

Cabinet

Agenda

Date: Tuesday, 29th April, 2014
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 - 8)

To approve the minutes of the meeting held on 1st April 2014.

6. **Notice of Motion - Spare Room Subsidy** (Pages 9 - 14)

To consider and respond to a motion on the spare room subsidy.

7. **Notice of Motion - Public Rights of Way** (Pages 15 - 20)

To consider and respond to a motion on public rights of way.

8. **Connecting Cheshire Broadband - Project Extension (Forward Plan Ref: CE 13/14-74)** (Pages 21 - 32)

To consider an extension to the Connecting Cheshire project.

9. **Future Delivery Model for the Integrated Transport Unit (Forward Plan Ref: CE 13/14-76)** (Pages 33 - 98)

To seek approval to proceed with the implementation of a wholly-owned company to deliver all the functions of the Council's Integrated Transport Unit.

10. **Property Asset Disposals - Park Lane, Macclesfield (Forward Plan Ref: CE 13/14-88)** (Pages 99 - 106)

To consider the sale of land and buildings at Park Lane, Macclesfield.

11. **Pensions Discretions - Changes to the Local Government Pension Scheme (LGPS 2014) (Forward Plan Ref: CE 13/14-81)** (Pages 107 - 116)

To consider a report on changes to the Local Government Pensions Scheme and the Local Government Pensions Discretions that must be considered by the Council and included within the Council's current Employer Discretions.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 1st April, 2014 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

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

Members in Attendance

Councillors Rhoda Bailey, L Brown, K Edwards, R Fletcher, M Grant,
P Hoyland, W Livesley, R Menlove, A Moran, B Murphy, D Newton,
L Smetham, A Thwaite and S Wilkinson

Officers in Attendance

Mike Suarez, Peter Bates, Lorraine Butcher, Anita Bradley, Caroline
Simpson, Heather Grimbaldeston, Tony Crane, Brenda Smith, Stephanie
Cordon, Barbara Dale and Paul Mountford

Apologies

Councillor D Stockton

153 DECLARATIONS OF INTEREST

There were no declarations of interest.

154 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak.

155 QUESTIONS TO CABINET MEMBERS

Councillor K Edwards asked about progress with, and the timescale for, the Macclesfield Community Governance Review. The Leader asked for a written response to be sent to Councillor Edwards.

Councillor B Murphy sought assurances that any further proposals to establish Alternative Service Delivery Vehicles would be notified to Members in sufficient time to enable Members to give them full consideration in advance of any relevant decision-making meeting. He also asked if a briefing session could be arranged for all Members in relation to a proposed ASDV for Integrated Transport, with particular reference to the governance arrangements. The Leader indicated that he was happy to arrange such a session.

Councillor L Brown asked if the primary objective for the proposed Integrated Transport ASDV as set out in the (now deferred) report on the agenda could be reviewed. The Leader indicated that the primary objective would be reviewed.

Councillor L Brown also sought assurances that any future governance arrangements for Macclesfield would protect the position of the town's Mayor. The Leader replied that Macclesfield would continue to have a Mayor; this was not in question.

156 **MINUTES OF PREVIOUS MEETING**

RESOLVED

That the minutes of the meeting held on 24th March 2014 be approved as a correct record.

157 **MIDDLEWICH EASTERN BYPASS & MIDPOINT 18 (FORWARD PLAN REF: CE 13/14-39)**

Cabinet considered a proposal for the Council to underwrite the remaining cost of the Middlewich Eastern Bypass by up to £2.5m in order to open up the Midpoint 18 site for development, thus facilitating significant private sector investment.

Pochin Developments Ltd had been granted outline planning consent in 2008 for an extension to the existing Midpoint 18 scheme ('Phase 3') to include the completion of the southern section of the Middlewich Eastern Bypass, which was a requirement to open up the site for development. £19.5m of the £22m cost of the Bypass had been identified, subject to securing the final £2.5m.

The report also sought Cabinet support to delegate authority to accept a revised final grant offer letter from Secretary of State for Business, Innovation and Skills for £4.1m Regional Growth Fund.

RESOLVED

That Cabinet agrees

1. to make a formal offer to Pochin Developments Ltd (PDL) to underwrite the shortfall in cost of delivering the final section of Middlewich Eastern Bypass, up to a maximum of £2.5m.
2. that the Council continue to seek alternative funding for the bypass, including from developer contributions, Community Infrastructure Levy and other public sector funding sources (e.g. Local Growth Fund), which could be used as an alternative to replace its underwriting, or for the Council to recoup if allocated.

3. that if the Council's underwriting is called upon, authority be delegated to the Director of Economic Growth and Prosperity, in conjunction with the Portfolio Holders, to award this sum by means of a grant agreement in a form approved by the Head of Legal Services to PDL, subject to the securing of all other funding to deliver the bypass.
4. that authority be delegated to the Director of Economic Growth and Prosperity and Head of Legal Services, in consultation with the Portfolio Holders, to accept a revised final grant offer letter from BIS in relation to the £4.1m Regional Growth Fund (RGF) allocation, subject to:
 - (a) the satisfactory advice of the Head of Legal Services & Monitoring Officer.
 - (b) CEC obtaining legal advice clarifying whether formal procurement of any involved entities (including principal contractor) is required by law or by BIS or recommended to manage risk as referred to in 9.0, and PDL's acceptance of our resulting approach.
 - (c) securing agreement of all funding parties to a revised delivery timetable that complies with respective requirements.
 - (d) appropriate inputs from PDL and its partners in providing all information required to satisfy RGF criteria, s278 agreement, etc.

