent years and continued ability to deliver community initiatives. However, limited opportunity for access to national best practice models or support networks such as SPORTA. Increase cost outside of services control in particular Pay Harmonisation.	9 Step change derived from private sector expertise and commercial drivers. Council's access initiatives will need to be protected in any management agreement, but this can be done via the service specification.	8 Possible improvement in short to medium term derived from single clear focus and ability to create new organisational culture. Local focus should ensure community initiatives retained.

Criteria	Weighting	In-house	Outsourcing (private contractor / existing trust)	New Social Enterprise
Impact on staff	10	<p>7</p> <p>The decision to stay in house would have minimal impact on staff. Pay and conditions would be protected, as would pensions. However, the opportunity for career progression and the ability to innovate is perhaps more limited than in some of the other vehicles and the financial climate is such that protection of non-statutory services is no longer guaranteed.</p>	<p>5</p> <p>Staff likely to be more nervous about the private sector route and would be a more significant change than a trust option. TUPE and Admitted Body Status should offer some protection for existing employees. Positively, there may be greater opportunity for career progression and more structured training programmes.</p>	<p>7</p> <p>Staff will be TUPE transferred and essentially be working for a different organisation. Although seen as a 'softer' option than the private sector it still involves a big change, albeit the local focus and understanding should provide some comfort. Admitted Body Status should offer some protection for pensions of existing employees.</p>
Correlation with Corporate objectives	15	<p>8</p> <p>Correlation can be retained and controlled in-house. However, competing corporate priorities may make it difficult to focus on essential issues that benefit the customer.</p>	<p>6</p> <p>Limited influence - commercial realities would be more important than delivering Council objectives, unless the contract was carefully drafted.</p>	<p>7</p> <p>Representation by Councillors on the trust board could enhance the correlation and the trust will have a more focused approach given it's 'single-issue focus'.</p>

Criteria	Weighting	In-house	Outsourcing (private contractor / existing trust)	New Social Enterprise
Impact on residual costs	5	<p>6</p> <p>Limited impact on residual costs (central support charges etc.) as service will remain in-house. This is positive in relation to maintenance of the status quo but offers no opportunity for future savings or efficiencies from different models / sharing of costs.</p>	<p>6</p> <p>Private provider will have own head office services, so can potentially offer a lower cost service than Council, due to spreading costs over a number of contracts. However, Council will need to reallocate the support posts or make posts redundant to ensure savings are 'real'.</p>	<p>7</p> <p>Limited initial impact as trust likely to purchase central support services from the Council in first few years of operation. Longer-term, trust may wish to test value for money of services, to ensure a good service / financial deal. Council would need to redistribute the costs to other retained departments or realign staffing, albeit over a longer period of time than the private sector option.</p>

Criteria	Weighting	In-house	Outsourcing (private contractor / existing trust)	New Social Enterprise
Ability to transfer risk	5	<p>2</p> <p>The risk associated with the services and facilities is retained by the Council, with no opportunity to transfer any of the risks to third parties, unless some form of asset transfer is undertaken on a small number of facilities.</p>	<p>8</p> <p>Considerable operating risk can be transferred, but as outlined in section 6 there are a number of strategic risks which are likely to remain with the Council for value for money reasons. In particular, long-term asset risk is likely to remain with the Council.</p>	<p>6</p> <p>Considerable operating risk can be transferred, but as outlined in section 6 there are a number of strategic risks which are likely to remain with the Council for value for money reasons. In particular, long-term asset risk is likely to remain with the Council.</p> <p>Further to this, a new vehicle will not have the trading history or reserves to support fluctuations in trading, meaning that the Council may need to step in or provide additional funding.</p>
Partner/community involvement	10	<p>7</p> <p>The service will be able to continue with its community involvement initiatives if the service remains in house. However, there is no opportunity for increased integration / joint working, which may be the case in other vehicles.</p>	<p>5</p> <p>Commercial driver likely to override commitment to local involvement, unless specifically highlighted as a requirement in the contract documentation. This can be written into the service specification, but requires careful consideration up-front.</p>	<p>9</p> <p>Service level agreement can embed local involvement. Local involvement assured via community involvement plan and Board of Trustees make-up. Research suggests the positive role trusts can play in enhancing partnership working and encouraging community involvement.</p>

Criteria	Weighting	In-house	Outsourcing (private contractor / existing trust)	New Social Enterprise
Flexibility for future asset plans	15	8 This option would retain maximum flexibility to incorporate any (likely) future changes in facility stock.	6 Reduced flexibility going forward, unless changes can be planned prior to transfer and included in the contract documentation or instigated via the formal change procedure in the contract.	7 Less flexibility than in-house, as the trust is a separate entity, which will look to re-negotiate the financial implications. However, likely to be more flexible than a non-local delivery vehicle.
Flexibility for future inclusion of additional services / facilities	15	6 All of the services / facilities are currently in-house, apart from the Lyceum Theatre and Knutsford Cinema. There should therefore be existing synergies be the services, but this could be constrained by the silo mentality of local government and is susceptible to future cuts, particularly to development services.	6 Reduced flexibility going forward, unless changes can be planned prior to transfer and included in the contract documentation. Also, the expertise of the contractors to deliver development services or green spaces is less proven, meaning that it may not be the most appropriate route.	7 Less flexibility than in-house, as the trust is a separate entity, which will look to re-negotiate the financial implications. However, likely to be more flexible than a non-local delivery vehicle and there are clear synergies in creating a locally focused, comprehensive vehicle that delivers a number of customer-facing services and facilities.
Total non-weighted score		60	57	66
Weighted percentage		70%	64%	74%

Summary of non-financial evaluation

- 8.18 The evaluation demonstrates that a new social enterprise vehicle has the potential to provide the highest level of non-financial benefits to the Council. However, there is little statistical difference in the evaluation between the current model of service delivery and a new trust vehicle. This conclusion is also logically valid when it is considered that a new local social enterprise would essentially be the same personnel as the current service, albeit under a different delivery model. The current partnerships, service focus and quality of delivery should therefore remain in both models.
- 8.19 In summary the benefits of the trust management vehicle are as follows:
- Savings on NNDR costs and VAT;
 - Involvement of external expertise in the trust Board;
 - Involvement of key partners to shape future priorities and activities;
 - Greater financial and managerial autonomy;
 - Opportunity for community and staff involvement in the management of services; and
 - Benefits of having a single issue focus; and
 - Ability to expand in future to take on additional services / facilities.
- 8.20 In relation to financial issues there is a forecast benefit in transferring the leisure services to a charitable trust vehicle in particular, as detailed earlier in section 7. Section 9 summarises the conclusions of our work and highlights the key factors to be considered in selecting a preferred way forward.

9. Summary and Recommendations

Introduction

- 9.1 The purpose of this report was to deliver a management options appraisal for leisure services, possibly also including development services, elements of arts and culture and green spaces. The analysis has covered both the financial and non-financial implications of different management vehicles and has covered a wide range of potential options, including:
- Continued in-house management;
 - Outsourced management - either through a private company or an existing charitable company (Trust); and
 - Establishing a new company - either charitable or non-charitable, covering the following options:
 - Unincorporated Charitable NPDO;
 - Industrial and Provident Society (IPS);
 - Company Limited by Guarantee (GLG);
 - Charitable Incorporated Organisation (CIO);
 - Limited liability partnership (LLP);
- 9.2 It is worth noting that these different types of company structure are often classified under the umbrella of Social Enterprises - indeed, Greenwich Leisure Limited (which manages leisure services in the south east of England) is often used as a case study of a successful social enterprise. A social enterprise is a company which:
- has a clear social and/or environmental mission set out in their governing documents;
 - generates the majority of their income through trade;
 - reinvests the majority of their profits;
 - is autonomous of state;
 - is majority controlled in the interests of the social mission; and
 - is accountable and transparent.