158 **FUTURE DELIVERY MODEL FOR THE INTEGRATED
TRANSPORT UNIT (FORWARD PLAN REF: CE 13/14-76)**

This matter had been deferred to a later meeting.

159 **SUSTAINABLE LIBRARIES STRATEGY (FORWARD PLAN REF:
CE 13/14-84)**

Cabinet considered an updated Sustainable Libraries Strategy.

The Council was committed to retaining its libraries and to broaden their role to develop community hubs that appealed to a wider audience.

The updated Strategy defined the service priorities to ensure that the Council delivered a comprehensive, efficient and sustainable library service. These priorities included improved literacy, informal learning, digital inclusion, information provision, the development of community hubs and improved efficiency.

RESOLVED

That the Sustainable Libraries Strategy be endorsed.

160 **RESPONSE TO CARE LEAVERS/HEALTH TASK AND FINISH
RECOMMENDATIONS**

Cabinet considered an updated report on Cared for Children and Care Leavers.

The Children and Families Scrutiny Task and Finish Group had completed a review of the 16 Plus service for Cared for Children and care leavers, the aim of the review being to look at how to improve the outcomes of some of the Borough's most vulnerable young adults. The report had initially been presented to Cabinet in November 2013 and officers had been asked to review the recommendations and report on progress.

The updated report now before Members set out the various recommendations of the Care Leavers Review and the current state of progress in each case. Of over 50 recommendations, the vast majority of actions had now been completed.

Cabinet had requested the views of Officers in regard to recommendation 13.2.2: "That alongside the Lead Member for Corporate Parenting, a non-Executive Councillor, with no Chairmanship duties, be appointed as a 'Cared for Children' champion to liaise with cared for children and to drive through the Corporate Parenting agenda and to monitor the outcomes of the Task Group reports on cared for children. (p21 – para 7.4)".

As all elected members were Corporate parents and the Council had a portfolio holder, it was felt that this particular recommendation should not be taken forward.

RESOLVED

That

1. progress be noted in light of the recommendations from the work undertaken by the Task and Finish – Scrutiny group; and
2. the recommendation not to pursue the appointment of a non-executive Councillor as a Cared for Children champion be endorsed.

161 **BETTER CARE FUND PLAN (FORWARD PLAN REF: CE 13/14-
78)**

Cabinet considered the Council's Better Care Fund Plan.

The Better Care Fund had been announced by Government in June 2013 and provided an opportunity to transform local services so that people were provided with better integrated care and support.

The Cheshire East Better Care Plan united a shared vision of Cheshire East Council, NHS Eastern Cheshire Clinical Commissioning Group and

South Cheshire Clinical Commissioning Group, for improving outcomes for residents through improving how health and social care services worked together.

There was a requirement to submit the Council's Better Care Plan to NHS England by the 4th April. A first draft had been submitted in February. A revised draft was attached as Appendix 1.

RESOLVED

That Cabinet

1. endorses the Better Care Fund Plan for submission to NHS England;
2. notes the decision not to expand the Better Care Fund with additional resources from the partners at this time, but to keep under review the opportunities to incorporate further funding at a future date;
3. endorses the commitment to providing the best possible care within the community and ensuring that local hospitals continue to play a key part within the continuum of care in Cheshire East, which supports people to live well and for longer in their local communities; and
4. notes and endorses the amended decision of the Health and Wellbeing Board that for reasons associated with the Eastern Cheshire Clinical Commissioning Group being identified as part of a 'challenged economy' by Monitor that separate operational plans are progressed using the Better Care Fund resources to drive the intended outcomes for residents via Connecting Care (South) and Caring Together (East).

162 OUTCOMES OF CREATING RESILIENT COMMUNITIES REVIEW AND HOW WE MAKE IT HAPPEN (FORWARD PLAN REF: CE 13/14-73)

Cabinet considered a report setting out proposals which focussed on early intervention and building stronger communities.

The approach focussed on how the Council delivered services as locally as possible to develop strong communities. There were five main strands: to develop a community engagement strategy; to promote and support community partnerships; to develop community hubs; to support Members in their front line role; and to establish strategic partnerships

RESOLVED

That Cabinet

1. agrees that this is a resident and partnership-led approach to creating stronger communities;

2. agrees that the engagement of residents and partners, especially the faith and voluntary communities and their commitment and enthusiasm, be encouraged and supported;
3. notes that the five main areas of focus as set out in Appendices A-E to the report are the right ones to pursue once the Council's partners have been consulted; and
4. notes that detailed papers on each area will be brought to Cabinet for discussion on progress on a six-monthly basis, or more frequently if there are significant items to report, following consultation with local residents.

163 **DETERMINATION OF LOCAL AUTHORITY COORDINATED SCHEME AND ADMISSION ARRANGEMENTS (FORWARD PLAN REF: CE 13/14-83)**

Cabinet considered the co-ordinated scheme and admission arrangements for 2015 and subsequent years.

The co-ordinated scheme (Annex 1 to the report), would apply to applications for places in all publicly funded mainstream primary and secondary schools (including academies) for the school year 2015-16.