Strategic Context

- 9.3 A strategic review of the context in which the services / facilities will operate was provided in section 2 of the report, which clearly identified the need for any future management to be aligned with key corporate priorities for the Council and identified the major role that the service has to play in Cheshire East in reducing anti-social behaviour and improving health, particularly in light of the ageing population profile.
- 9.4 The demographic profile of the borough is a key issue in relation to future demand for services and will impact on the types of facilities and programmes offered. The local population will increase over the next 15+ years which will result in additional potential users for the facilities but also highlights the need to ensure facilities and services are fit for purpose and can cope with the increased demand.
- 9.5 The local population appears to be healthy and relatively active, although there are still improvements that could be made in participation levels. This emphasises the need for a modern and efficient management service which continues to offer a varied programme of activities, in modern and value for money facilities, to contribute towards increasing the healthy living of residents in Cheshire East further still.
- 9.6 The elderly age profile of the Borough (which is projected to become more pronounced over the next 15+ years) may impact on income from some activities and presents specific challenges that need to be addressed in terms of ensuring programming and facilities cater for all age groups within the Borough. This will be particularly crucial as the challenge for local authorities to increase participation and improve public health will be more important (and perhaps more difficult) than ever in an ageing population.
- 9.7 The cost of inactivity per 100,000 people in Cheshire East has been identified as £1.79m pa. Extrapolating this to the total population of 370,000 identifies a cost per annum of £6.62m for primary and secondary care. There is therefore clearly a significant opportunity to reduce this annual cost through increasing participation amongst Cheshire East residents.

Current performance

- 9.8 Alongside assessing the different management options, the report has sought to review existing performance and identify areas of strength and weakness. This has then been used to inform the financial modelling of the options, but provides useful information in its own right, in terms of potential short-term areas to focus on in ensuring high quality services / facilities. Performance has been compared against national benchmarks produced from FMG's database of leisure centre operational performance data. The key findings from this review are as follows: Many facilities, and in particularly those facilities that share leisure programme time allocations with an onsite High School and associated primary schools such as Middlewich Leisure Centre, Sir William Stanier Leisure Centre, Holmes Chapel Leisure Centre and Barony Sports Complex perform below benchmark levels for income generation.
- It appears that the net direct cost of operating the facilities in 2011/12 increased by £139k from 2010/11 to £3.31m. Income increased by £203k during this period however expenditure also increased by £342k. These figures should be treated with some caution as there are a number of discrepancies that the finance team are investigating regarding the recording of income for 2011/12 with circa £200k unaccounted for between the onsite till system and the Oracle finance system. In addition, the Council also introduced additional staffing costs (est at £325,000 for 5 months) in the financial year 2011/12 associated with re-introducing paying time and half for hours worked at weekends;

- The leisure facilities in Congleton, Macclesfield and Wilmslow were the three most expensive facilities in terms of net direct operating cost in 2010/11 and 2011/12. This is perhaps not surprising as all three facilities include swimming pools which often result in increased operational costs and these facilities include higher levels of staffing (lifeguards etc) for which the costs have also been affected by the costs of implementing Council single status through paying time and half at weekends. This point is supported by the fact that the lowest operating cost facilities are Barony Park Sports Centre, Shavington Leisure Centre and Holmes Chapel Leisure Centre which are all dryside only facilities.
- Almost all of the leisure facilities perform below benchmark levels for income generation. Middlewich Leisure Centre, Sir William Stanier Leisure Centre, Holmes Chapel Leisure Centre and Barony Sports Complex generate the lowest levels of income. However, with the exception of Barony, all of these facilities are jointly provided at a high school site and have limited access to facilities for community use during the day (Monday to Friday) throughout the normal school year. None of these facilities have a swimming pool which always generates higher levels of public use and therefore higher levels of income. Middlewich was also adversely affected in terms of income in 2011/12 by the lack of any access to the floodlit astro-turf pitch which had been withdrawn from use by the High School pending the construction of a new replacement facility. The lower levels of community use possible at such smaller joint use sites supports the Council's considerations in relation to transferring these facilities back to the respective schools following expiry of the existing joint use agreements.
- The best performing facilities in terms of income generation are those at Crewe Swimming Pool, Nantwich Swimming Pool, Macclesfield Leisure Centre and Wilmslow Leisure Centre.
- Income per visit is below benchmark across the whole portfolio which is in line with the Council's Corporate strategic aims to give priority to young people, the elderly and those with disabilities. We understand that headline prices have been benchmarked against nearest neighbours and are already at the higher end of comparisons, however, over a third of all attendances are young people 16 years and under and with a further 150,000 total attendances amongst those 60 years or over. Both high priority target user groups for the Council and those that receive significant subsidies through discounted fees and charges for using the facilities.
- Health and fitness income is generally below expectations however the dual-use nature of the facilities, small size of some of the fitness suites and value for money pricing will be contributing factors to this. The average number of members per station across the portfolio is only 17 compared to an industry average of circa 25 which indicates that the majority of gyms have additional capacity (a latent demand report would need to be procured to confirm this). The exceptions to this are Crewe and Nantwich Swimming Pools which have 27 and 36 members per station respectively. These are the two best performing facilities in terms of income per station and are closer to the £5k - £6k income per station level which we would expect to see from an in-house operation. **However, it is important to note that the Council has recognised this and we understand that the significant recent developments over the past 12 months at Wilmslow, Macclesfield, Shavington, Crewe, Knutsford and Sandbach (alongside minor improvements to equipment at Holmes Chapel, Alsager and Middlewich) has had a significant positive impact on income generation and membership levels, such that the 2012/13 financial performance will be in line with or exceed industry benchmarks in most cases - this clearly supports the benefits of investing in a 'quality' offer and supports the plans for upgrades at Nantwich Pool (nearly complete), Congleton, Poynton and a further more significant upgrade, at Alsager and Sandbach.**

- Swimming and sports hall income compared to benchmark is reasonable in a number of the facilities. The leisure centres at Macclesfield and Wilmslow in particular are performing close to / above benchmark for both of these KPIs. If the additional VAT benefits that a trust operation can access were factored in, many of the facilities would be performing close to the benchmark level in these areas. There are however, a number of facilities (smaller joint use centres in particular, due to the inherent restricted daytime community access required by the shared arrangements with a high school) that perform significantly below benchmark for sports hall income which leads to questions about the need to continue operating all of the dual-use facilities which mainly offer large, 6 court sports halls. This analysis supports the Council's long-term thinking around the asset planning for rationalisation and the provision of new Lifestyle Centres.
- Performance against expenditure benchmarks is below expectation, particularly in relation to staffing costs which are often over 100% of income at many of the facilities - however, this is clearly impacted by the decision regarding enhancements, which we understand added £325,000 for 5 months of 2011/12 and has added c.£750,000 in the current year. This is also reflected in the fact that the overall cost recovery percentage is below benchmark across all facilities with the exception of Shavington Leisure Centre and Macclesfield Leisure Centre.
- Utilities costs are reasonable at many of the facilities considering the age of the asset stock however there are some facilities where the utilities costs should be interrogated to understand the reasons for the high costs compared to the benchmark level. Knutsford, Poynton and Sandbach Leisure Centres are all dual-use facilities which have very high utilities costs although this could be partially attributable to the lack of ability to accurately split utilities consumption / costs between the school and the leisure centre elements which may lead to some degree of subsidy of the schools premises being incurred by the Council via the leisure service. The utilities costs for the dual use Middlewich Leisure Centre in particular are above the benchmark level which is a concern because this dual-use facility does not have a swimming pool (although the same issue may apply as at the other dual-use facilities). Finally, Nantwich Swimming Pool has high utilities costs at £61 per square metre. These high utilities costs may be partially related to the provision of the heated outdoor pool.
- Maintenance expenditure is below benchmark across the portfolio which could be looked at as a positive in terms of controlling expenditure however is a concern if the upkeep of the assets is not being invested in for financial reasons as it will lead to long-term increases in major maintenance issues and reductions in income due to increased service disruptions and user dissatisfaction / attrition rates. It is noted that maintenance expenditure appears to have decreased significantly between 2010/11 and 2011/12. The responsibility for the maintenance budget now resides centrally with the asset management team. It is crucial that maintenance expenditure does not decrease further still (unless there is a clear plan for long-term disposal of an asset) as the resulting savings in expenditure are likely to be negated by reductions in income and increased long-term maintenance problems.
- Although there is some marketing spend in the individual cost centres for some of the leisure facilities the amounts are negligible and so have not been recorded in table 3.18. Marketing spend is not allocated per leisure centre as there is a central marketing team which works across all of the leisure facilities. The marketing team spent £39,353 in 2011/12 on marketing activities (this does not include the cost of the staff time i.e. their salaries and wages or associated expenses). Adding on the £1,502 spent on-site results in a total marketing spend of £40,855. This is the equivalent to 0.7% of income and is low when compared to the benchmark of 2.1%. This may be one of the contributory factors as to why