The proposed admission arrangements (Annex 2) included the overall procedure, practices, criteria, published admission number and supplementary information to be used in deciding on the allocation of school places.

Current admission numbers and proposed changes for community and voluntary controlled schools for 2015 were set out in Appendix 1.

RESOLVED

That Cabinet approves

1. the proposed coordinated admission scheme, which all local authorities are required by section 88M of the School Standards and Framework Act 1998 to have in place (Annex 1 to the report); and
2. the proposed admission arrangements for Cheshire East community and controlled schools, which are the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places (Annex 2).

164 **TOTAL FACILITIES MANAGEMENT (FORWARD PLAN REF: CE 13/14-85)**

Cabinet considered proposals to ensure the continuity of service delivery during the transformation process relating to facilities management.

Under Major Change Project 7.5 – Asset Major Change, the Council would be considering options for the future delivery of all property-related services, building on the achievement of the Corporate Landlord model and the formation of the Development Company.

A number of facilities management contracts, which ensured that buildings could continue to operate, were due to expire within the next 12 months. In order to ensure continuity of service it would be necessary to publish a contract notice in the Official Journal of the European Union for such works.

Linked to the wider project, the report dealt with mechanisms that must be put in place to ensure that effective service delivery was maintained during the transformation process.

RESOLVED

That

1. approval be given to publish a contract notice in the OJEU (Official Journal of the European Union);
2. approval be given to the establishment of Facilities Management contracts or a Total Facilities Contract, should this be the most cost effective route following the tender process;
3. delegated authority be granted to the Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets, to award contracts to providers meeting the requirements of the Contract/s;
4. delegated authority be granted to the Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets, to abort the procurement, should the Contract no longer be required; and
5. delegated authority be granted to the Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets, to utilise the Stockport Strategic Property Partnership on the basis of recommendations from Assets, Finance, Procurement and Legal Services.

The meeting commenced at 2.00 pm and concluded at 3.35 pm

M Jones (Chairman)

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	29 th April 2014
Report of:	Benefits Manager
Subject/Title:	Notice of Motion – Spare Room Subsidy
Portfolio Holder:	Cllr Peter Raynes, Finance

1.0 Report Summary

- 1.1 The purpose of this report is to outline the response to the following Motion to Council on 27th February 2014 on Spare Room Subsidy¹ which was proposed by Cllr K Edwards and seconded by Cllr P Raynes:

“In line with the aspiration to improve the quality of life of all in Cheshire East, this Council should be satisfied that there has been no harm done to the health and wellbeing of the residents who have been affected by the Spare Room Subsidy.

We therefore call upon this Council to carry out Health Impact, and Equality Impact Assessments on the effects of the implementation of the Spare Room Subsidy throughout the Borough.

In particular, the Council should assess the impact on those residents who have been detrimentally affected, because they have been in receipt of Housing Benefit Support since before 1996.”

2.0 Recommendations

- 2.1 That Cabinet review the response to the Motion as set out in the report and support the recommended actions, building on all the preparation and partnership working already undertaken as part of the implementation in April 2013 of the Spare Room Subsidy.
- 2.2 That officers be authorised to undertake all necessary actions to implement the recommendation above.

3.0 Reasons for Recommendations

- 3.1 To undertake a review to fully understand the wider implications of the Spare Room Subsidy (under-occupancy).

1

<http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s32658/Notices%20of%20Motion%20Council%2027%20Feb%202014.pdf>

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Those affected by the Spare Room Subsidy are entitled to apply for a Discretionary Housing Payment (DHP). The DHP Policy² outlines the discretionary support for those facing a shortfall between their housing benefit award and rental liability.
- 6.2 The Cheshire Homechoice Common Allocation Policy³ ensures those households downsizing, where agreed by their landlord, are placed in the highest priority band (band A).
- 6.3 The Council introduced the Emergency Assistance Scheme⁴ in April 2013 to support vulnerable residents within Cheshire East, facing hardship and needing assistance.

7.0 Implications for Rural Communities

- 7.1 Those living in rural communities may have less access to alternative affordable properties in the local area.

8.0 Financial Implications

- 8.1 The Council receives funding from the Department for Work and Pensions (DWP) for the DHP Scheme. Any spend over the Government's contribution is to be funded by the Council. The Council looks to maximise this expenditure.
- 8.2 As the Council does not have its own housing stock, any impact on rent collection rates and increased cost of collection only affects Registered Housing Providers (Housing Associations). Further investigations are to be undertaken to identify the impact this is having on providers within the borough.

9.0 Legal Implications

- 9.1 The government made changes to housing benefits with effect from 1 April 2013. The Housing Benefit (Amendment) Regulations 2012 reduce the rent that

² http://www.cheshireeast.gov.uk/benefits_housing_council_tax/discretionary_housing_payments.aspx

³ http://www.cheshireeast.gov.uk/housing/housing_options/rented_social_housing.aspx

⁴ <http://www.cheshireeast.gov.uk/default.aspx?page=18767>

is eligible for housing benefit by 14% where a recipient of housing benefit is judged to have one spare bedroom and by 25% where there are two or more extra bedrooms.