performance against the income KPIs was predominantly below the benchmark levels across all of the facilities.

- 9.9 It is acknowledged that the financial performance at some of the leisure facilities is understated because the true level of income and costs relating to school dual-use status and long-term hire of rooms by the Adult Services team are not accurately reflected in the levels of income / recharges allocated to each facility. This would impact positively on a number of KPIs and overall financial performance if accurate recharges were included.

Asset stock changes

- 9.10 Alongside consideration of future management vehicles, the Council has been separately reviewing future asset plans, including opportunities for provision of a number of new Lifestyle Centres to replace ageing assets and potential transfer of other facilities to schools / community groups.
- 9.11 A number of scenarios have been identified by officers and in previous reports commissioned on the Lifestyle Centres, some of which we have sought to reflect in the modelling in this report - however, this modelling is simply for scenario analysis and is not a recommendation on future asset portfolios, as that is not part of this study. There is clearly further work to do on this prior to confirming what changes will be made and the timescales for these.
- 9.12 **It is unclear whether the respective schools / community groups / parishes would have the capacity or interest to take on leisure facilities, but there are numerous precedents in other parts of the country. The capacity to deliver would be a particular issue that the Council needs to satisfy itself of prior to any transfers.**
- 9.13 Further to this, we would note that the Council will need to undertake an Equality Impact Assessment and further consultation on these transfer / rationalisation proposals before a preferred route can be signed off. Without this level of rigour there is a clear risk of challenge from a legal perspective.

Financial implications

- 9.14 The report assessed the financial implications of the outsourcing options being considered based on the following key income and expenditure areas:
- the current net direct costs of the services;
 - the impact of VAT and NNDR on the different models;
 - the impact arising from central support costs;
 - profit, contingency and overheads;
 - the impact on pension costs to the Council and operator;
 - set-up costs and timescales;
 - operational changes to increase revenue or reduce costs; and
 - implications of including other services within the commissioning opportunity.
- 9.15 This identified savings compared to the current in-house option are set out overleaf.

Table 9.1 - Comparison of Financial Implications of Management Options

	Private Sector £	Existing NPDO £	New NPDO £	New CIC £
Current Net Direct Cost budget (In-House)	£3,797,608	£3,797,608	£3,797,608	£3,797,608
Total Cost to Council	£3,676,558	£3,108,973	£3,366,157	£4,197,659
Average Annual Saving compared to In House	£121,049	£688,634	£431,451	-£521,101

- 9.16 A trust model delivers the highest amount of annual savings for the Council with an existing trust providing higher levels of savings than a new trust, mainly because it has lower management costs, easier access to capital funds that can be invested to generate additional income, economies of scale and new expertise that a new trust could not offer in the short term. This was confirmed when we modelled the net present costs of each option over a 25 year period (see table below).

Table 9.2 - Comparison of Net Present Cost of management Options

	In-House £ (Base)	Private Sector £	Existing NPDO £	New NPDO £	New CIC £
Total 25 year cost	£94,940,205	£91,424,170	£77,234,553	£84,664,134	£105,451,700
Net Present Cost (including set-up costs)	£60,473,754	£58,516,256	£49,477,942	£54,180,446	£67,421,434
25 Year Benefit compared to base NPC	N/A	£1,957,498	£10,995,812	£6,293,307	-£6,947,681

- 9.17 There is the potential to include community halls, arts and cultural services and green spaces into the new management vehicle also. However, more detailed investigation into the line by line nature of the income and expenditure associated with these services needs to be carried out to properly assess the impact on the VAT position of the new management vehicle and other potential fiscal savings (as they could in fact lead to additional costs rather than savings).
- 9.18 The VAT issue is a significant concern in relation to the future sustainability of the other services, particularly the green spaces. This would need detailed further analysis before transferring these services to a third party provider or trust.
- 9.19 A further financial issue is the critical mass required to achieve a sustainable footing for the trust in particular. We would suggest that as a minimum all of the main centres that provide community swimming pools need to be included in the trust model and the Council should avoid a situation where there is a mixed model of provision for the main facilities as this will impact negatively on critical mass, service coordination and partner

engagement. Should fewer facilities / services be included, then there are likely to be significant negative implications in terms of trust sustainability and value for money, when comparing the set up costs and running costs to the services delivered.

- 9.20 In addition, the non-financial implications of each option must be considered alongside the financial implications.

Non-financial implications

- 9.21 The non-financial implications of each option have been assessed against a set of agreed weighted criteria, covering the areas set out in the table below.

Table 9.3 - Summary of Non-Financial Implications and Weightings

Non-financial criteria	Weighting
Level of Council strategic influence	10%
Impact on service delivery	15%
Impact on staff	10%
Correlation with Corporate objectives	15%
Impact on residual costs	5%
Ability to transfer risk	5%
Partner/community involvement	10%
Flexibility for future asset plans	15%
Flexibility for future inclusion of additional services / facilities	15%

- 9.22 Assessing each option against these criteria identified the following weighted scores:

- In-house management - 70%
- Outsourced management (existing trust / private operator) - 64%
- New Social Enterprise - 73%

- 9.23 In summary the benefits of the new local social enterprise are as follows:

- Involvement of external expertise in the trust Board;
- Involvement of key partners to shape future priorities and activities;
- Greater financial and managerial autonomy;

- Opportunity for community and staff involvement in the management of services; and
- Benefits of having a single issue focus and locally based Board; and
- Ability to expand in future to take on additional services / facilities.

Issues to consider

- 9.24 Before identifying a recommended way forward in the management options process, there are a couple of key issues which have emerged which contextualise the conclusions. These are summarised below.
- **Requirement for future flexibility** to meet changing asset demands and allow other services/facilities to be incorporated - this non-financial criterion has been included in the assessment and has therefore been considered in some detail. However, it is clearly critical that the Council confirms a preferred way forward on the asset stock and potential rationalisation / replacement / asset transfers, as this will clearly impact on the base position for any future delivery vehicle;
 - **How do we best facilitate joined-up thinking?** There is a need to avoid delivering facilities in isolation from other services and facilities, including green spaces. There is also an opportunity to contribute towards significant local priorities associated with health & wellbeing and economic development and examine leisure facilities' role in co-locating with other Council services.
- 9.25 In addition to these strategic considerations, there is a significant practical concern surrounding the accuracy of information available on which to deliver and monitor the services. There is on-going uncertainty around the accuracy of the financial information in particular, and therefore any future management change should include a budget for installation of updated and integrated financial management systems, such that performance can be monitored more accurately and KPIs reported more specifically. Should the Council decide to set up a charitable trust or outsource to a third party operator, it will be critical to future monitoring and business management that this issue is resolved.
- 9.26 Further to this, the current split in relation to repairs and maintenance responsibilities will need to be revisited to ensure any operator has adequate budgets transferred to allow them to undertake day-to-day and planned preventative maintenance. The Council will most likely retain responsibility for major lifecycle elements, but the operator will still require a substantial budget to be reallocated from the Council's central property team, which will have an impact on that department also.

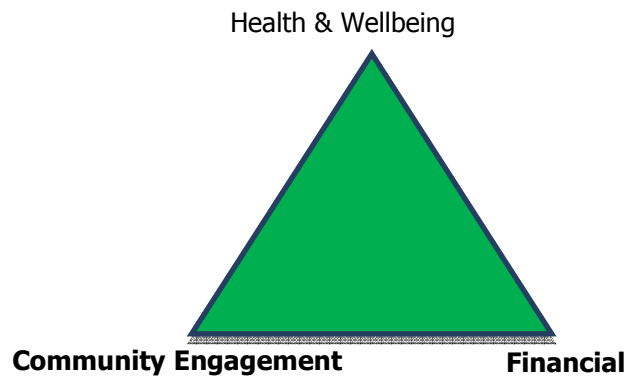
Conclusions

- 9.27 In the context of the issues noted above, and based on the financial and non-financial evaluations undertaken, there are two primary options available in our view:
- 1) Outsourcing of the management of leisure facilities only, via a competitively procured management contract open to private sector and trust bidders (this is likely to result in the lowest cost solution for leisure facilities management only);
 - 2) Setting up of a new social enterprise vehicle, ideally a charitable trust (company limited by guarantee), with an initial transfer of leisure facilities and sport and play development, followed by potential transfer of other services such as arts and culture and green spaces in the future (this option provides a good level of savings and the greatest

non-financial benefits to the Council, particularly in relation to strategic priorities and integration of services);

- 9.28 Should the Council wish to maximise financial benefits and risk transfer, then option 1 (outsourcing) is likely to provide the optimum solution against these two issues. However, to facilitate such a route would require firm decisions to be made on future asset stock prior to commencing any procurement process - bids could then be sought on the basis of an agreed future asset portfolio and timing for any disposals / new builds. Without a firm basis for contracting, then it is potentially costly and complex to make unforeseen changes at a future date and would almost certainly result in the Council having to fund loss of profit claims from an operator.
- 9.29 However, we understand from the consultation and feedback from both Councillors and officers that the objectives of this exercise are not simply financial and that a 'multiple bottom-line approach' is preferred, which balances financial issues with wider objectives, as identified in figure 9.1.

Figure 9.1 - Council Objectives



- 9.30 In this case, option 2 is considered to offer a more comprehensive solution, given the strengths of a local social enterprise vehicle noted earlier.
- 9.31 In relation to the preferred type of social enterprise, it is clear from the financial analysis presented in section 7 that a charitable vehicle is essential in order to obtain the fiscal benefits associated with NNDR and VAT, which means that a Community Interest Company is unlikely to be appropriate. In this context, of the vehicles identified in section 4, the Company Limited by Guarantee with charitable status is considered to offer the best solution, particularly in light of the uncertainties associated with the alternative Charitable Incorporated Organisation.
- 9.32 Taking into account the financial and non-financial implications, the benefits of a charitable trust are considered to include:
- Financial savings from NNDR relief (albeit tempered by the recent changes in legislation) and VAT;
 - Access to external grant funding associated with charitable status;
 - Involvement of partners in the trust Board, thus promoting partnership working and coordinated service delivery (for example in relation to health and wellbeing);

- Involvement of external expertise in the trust Board, promoting sustainability and providing access to required commercial acumen;
 - Greater financial and managerial autonomy, which should result in improved quality of services and pricing in line with market levels;
 - Opportunity for community and staff involvement in the management of services;
 - Benefits of having a single issue focus;
 - The trust can evolve over time to incorporate other assets and services;
 - Transfer to a trust will maintain the link between sports development and facilities management, assuming both are transferred together; and
 - A sufficient level of flexibility can be retained to accommodate future asset changes - given that the asset plans are unlikely to be confirmed in the short term and require significant further consultation and assessment before a preferred route is approved.
- 9.33 Further to this, a balanced trust board including elected members and senior officers would allow the Council to retain a good degree of strategic control, ensuring service delivery is aligned with the priorities of the Council (although the level of representation cannot be greater than 20%, otherwise the trust cannot be seen to be independent for charitable purposes).
- 9.34 A detailed outcome specification and performance management system will ensure services are focused on the priorities of the Council and local residents, with any grant aid linked to delivery of agreed outcomes.
- 9.35 However, as noted earlier, we would suggest that as a minimum all of the main centres that provide community swimming pools need to be included in the trust model in order to provide the trust with a critical mass of trading activities, and the Council should avoid a situation where there is a mixed model of provision for the main facilities as this will impact negatively on critical mass, service coordination and partner engagement.
- 9.36 On this basis, section 10 identifies the implementation plan for a local charitable trust.

10. Implementation Plan

- 10.1 The preferred option identified in section 9 of this report is the establishment of a new charitable trust, focused on delivering services in Cheshire East.
- 10.2 The trust route offers flexibility for future delivery of the planned Lifestyle Hubs, as it will be considerably more straight-forward to amend the arrangements with the trust to take into account the new centres, compared to the complex change mechanisms associated with a contract with a private provider. It also offers a clear opportunity for phasing of service transfer, with a suggested phasing set out below. The intention of the phased approach is to balance service quality and integration with the need to create a sustainable business model for the trust.
- Phase One
 - Leisure Facilities (including the Business Support team)
 - Sport and Play Development
 - Future Phases (depending on ‘readiness’ to transfer and trust sustainability)
 - Arts and Cultural Services
 - Greenspaces
 - Community Halls.
- 10.3 The rationale for a phase one containing leisure facilities and development services is to maintain the cross-working and integration that is essential to supporting the work of the development services, both in the facilities and their outreach work, and to protect the non-statutory development service from further cuts. However, care should be taken not to jeopardise service coordination by partial / ad hoc transfers - in particular, the main facilities should be retained as a single ‘group’ to ensure a coordinated service across the Borough.
- 10.4 The Arts and Cultural services include a number of elements that are already contracted out, including Archives & Local Studies (to CWAC), Lyceum Theatre (to HQ Theatres) and Knutsford Cinema (to Curzon Cinemas), given this commissioning role within that element of the service we would suggest that this remains with the Council, to be managed as part of the overall commissioning of both leisure (via the trust) and cultural services - this should maximise use of performance management resources within the Council.
- 10.5 Green spaces currently includes parks and open spaces, countryside and public rights of way. A number of these elements are statutory services and therefore may be best retained within the Council in the short-term. However, there are clear links between health and physical activity and use of outdoor spaces, which provides a strategic synergy for future integration into the trust. However, given the complexities of managing the asset changes in leisure initially, we would be concerned about the ability of the trust to also manage the diverse activities of the green spaces services in the short-term as well.