9.2 However, when previous changes to the housing benefit scheme were introduced in 2006, transitional protection was provided to claimants in certain circumstances. When the housing benefit rules were changed again in 2013, this transitional protection was preserved and some tenants were seeking to have their housing benefit entitlement decided in accordance with the transitional provisions in the 2006 Regulations instead of the Housing Benefit (Amendment) Regulations 2012. This in effect prevented any deductions due to under-occupancy, which was causing an anomaly and defeating the policy intention of the government in certain circumstances.

9.4 Amendments have therefore been made to The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 which came into force on 3 March 2014. This amendment should ensure that all tenants are now subject to The Housing Benefit (Amendment) Regulations 2012 and therefore ensure consistency of approach in application of the under-occupation reductions to housing benefit claims.

10.0 Risk Management

10.1 The Corporate Welfare Reform Group and the Benefits Section maintain a risk log in connection with all the welfare reform changes. The main areas identified for April 2013, concerning the Spare Room Subsidy were:

- Failure of software to correctly calculate claims
- Insufficient staffing resources for administering claims
- Incorrect data about properties from Registered Housing Providers
- Lack of historic data on claims
- Reputational risk to the Council of an incorrect decision and risk of compensation claims

11.0 Background and Options

11.1 Principles of under-Occupancy (Spare Room Subsidy)

From April 2013, when assessing claims for Housing Benefit, the household is reviewed to determine the number of bedrooms required, compared to the number of bedrooms in the property. If a working age claimant is considered to be occupying a property with more rooms than their household requires, the rent used for calculating Housing Benefit is reduced by:

- 14% if classed as having one spare bedroom
- 25% if classed as having two or more spare bedrooms

Those of pension age are not affected.

11.2 The objectives of the reforms are to encourage households to:

- Downsize, freeing accommodation for larger households in need
- Encourage those who can work to do so

11.3 A great deal of publicity was undertaken by the Council and the Registered Housing Providers to ensure all those affected were aware in advance of the changes being introduced, and of the options available to them. Claimants were advised in mail shots, at drop-in sessions and by visits and telephone about the changes and signposted to support and advice, such as moving to smaller properties or taking on lodgers, claiming Discretionary Housing Payments and assistance in managing household budgets.

11.4 Pre-1996 'loophole'

The DWP notified Councils at the start of 2014 that there was a potential 'loophole' in the regulations, whereby the following groups should not be affected by the change:

- They have lived in the same property since 1 January 1996 AND
- They have continuously received Housing Benefit on or before 1 January 1996

The exemption stood if:

- they have moved due to fire, flood, explosion or natural catastrophe rendering the home uninhabitable
- they have a break in claim of up to 4 weeks
- they have a break of up to 52 weeks if the claimant or their partner is a welfare to work beneficiary
- The protection can also be inherited on the death of the claimant in respect of the same dwelling

11.5 The regulations have been amended from 3 March 2014 so that the exemption will cease and the under-occupancy deductions will apply again, restoring the original policy intention. The DWP have told Councils to take reasonable steps to identify those affected from their own records.

11.6 The Council does not hold data to identify claims back to January 1996 because:

- two system conversions have been undertaken
- of compliance with data retention guidelines
- large scale stock transfers of council housing stock to registered housing providers have been undertaken since 1996. Many housing associations do not hold detailed records back to 1996

11.7 Actions taken

- All households who have been affected by under-occupancy since April 2013 (2,536) have received a mail shot; asking for a self

declaration to assist with identifying those who should be exempt, taking the opportunity to explain the 'loophole' due to coverage in the press.

- All Housing Associations have been approached to provide lists/verify tenancy start dates to try & identify tenants who have been resident since 1996, and where possible confirm if Housing Benefit (HB) has been paid continuously
- Council Tax records checked to verify residency
- Customer Service advisors are undertaking an initial screen to see if the claimant is self-declaring compliance with the requirements

11.8 Suggested further work to be undertaken

The following are the key actions underway, in response to the Motion, building on the positive work already undertaken to support those affected. However time constraints for the reporting deadline means that the work could not be finalised. Once fully completed, a further report can be submitted later in 2014/15 detailing the findings.

- Undertake a health impact assessment and include financial impact data, along with an updated Equality Impact Assessment
- Review the impacts on the Housing Waiting lists and availability of suitable accommodation
- Review the impacts on the Registered Housing Providers
- Update the Equality Impact Assessment and consider alongside the impacts of the other welfare reforms
- Map the households affected

11.9 The Corporate Welfare Reform Group is continuing to review and plan for the introduction of the wider welfare reforms, working with partners, and to evaluate the impacts on Cheshire East.

12.0 Access to Information

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

Name: Liz Rimmer
Designation: Benefits Manager
Tel No: 01270 371448
Email: liz.rimmer@cheshireeast.gov.uk

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	29 th April 2014
Report of:	Public Rights of Way Manager
Subject/Title:	Notice of Motion – Public Rights of Way
Portfolio Holder:	Cllr David Topping, Environment

1.0 Report Summary

- 1.1. Council resolved at its meeting on 27th February 2014 that a motion made in relation to the governance and management of Public Rights of Way be referred to Cabinet. The motion is set out in paragraph 10.2. This report addresses the motion.
- 1.2. The Public Rights of Way function of the Council is not part of the first tranche of services to be placed in Alternative Service Delivery Vehicles. For the short term it will remain in the Council and continue to provide an excellent level of service to residents and visitors alike whilst being subject to an options appraisal to determine how it should be delivered in the long term. Whilst Public Rights of Way are very dissimilar to highways in their usage by the public and the objectives and outcomes of management, they are administered under the same legislation and are a statutory function.