- 10.6 Community Halls could benefit in the medium-term from the asset management skills to be developed within the trust, however, further consideration will need to be given to whether more local asset transfers are better suited to these small community facilities, compared to inclusion in an overarching trust vehicle.
- 10.7 The estimated total cost of the implementation of the trust, covering technical, financial, legal and leisure consultants, based on recent examples from other trusts, is believed to be in the region of £200-250k over the next 12-18 months. This will cover:
- Drawing up of legal agreements between the Council and the trust;
 - In-depth financial and business planning;
 - Consultancy costs relating to the project management of the trust set-up;
 - Costs associated with the recruitment of trustees and senior management;
 - Initial senior management and staff costs;
 - Contracts and leases;
 - Procurement;
 - Establishing a trust as a legal entity in its own right; and
 - Communications.
- 10.8 The remainder of this section sets out firstly an overview of the financial implications and then a more detailed implementation plan for the trust set up, with the aim of achieving a 'go live' date of 1st April 2014.

Financial implications

- 10.9 In order to understand the financial implications of the trust set up compared to current budgets, we have modelled the following scenario:
- Leisure Facilities transfer from 1st April 2014;
 - Sport & Play Development transfers from 1st April 2014;
 - Business Support team transfers from 1st April 2014;
 - Set up costs of £200,000 incurred in 2013/14 to facilitate transfer;
 - Asset stock changes are as follows:
 - Congleton LC - transferred to the trust
 - Wilmslow LC - transferred to the trust
 - Macclesfield LC - transferred to the trust

- Knutsford LC - transferred to the trust
 - Middlewich LC - transfer to the trust
 - Holmes Chapel LC - transfer to the trust
 - Poynton LC - transfer to the trust
 - Crewe Pool - transferred to the trust, but replaced by new Lifestyle Centre in 2016
 - Shavington LC - transferred to the trust
 - Sir William Stanier School LC - management transferred to the trust, but replaced by new Lifestyle Centre in 2016
 - Victoria Centre / Cumberland Arena - transferred to the trust, but replaced by new Lifestyle Centre in 2016
 - Nantwich Pool - transferred to the trust
 - Barony Park Sports Complex - transferred to the trust
 - Alsager LC - transferred to the trust
 - Sandbach LC - transferred to the trust
 - Trust senior management overhead of £250,000 from year 1, covering Chief Executive and Finance Director. Assume that Operations director post is a transfer from CEC existing management costs; and would also include Leisure facilities management as recommended earlier in the report.
 - Support services continue to be purchased from CEC in years 1-3, whilst CEC is realigning internal departments to account for the changes. Following this, a budget of 5% of income is set aside to fund purchase of support services externally.
- 10.10 We understand that this is currently the preferred asset realignment option, subject to further consultation and assessment and negotiation with the schools / community groups around asset transfers. It also provides the trust with a critical mass of facilities and services on which to develop a sustainable long-term business model.
- 10.11 Further to this, the Council will need to ensure backlog maintenance and condition survey works are undertaken prior to transfer, in order to provide the trust with a good stock of facilities on which to develop a sustainable business model. Transferring assets in need of investment will immediately jeopardise the financial sustainability of the trust.
- 10.12 In relation to repairs and maintenance, we assume that the Council will want to grant an FRI lease to the trust for each property (excluding dual use sites), such that the trust needs to set aside a sinking fund for building maintenance and lifecycle costs as well as day to day maintenance and planned preventative maintenance. In order to facilitate this, condition surveys of all buildings will be required to allow the trust to assess its liabilities. In relation to the dual use sites, we have assumed the school / Council will retain existing major lifecycle responsibilities given the integrated nature of the buildings on most sites.

- 10.13 Table 10.1 identifies the summary financial implications compared to existing budgets. This is derived from the baselines presented in section 7 of this report and updated for the asset changes noted above. We understand from consultation that there is potential for changes to the terms and conditions of staff (effectively reversing the enhancements offered in the last two years) which could have a £750,000 pa impact, but this is uncertain and therefore not included in the modelling.

Table 10.1 - Financial Implications of New Trust

Current Annual Net Direct Cost (In-House - Leisure + Sport & Play Development)	£4,141,342
Average Annual Net Direct Cost over 25 Years as a result of planned facility changes listed above (New Trust - Leisure + Sport & Play Development)	£2,694,279
Average annual benefit to the Council	£1,447,063
Current 25 Year Net Present Cost (In-House - Leisure + Sport & Play Development)	£65,947,432
25 Year Net Present Cost as a result of planned facility changes listed above (New Trust - Leisure + Sport & Play Development)	£41,696,889
25 Year Net Present Cost reduction as a result of planned facility changes listed above (New Trust - Leisure + Sport & Play Development)	£24,250,543

- 10.14 It can be seen from the table that there is a significant benefit, both annually and over a 25 year period, in setting up a new trust and carrying out the proposed asset changes. It could generate a benefit on the net present cost in the region of £24m over 25 years. The financial analysis does not include any further service transfers (arts and culture / green space etc.) as this will require more specific modelling of the implications for each service area, particularly in light of the potential negative impact that the additional services could have on the financial savings able to be generated through VAT efficiencies. In any event, we would note that the new trust should be given a period of at least 3-5 years to ensure the base leisure services are 'bedded in' and the trust has the opportunity to develop a sustainable financial position.

- 10.15 We have assumed that the Council will retain the costs currently associated with the Leisure and Cultural Service Manager as this post will be critical to monitoring the services delivered by the trust and ensuring the Council is receiving value for money.

Implementation process

- 10.16 Figure 10.1 overleaf provides a summary programme of tasks and timescales. It should be noted that, to achieve the deadline of April 2014, a number of tasks will need to be twin tracked and an urgent start is required following approval of the way forward.
- 10.17 In addition, the Council should be mindful of the following issues:
- The need for a programme of on-going capital investment, or a robust sinking fund, to ensure quality of facility provision is maintained in the short and medium term. This will need to be allied to the asset improvement and rationalisation programme required to deliver the Lifestyle Centre plans;
 - The cashflow implications of any transfer or procurement process - the Council will need to fund the upfront costs of transfer, which could be in excess of £200k. Also, the internal resource implications of managing the process will impact on day-to-day activities and may mean resources need to be diverted from other Council activities to manage the process or external resources will need to be brought in;
 - A number of shorter-term leases / contracts exist, particularly in relation to health & fitness equipment. These contracts / leases will need to be determined early or transferred to the new trust and should form part of the initial legal assessment to understand the implications.

Figure 10.1 - Implementation Plan

TASKS	May	June	July	August	Sept	Oct	Nov	Dec	Jan-14	Feb	Mar	Apr-14
PROJECT MANAGEMENT & ADMIN												
Confirm scope of trust												
Establish Project Directory												
Mobilisation of Council sub-project teams												
Appointment of external advisors												
Development of risk register												
FINANCE												
Review initial calculations and produce draft 5 year operational business plan for each facility & service area												
review & incorporate central cost implications												
review and incorporate NNDR implications												
review and incorporate operational implications												
review and incorporate VAT implications												
Finalise draft 5 year operational business plans for each facility & service area												
Prepare Council Transitional Plan												
VAT position												
Review Council's VAT position												
Confirmation of VAT savings calculation												
Finalise VAT implications-document review-VAT efficiency												
Prepare for VAT registration												
Customs and Excise agreement to documents												
PERSONNEL												