Recommendations

- 2.1. That Cabinet consider the merits of the motion set out in paragraph 10.2.
- 2.2. That Cabinet respond to the merits of the motion as considered below, and refer the matter to the Executive Director of Strategic Commissioning to undertake an options appraisal for the future delivery of the Public Rights of Way functions.

3. Reasons for Recommendations

- 3.1 To enable Cabinet to consider the matter raised in the motion, and to propose further actions that Cabinet may feel is appropriate.

4. Wards Affected

- 4.1 All wards

5.0 Local Ward Members

- 5.1 All Ward Members

6.0 Policy Implications

- 6.1 Policies in respect of Public rights of Way are drawn from the Service Business Plan 2013/ 2016 and reflect corporate outcomes.
- 6.2 To ensure that the rights of way network for Cheshire East is correctly recorded on the Definitive Map for Cheshire in line with statutory duties - Corporate Outcome 4 - Cheshire East is a Green and Sustainable Place.
- 6.3 To ensure that the network is available and easy to use and free from obstructions in order to fulfill statutory duties and to deliver health and wellbeing, social, economic and environmental benefits - Corporate Outcomes 4 and 5 - Cheshire East is a Green and Sustainable Place / Local People Live Well and for Longer.
- 6.4 To ensure that Local Transport Plan/Rights of Way Improvement Plan projects are processed in line with the Cheshire East ROWIP to fulfill community identified needs to support health and wellbeing, communication and sustainable travel needs - Corporate Outcome 4 - Cheshire East is a Green and Sustainable Place.

7.0 Financial Implications

- 7.1 In order to meet stringent financial targets the Council has detailed cost savings across all council services as part of the 3-year business plan.
- 7.2 The savings anticipated for Public Rights of Way for the financial year 2014/ 2015 amount to £23,000 or 6% of operational budget.
- 7.3 More significant savings comprising 12% of the operational budget had been anticipated although an element of this was removed at the full Council budget setting meeting of 27 February 2014.
- 7.4 Since 2009 the Public Rights of Way revenue budgets have seen reductions of 34%.

8.0 Legal Implications

- 8.1 The Council has a statutory duty to maintain and protect those Public Rights of Way that are maintainable at public expense. In practice this means virtually all the 1968 km network.

- 8.2 Inspection of the network on a regular basis can provide a statutory defence to claims for negligence causing injury and damage to users of the network. Highways Act 1980 S58.
- 8.3 The Council has a statutory duty to keep the Definitive Map and Statement of Public Rights of Way up to date. This means that it must investigate and act upon claims from the public with regard to inaccuracies on the Definitive Map.
- 8.4 The Council has a statutory duty to facilitate, manage and run a Local Access forum that acts as a statutory advisory body to the Council on matters associated with access to the countryside and particularly Public Rights of Way.
- 8.5 The Council has a statutory duty to produce a Rights of Way Improvement Plan Strategy and update it on a 15 year cycle.

9.0 Risk Management

- 9.1 There are a number of risks associated with failure to carry out the duties set out above in section 8.1 to 8.5, all of which can lead to resource and reputational consequences for the Council.
- 9.2 Members of the public may challenge the Council through the courts if they believe that either of those duties are not being fulfilled, by means of provisions in Highways Act 1980 s56 for alleged failures to maintain and under provisions of Highways Act S130A for alleged failures to protect, (remove obstructions from the network).
- 9.3 Members of the public may submit claims against the Council for injury and damages caused by alleged defects to the network due to inadequate maintenance.
- 9.4 Members of the public can make use of the checks and balances in legislation associated with Public Path Orders and Definitive Map Orders to challenge the Order making decisions of the Council potentially leading to a public enquiry.

10. Background and Options

- 10.1 A motion titled “Public Rights of Way” was proposed to Council at its meeting on 27^h February 2014, by Councillor K Edwards and seconded by Councillor S Corcoran.
- 10.2 The content of the motion was as follows:

“Cheshire East Council acknowledges that one of its most significant tourist assets is the magnificent scenery and the access to that scenery given by the extensive Public Rights of Way network.

Therefore they call upon the administration to ensure that in any future arrangements for the governance and management of Public Rights of Way that may be commissioned in exercise of the Council's statutory responsibilities the following principles will be adhered to:

- a) There will be appropriate arrangements made to maintain and where necessary to improve and extend signage, and safe access.
- b) There will be consultative arrangements to enable members of the public to be aware of and involved in any proposed changes to Public Rights of Way
- c) There will be a continually updated Rights of Way Improvement Plan
- d) There will be an appropriate programme of inspection to ensure safety for users.
- e) There will a budget allocated to carry out the above responsibilities.
- f) Work on completing the Definitive Map of all designated rights of way will be completed."

- 10.3. In accordance with the Council Procedure Rules within the Constitution, Council resolved that the matter stand referred to Cabinet.
- 10.4. *There will be appropriate arrangements made to maintain and where necessary to improve and extend signage, and safe access.* Signage and safe access is a product of maintenance intervention. The level of maintenance capability is directly controlled by resources. The current level of resources allows the Council to maintain levels of signage and safety to a satisfactory standard. Currently this is reflected by an ease of use statistic of the network of 83% which is in the highest quartile nationally.
- 10.5. *There will be consultative arrangements to enable members of the public to be aware of and involved in any proposed changes to Public Rights of Way.* Given the public facing nature of the service and the interest in this area of work it is not believed that it would be in the interests of the Council to do anything other than fully consult our various partners.
- 10.6. *There will be continually updated Rights of Way Improvement Plan.* This is a statutory duty, thus the council is obliged to continue to update the ROWIP at the statutory periods. Furthermore it has a duty to maintain the local Access Forum which has a fundamental interest in monitoring progress with the ROWIP.
- 10.7. *There will be an appropriate programme of inspection to ensure safety for users.* An inspection of 5% of the network is undertaken annually

as part of the random survey to determine the ease of use statistic and hence the Council's performance level. The Service is also developing a survey scheme with volunteers which will operate on a parish by parish basis and eventually provide a complete picture of the 1968km network. However both are primarily for accessibility monitoring, not to detect and record defects. Neither would fulfill the requirements of Highways Act 1980 s58 and provide a defence in action against a highway authority for damages for non repair of a highway. The Public Rights of Way Team inspects the stock of rights of way bridges on a two yearly cycle due to the high risks associated with defects in the bridge stock. The Highways Service operates an inspection regime for both the road network and those urban paths on their list for maintenance. The Council currently has no formal regular inspection regime in place for the remainder of the predominantly rural network. Within the current resource level it is not possible to undertake a regular survey. It is believed that risks are lower if resources are devoted to maintenance rather than diverting an element of scarce resource to inspection in lieu of maintenance.

- 10.8. *There will a budget allocated to carry out the above responsibilities. As the response for point 10.4 above with regard to maintenance and safety.*
- 10.9. *Work on completing the Definitive Map of all designated rights of way will be completed.* This is also a statutory duty although government has never placed a timescale on the target for completion. The rate of progress towards completion is, like maintenance, a direct product of resources. Work is having to increase in this area and is likely to do so in the next 12 years with the introduction by the government of a cut-off date of 2026 for the acceptance of applications for additions of routes to the Definitive Map based on historical documentary evidence. Thus any reduction of resources leading up to this date will have an impact on the Council's ability to respond to any increase in applications from the public.

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:	29 th April 2014
Report of:	Director of Economic Growth and Prosperity / Business Manager – Economic Growth and Prosperity
Subject/Title:	Connecting Cheshire Broadband – Project Extension (Forward Plan Ref: CE 13/14-74)
Portfolio Holder:	Cllr David Brown (Deputy Leader and Strategic Communities Portfolio Holder) / Cllr Don Stockton (Housing, Planning, Economic Development and Regeneration Portfolio Holder)

1.0 Report Summary

- 1.1 **The Connecting Cheshire Project, led by Cheshire East Council, is the fastest deployment of high-speed broadband in the world.** The project is delivering at twice the pace of similar contracts across the country, and has connected 16,000 rural homes and businesses across Cheshire, Halton and Warrington with high-speed fibre broadband in its first phase, with a further 27,000 to be connected in the second phase. By June 2015 the project will achieve 96% fibre broadband coverage, making Cheshire the best connected region in the country.
- 1.2 The project is an excellent example of partnership working, both with our delivery partner BT, and with the local authorities of the Connecting Cheshire Partnership. Indeed BT has expressed a desire to work with the Connecting Cheshire Partnership to extend high-speed broadband coverage further, publically commenting that Cheshire is a county that will be able to achieve 99% fibre coverage.
- 1.3 Building on the success of the project and in support of updated national policy to achieve a national coverage of 95% superfast broadband by 2017 it is recommended Connecting Cheshire Project is extended for a second tranche of activity to reach a more ambitious target of reaching **99% of homes and businesses** with superfast broadband service (speeds up to and greater than 30Mb/second) by 2017, which will return £84m of growth the local economy.
- 1.4 The total cost of the project extension including partner contributions and grants is expected to be £5.1m, with further private sector leverage to be agreed through procurement.

The council's contribution will be up to £1.12m over a 3 year period, 2015-2017.

- 1.5 Availability of high-speed broadband to nearly all homes and businesses will underpin the delivery of the council's corporate outcomes and will act as a platform to make council **"digital"** /online services more universally available, helping to lower demand for services via more costly channels. Furthermore it will offer a step change to Small and Medium Enterprise businesses allowing them to live and work locally while competing globally.

2.0 Recommendations

- 2.1 To approve the extension of the Connecting Cheshire project continuing the rollout of broadband technologies to achieve 99% coverage of superfast broadband by March 2017.
- 2.2 To approve an investment of £1.12m from the Council's capital resources, including £905.9k for infrastructure investment, and £215.7k to support continued project management arrangements from July 2015 through to March 2017. Connecting Cheshire Phase 2 is included in the 2014/17 capital programme approved by Cabinet on 27th February 2014.
- 2.3 To approve that the council can enter into an Open Market Review and procurement process with Broadband Delivery UK (BDUK) to scope and define the project extension, including specific costs, timescales and outputs.
- 2.4 To continue delivery of the project's governance arrangements as part of the Connecting Cheshire Partnership, fulfilling the authority's role of accountable body for the project.
- 2.5 To continue to give delegated authority to the relevant Portfolio Holder and Director of Economic Growth and Prosperity for decision making in relation to the above recommendations set out in 2.1 to 2.3 above.
- 2.6 The Head of Legal Services and Monitoring Officer to be authorised to negotiate and enter into any necessary legal documentation to give effect to the above recommendations as set out in 2.1 to 2.4.