Prepare list of potential transferees												
Identify potential impact of central support services												
Confirm pension implications and progress with application for Admitted Body Status												
Employment law analysis - terms and conditions of employment												
Analyse impact on current staffing - individual re-deployment requirements												
Communication												
Consultation with Trade Unions and Staff in accordance with Consultation strategy												
Update with staff on Cabinet decision, progress and timescales												
Initial staff briefings in relation to TUPE and pensions												
Consultation on TUPE, supporting the TUPE transfer & facilitating admission to pension fund												
Consultation with existing partners and agencies												
Consultation with stakeholders												
Trust Board												
Draft job descriptions/person specifications												
Place advertisement												
Evaluation of applications												
Confirm appointment of Board Members												
Establish potential consultative board												
Train board members												
Chief Executive												
Draft job description/ person specification												
Agree job descriptions/ person specifications												
Place advertisement												
Confirm appointment of Chief Executive												

Establish Senior Management Structure												
Draft job descriptions/person specifications												
Agree job descriptions / person specifications												
Place advertisement												
Evaluation of applications												
Confirm appointment of Senior Management Team												
Senior Management Team take up their posts												
OPERATIONS & SERVICES												
Operational Specification - Draft Version												
Development of trust strategic & operational business plan												
Develop draft handover plan to incorporate												
internal and external accounting system												
risk assessments												
h&s policies												
normal and emergency operating procedures												
staff welfare policies												
Discussion with contractors/suppliers/third parties to be assigned												
LEGAL & PROPERTY												
Property Issues												
Identify and agree schedule of properties and leases/ licenses												
Identify who is in occupation at each facility & details												
Prepare and agree site plans												
Draft & agree detailed description of each property use												
Prepare particulars for each property												
Disposal of Property - Place Advertisement												

Consider Objections												
Identify whether any land is public open space												
Provide schedule of landlord/ tenant responsibilities												
Agree section 123 valuation												
Confirm requirements of scope of condition surveys												
Condition survey of all facilities-detail depending on share of risk												
Assets												
Investigate title on all sites												
Draft & agree leases for all relevant properties												
Execute leases for all relevant properties												
Compilation of list of equipment to be transferred												
Compilation of list of contracts to be assigned/retained												
Trust Structure												
Confirm Trust Board structure												
Obtain approval for trust structure & board membership												
Legal Issues												
Consider likely terms of transfer												
Confirm terms of transfer for Project Board												
Prepare Schedule of Documentation Requirements												
Appoint external legal advisors to the trust												
Prepare transfer documentation												
Partnership Agreement-Draft Version												
Property Documents - Leases-Draft Version												
Confirm admitted body status procedure												
Provide list of transferees and contribution levels												
Instruct actuaries to report on assessment of fund & whether requirement for Bond												

Incorporate trust												
Draft Memorandum & Articles of Association												
Company Forms completed												
Submit application for registration												
Gain charitable status											XXX	
Service Commencement												XXXX

- 10.18 As identified in figure 10.1, there are a considerable amount of tasks to be undertaken in a short period of time, meaning that a dedicated project management resource, at least 2-3 days per week, is likely to be required to manage the various work streams and coordinate activities amongst the sub-groups.
- 10.19 Within the 'property' work stream, the legal work on leases will need to include consideration of future dual use arrangements, as a number of the existing agreements expire in the next 5 years so will need to be renegotiated.
- 10.20 It is worth noting that the timetable does not allow any contingency and requires tasks to be twin-tracked given the limited time available. Should any of the key deadlines be missed, then the transfer may need to be delayed by 6-12 months.

Further information

- 10.21 Further information on the contents of this report can be obtained from Andy Farr, FMG Consulting, on 07971 837 531 or andyfarr@fmgconsulting.co.uk or Damien Adams, FMG Consulting, on 07917 615 425 or damienadams@fmgconsulting.co.uk.

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Leisure Options Consultation Analysis

Overview

- 636 Completed Surveys
- 342 Invalid Responses
- 8 Letters
- 26 Emails

Communications

- Multiple Social media posts made via Twitter (1800 followers, over 3000 reach from direct RTs) and every individual site Facebook (Over 4000 users)
- Documents shared to staff in Leisure Development and Leisure Facilities through local Sharepoint sites
- Standard notices created for display in centres with link and QR code to survey
- Staff encouraged to approach customers/user groups direct either with handouts or email
- Newsletter South & Leisure Development Clubs– Sent to 8790 subscribers
- Newsletter North – Sent to 2880 subscribers
- Press release to full distribution list
- Internally promoted through CEntranet (staff intranet), Yammer and Team Talk
- Website: Front Page “In Focus” section, linked from Leisure & Culture pages, listed as active consultation
- Links added to Town & Parish Council SharePoint
- Letters to heads of joint-use sites
- Link created through weekly schools bulletin
- Article in weekly, electronic Cheshire East News (distribution: 2192)

Survey Comments By Option

- | | |
|--------------------|-----|
| • Trust | 365 |
| • SLE | 301 |
| • Local Provider | 318 |
| • Private | 368 |
| • General Comments | 367 |

User Type

- | | |
|--------------------|-------|
| • Casual User | 44.8% |
| • Everybody Member | 46.2% |
| • Non-User | 2.5% |
| • Other | 6.5% |

Representation

- | | |
|-------------------------|-------|
| • Member of the Public | 86.2% |
| • CEC Staff | 10.3% |
| • Community Sports Club | 8.3% |
| • Local Organisation | 3.7% |
| • Local School | 2.7% |
| • Town/Parish Council | 0.8% |
| • Supplier | 0.2% |
| • CEC Councillor | 0.2% |
| • Other | 4.6% |

Service Used

• Alsager Leisure Centre	7.4%
• Barony Park Sports Complex	1.5%
• Congleton Leisure Centre	10.3%
• Crewe Swimming Pool	5.9%
• Holmes Chapel Leisure Centre	3.6%
• Knutsford Leisure Centre	6.7%
• Macclesfield Leisure Centre	16.2%
• Middlewich Leisure Centre	1.3%
• Nantwich Swimming Pool	8.0%
• Poynton Leisure Centre	5.1%
• Sandbach Leisure Centre	13.4%
• Shavington Leisure Centre	9.3%
• Sir William Stanier Leisure Centre	1.2%
• Victoria Community Centre	0.3%
• Wilmslow Leisure Centre	7.9%
• Leisure Development	1.8%

Overall Response By Category

	For	Inconclusive*	Against
Separate Legal Entity	17.61%	25.58%	56.81%
Charitable Trust	62.47%	11.23%	26.30%
Local Transfer	16.35%	18.87%	64.78%
Private Sector	7.61%	13.04%	79.35%

* Responses where the user suggested that they did not mind which option was adopted, or their response was not clear but did not have a definite for or against tone.

Method Used

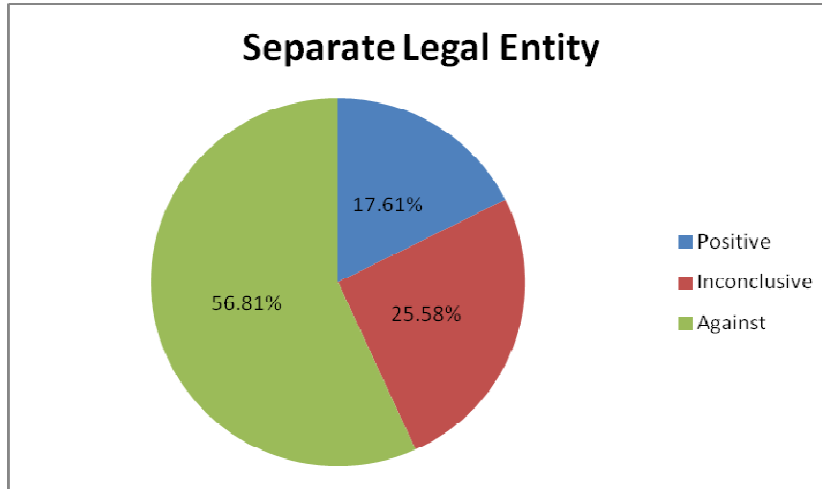
All comments were made in a free text box. In the first pass, a number of categories were created to fit the main opinion reflected, all comments were then added to one of these categories for further analysis, the categories were:

Detailed Category	Code
Preferred option	1
Need more detail to make decision	2
No change needed/no benefit in this option	3
Definitely against	4
Concerned about the ability of trustees or management	5
Did not see a financial incentive to the Council	6
Could lead to substandard facilities/service	7
Concerned about price rises	8
Concerns about redundancies/staffing	9
Concerned about democratic accountability	10
Needs investment in facilities first	11
Unclear response	12

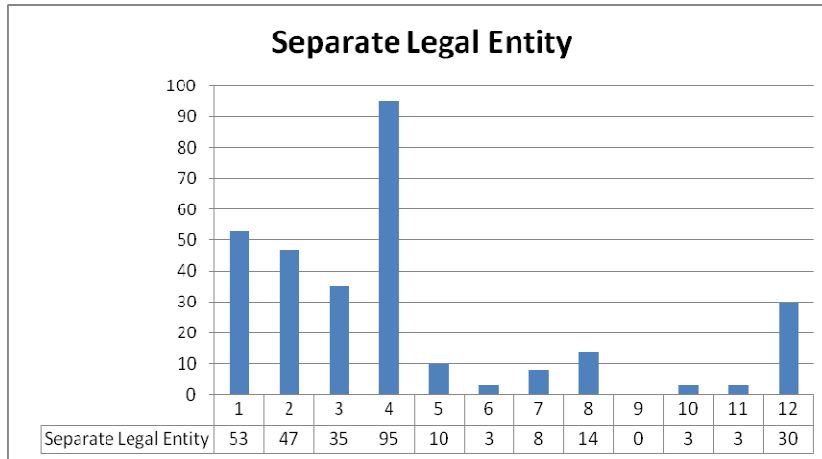
To form the overview for each option, comments were then grouped as:

Category	Options
For	1
Inconclusive	2, 12
Against	3, 4, 5, 6, 7, 8, 9, 10, 11

Separate Legal Entity



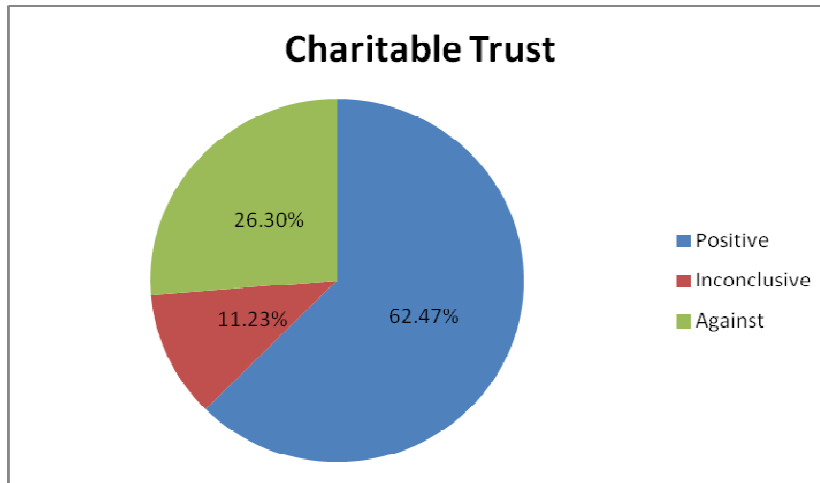
Response By Category



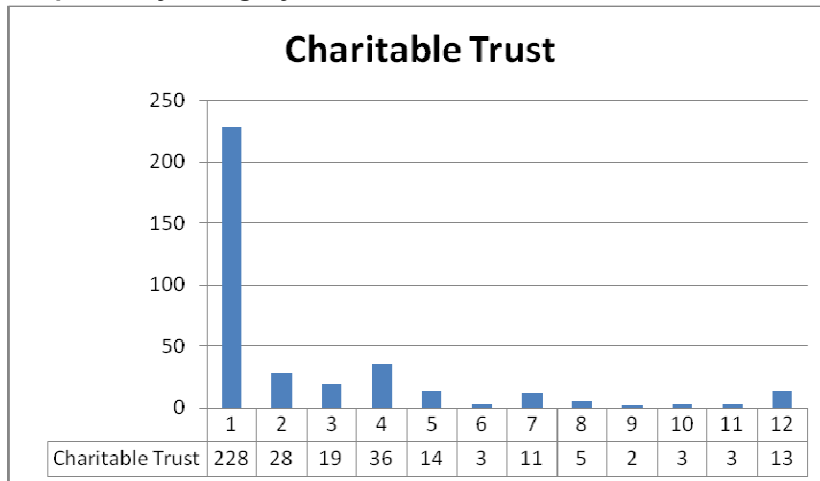
General comments on this option:

- Unclear on the definition of an SLE
- Comments from those who supported the option understood that the Council would have more control
- Questions over how management fee would work and how it would deliver better value for money for the Council
- What guarantees could be made around pricing, existing terms & conditions, bookings etc.
- Seen as a beurocratic arrangement putting in extra layers of management and administration
- Who would people complain to if they had an issue with the service?
- Would need to be allowed to look forward to the future and not be constrained to doing what has always been done in the pass
- Would the Council actually remain at arms length?
- What committments would be made to joint-use agreements?

Charitable Trust



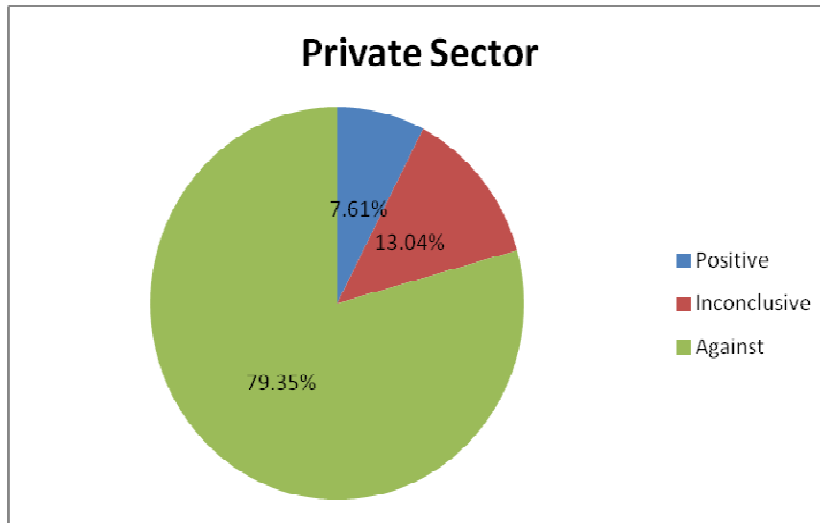
Response by Category



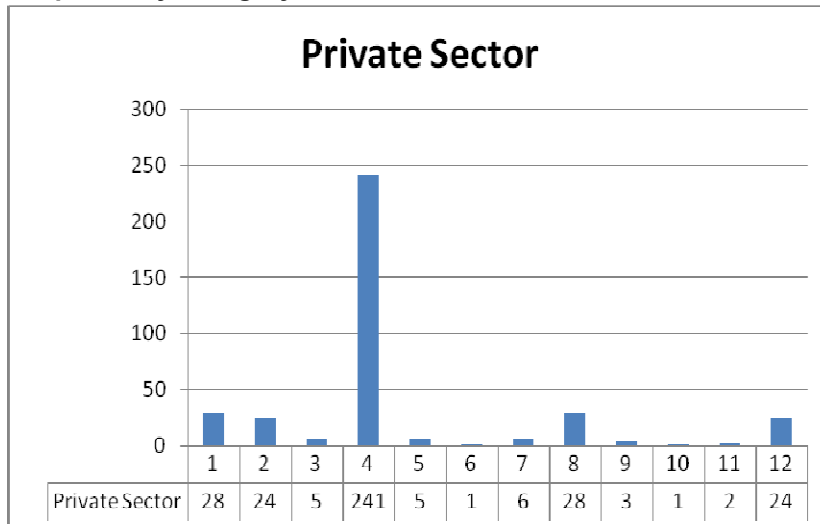
General comments on this option:

- Significant number of comments supporting reinvestment of funds back into facilities/service
- Questions over how management fee would work and how it would deliver better value for money for the Council
- How would this option work alongside joint-use arrangements
- Contract with the trust would need to be robust
- Support not having shareholders taking a percentage of income
- How would staff be affected, would there be a reliance on volunteers?
- What guarantees could be made around pricing, existing terms & conditions, bookings etc.
- Recognition of benefits of VAT/NNDR savings with charitable status
- As long as Council retains ownership of the facilities
- Service users should be on the board of trustees
- Queries over capital funding and investment into facilities both before established and ongoing
- Would this be a new trust or an existing trust?
- Would this add additional layers of management and increase the costs?
- What commitments would be made to joint-use agreements?

Private Sector Transfer



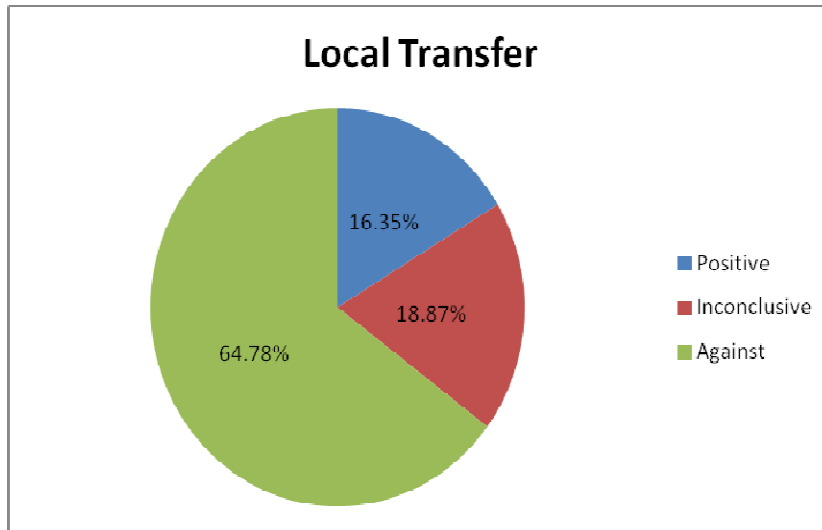
Response by Category



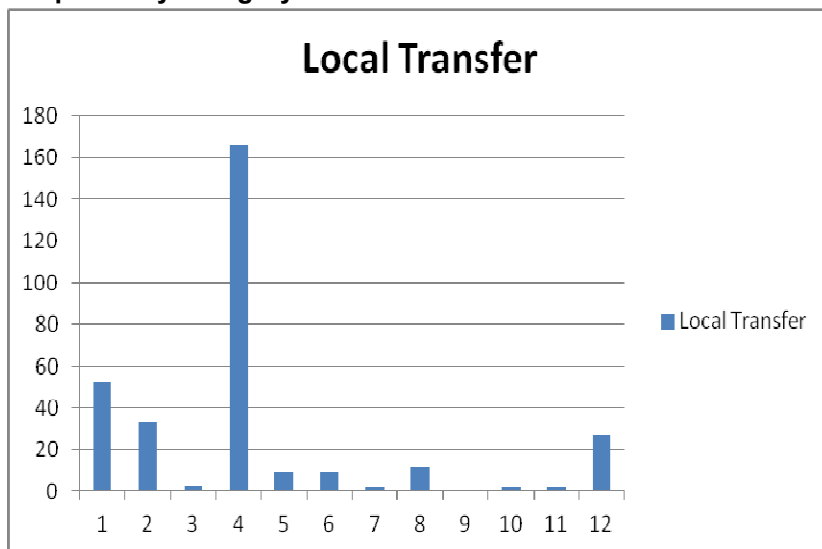
General comments on this option:

- Very strong opinions against, e.g. “Definitely not!!!!”
- Could offer more efficiency by forcing a more business-like approach
- Concerns of price increases or reduction in service quality e.g. opening hours
- Would local communities have any say in the management?
- What would happen if the company went into administration?
- Would not wish to see profits going to shareholders/management
- Council would not have any control over private operator
- Quality would need to be raised to compete in the private sector
- There is already enough private leisure provision in the area
- Lacks community focus
- Concerns over impact on staff, redundancies/pay cuts/casualise hours
- Management contract would need to be robust
- Joint-use arrangement would need to be protected

Other Local Provider



Response by Category



General comments about this option:

- Local providers would know the local users better
- Would lose benefits of scale (less cost effective with suppliers etc)
- Lack of expertise/infrastructure
- Would costs be added to town/parish precepts, double taxation
- Would have democratic accountability
- Would lose ability to use multiple facilities on membership
- Facilities require investment prior to transfer
- What guarantees could be made around pricing, existing terms & conditions, bookings etc.
- What incentive is there for the local provider?
- Too expensive for smaller providers to run effectively
- Depends on the provider
- Concerns raised specifically around Sandbach Joint-Use Agreement
- May lead to inconsistent quality and service in the wider area “post-code lottery” referred to
- Bad experience with other local provider transfers

- What happens to staff that work across multiple sites already?

Additional Responses

A number of bodies and individuals responded outside of the survey, their comments remain anonymous for the purpose of the report:

Organisation Type	Communication Method	Comments
Private Operator	Email	Would be interested in tendering for services in Wilmslow
Individual	Email	Requires further information around scope of review (parks, libraries etc.) as well as details of possible management organisations.
Individual	Email	Concerns raised over existing limited provision in Middlewich
Individual	Email	Detailed professional experience, feedback on all options
Individual	Email	Favour trust as long as service level maintained. Issues raised around current parking arrangements
Individual	Email	Favour trust
Individual	Email	Require more information
Individual	Email	Prefer Council to retain control
Individual	Letter	Supporting trust
Individual	Letter	Supporting trust
Individual	Email	Protect current facilities
Individual	Email	Protect current service, positive comments around current offer
Individual	Email	Against private sector options, prefer trust
Individual	Letter	Against transfer out of Council control
Individual	Letter	Against transfer to private sector, requires more information on other options, request public meeting
Individual	Letter	Against transfer out of Council control
Town Council	Email/Letter	Concerns over quality of consultation and time to thoroughly assess options
Parish Council	Email	Concerns over existing facility, further information required
Town Council	Email	Support trust or SLE in principle, expect further consultation once general option is selected
Local sport association	Email	Protect existing pool availability, engage with clubs for remainder of the process

Borough Councillor	Email	Concerns of timings of consultation
Borough Councillor	Email	Leisure discretionary service, costs should be prioritised, leisure to transfer away from Council with no subsidy.
School	Letter	Concern over consultation process and lack of school transfer option, interest shown in managing facility
School	Email	Limited information available, expect to be involved in further consultation once general option is selected
School	Email	Interested in managing facilities
Regular Hirer	Email/Letter	Areas of concern raised to consider for any future operator
Regular Hirer	Email	Areas of concern raised to consider for any future operator
Swimming Club	Email	Concern over consultation process, seeking reassurance on arrangements for club use (pricing/access etc.)

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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