3.0 Reasons for Recommendations

Strong Partnership and Delivery

- 3.1 The Connecting Cheshire project has continued to benefit from high profile and strong partnership working between the 4 participating councils and BT, combined with high levels of stakeholder engagement and public support. It is demonstrating strong progress and is on track to meet 96% fibre broadband coverage by June 2015.

- 3.2 Our local authority partners in the Connecting Cheshire Partnership, namely Cheshire West and Cheshire, Halton and Warrington are also seeking approval to invest in the project extension, recognising high-speed broadband connectivity as a high corporate priority.
- 3.3 BT has expressed a desire to work with the Connecting Cheshire Partnership to extend high-speed broadband coverage further, publically commenting that Cheshire is a county that will be able to achieve 99% fibre coverage quickly, which is a claim not made lightly.

Aligned to Government and European Policy

- 3.4 The project and extension thereof is fully aligned with the original Government policy of achieving 90% superfast broadband coverage across the UK by 2015, which was recently updated to extend coverage to 95% by 2017. Government policy is working towards being one of the best connected countries in the world, and achieving the demanding European Commission Europe 2020 objectives, including 100% superfast coverage by 2020.

Unlocking Grant Funding

- 3.5 In support of revised government broadband policy during February 2014 the Connecting Cheshire Partnership was allocated £2.12m of funding as part of Broadband Delivery UK's Superfast Extension Programme to achieve, or exceed, the 95% superfast coverage target 2017. It should be noted that local match funding is required to release this grant allocation.
- 3.6 Local authority and BDUK funding will also act as a lever to unlock further grant funding including Growth Funds, European Structural and Investment Funds and LEADER funding, amongst others, which will become available in 2015. These can either be used to extend coverage targets for the project, or off-set local authority contributions.

Return on Investment

- 3.7 The project has the potential to deliver substantial economic and social benefits as set out in the Value and Impact study commissioned at the project's inception with 100% coverage generating £1.3Bn GVA growth and 11,000 new jobs by 2025. Furthermore, recent government research commissioned by BDUK has identified that the national rural broadband programme will deliver returns of £20 for every £1 invested representing a significant return on investment to the nation.
- 3.8 Increasing the coverage from 96% to 99% of homes and business across Cheshire East will ensure a further 7,000 rural and potentially isolated premises have access to good quality broadband. Based on the government's return on investment model this could generate £84m of growth in Cheshire East's most rural areas.

4.0 Wards Affected

- 4.1 Majority – subject to state aid intervention rules

5.0 Local Ward Members

- 5.1 Majority – subject to state aid intervention rules

6.0 Policy Implications

- 6.1 As well as seizing the economic, social and environmental opportunity presented by improved broadband technology the Connecting Cheshire Project and extension thereof to 99% coverage by 2017 is fully aligned with local, national and European policy. This will ensure the Cheshire East economy can remain at the forefront of leading economies in the UK, and sustain its continued growth and connectivity.
- 6.2 The European Commission has set targets as part of the Europe 2020 Digital Agenda, requiring 100% superfast broadband coverage (speeds greater than 30Mbit/second), with at least 50% of premises actively using an ultrafast broadband service (speeds over 100Mbit/s) by 2020.
- 6.3 The original Government policy of 90% superfast broadband coverage across the UK by 2015 was updated as part of the autumn 2013 budget extending coverage targets to 95% superfast coverage by 2017, with the aspiration of 99% by 2018. £250m has been made available to support the delivery of this policy through the BDUK Superfast Extension Programme, of which Cheshire has been allocated £2.12m.
- 6.4 Whilst it is BDUK that is seen as conduit for policy regarding rural broadband, support for investment and exploitation is given within the Government's *Information Economy Strategy* (June 2013), *Witty Review* (October 2013), *Eight Great Technologies* (October 2013), and *Connectivity, Content and Consumers* (July 2013). These strategies and policies highlight the need to put digital technology and innovation at the forefront to drive the economic recovery, with improved broadband connectivity being a key enabler to grow the internet economy.
- 6.5 The case for investment into high-speed broadband for Cheshire East has been established in the following key policy documents:
- Cheshire East *Three Year Plan 2013 - 16*
 - Cheshire East *Sustainable Community Strategy: Ambition for All* (2010)
 - Cheshire East *Economic Development Strategy* (2011)
 - Cheshire East *ICT Strategy 2013 -16*
 - *All Change for Crewe: High Growth City* (2013)

- Cheshire East *Economic Growth Plan* (2013) - draft
- Cheshire and Warrington Local Enterprise Partnership *Strategic Economic Plan* (2013)
- Cheshire and Warrington Local Enterprise Partnership *ESIF Strategy 2014-2020* (2014)
- Cheshire East Council *Local Plan* (2014)

7.0 Financial Implications

- 7.1 The current £31.4m Connecting Cheshire Project will deliver 96% fibre broadband coverage by June 2015. This £5.1m extension to the project is planned to reach 99% coverage by 2017. A breakdown of costs split by local authority and financial year can be found below.

Total Investment	2014/15 £000	2015/16 £000	2016/17 £000	Total £000
Cheshire East	25.0	551.1	545.6	1,121.7
Cheshire West and Chester	25.0	464.7	459.2	948.9
Halton	25.0	212.5	207.0	444.5
Warrington	25.0	223.1	217.6	465.7
Total	100.0	1,451.4	1,429.4	2,980.8
BDUK Grant				2,118.0
Grand Total				5,098.8

- 7.2 The investment required by Cheshire East Council is £1.12m including £905.9k for infrastructure, and £215.7k project management arrangements from July 2015 through to March 2017. Further details infrastructure and project management costs can be found below

Infrastructure

- 7.2 £2.12m of BDUK grant funding has been allocated to Cheshire to extend the project on the proviso equal match funding is provided. To leverage the full BDUK grant allocation Cheshire East Council is required to provide £905,907 of match funding split across the 15/16 and 16/17 financial years as shown below;

Matched Funding Requirement	2014/15 £000	2015/16 £000	2016/17 £000	Total £000
Cheshire East		453.0	453.0	906.0
Cheshire West and Chester		366.6	366.6	733.2
Halton		114.4	114.4	228.8
Warrington		125.0	125.0	250.0
Total		1,059.0	1,059.0	2,118.0
BDUK Grant				2,118.0
Grand Total				4,236.0

- 7.3 The total investment in broadband infrastructure including partner contributions and grant would be £4.24m. It should be noted at this stage the capital allocation is subject to conclusion of a procurement process.
- 7.4 Additionally other grant funding including European Structural and Investment Funds, Growth Funds, and LEADER funding may become available for the project to bid for in 2015 which could off-set the investment required by the local authorities, or to compliment the investment already made by extending coverage targets.

Project Management

- 7.5 It will be necessary to extend the project delivery arrangements in-line with the duration of the project extension. Assuming Project Management Office (PMO) costs are shared equally between the four partners the council would be required to invest a further £215,717, as shown in the table below.

Project Management Costs	2014/15 £000	2015/16 £000	2016/17 £000	Total £000
Cheshire East	25.0	98.1	92.6	215.7
Cheshire West and Chester	25.0	98.1	92.6	215.7
Halton	25.0	98.1	92.6	215.7
Warrington	25.0	98.1	92.6	215.7
Total	100.0	392.4	370.4	862.8

- 7.6 The scheme will be subject to the Council's governance arrangements and will require approval at the gate 2 stage before resources are committed and spending can commence.

8.0 Legal Implications

- 8.1 Section 2 of the Local Government Act 2000 gives Local Authorities power to take steps which they consider are likely to promote the economic, social or environmental well being of their area - or its inhabitants. However, no action can be taken which would contravene any specific statutory prohibition, restriction or limitation. Regard must also be had to the Community Strategy. The actions proposed in this report fall within this power.
- 8.2 Options for the procurement of the Connecting Cheshire Project extension are currently being explored include; change control to the existing contract, a mini-competition on the BDUK framework, or a OJEU compliant process. It is likely either a change control or mini-competition will be the preferred route to market as an OJEU compliant process may not be viable due to the requirement for local authorities to take into account the European Commission's state aid and competition regulations.

- 8.3 Consideration needs to be given to the timetable for the procurement, as new Procurement Regulations published on the 28th March 2014 are due to come into force in the autumn of 2014. The current regulations permit the use of the negotiated procedure where additional works or services are required that were (i) not initially included or considered in the project initially or (ii) are a repetition of those under the original contract and which are in conformity with a basis project for which the original contract was awarded. In the circumstances in (i) above the aggregate value of the additional services must not exceed 50% of the value of the original contract. The new Procurement Regulations permit the modification of contracts during their term however the application of the new regulations remains to be determined at this time.
- 8.4 The Connecting Cheshire Project will seek State Aid approval for the extension of the project as the UK's State aid scheme managed by BDUK under delegation from the European Commission. As part of this process a new Open Market Review, also referred to as public consultation, will be conducted to review 3 year investment plans of the telecommunications sector across Cheshire.
- 8.5 Any Legal work associated with the project extension will be procured through Council's legal department, with the support of specialist legal assistance as required.

9.0 Risk Management

- 9.1 Extension to the project is not expected to bring any further undue risk over and above that identified in the existing project, and would be managed through the Council's corporate project management framework, and the BDUK assurance framework.
- 9.2 Day to day risk management of the Connecting Cheshire Project extension will be managed under the existing governance and management practises of the current project. The project has implemented rigorous monitoring protocols in order to reduce risk and non-compliance, and has already been subject to a number of scheduled internal and external audits, including ERDF and BDUK audits. Feedback on these audits has been very positive proving that the management and monitoring controls in place are robust.
- 9.3 State Aid compliance and Value for Money will be managed through the BDUK competency centre, with further independent assessment where required.

10.0 Background and Options

- 10.1 The background of the Connecting Cheshire Project is discussed in detail in Cabinet reports issued 29th April 2013, and 16th September 2013, and is

underpinned by the Local Broadband Plan and Value and Impact Study. The following section of the report explains the current progress of the project and rationale for the extension of the project.

Demonstrating success - Connecting Cheshire Project Update:

- 10.2 In December 2013 Connecting Cheshire publically announced the three phases of roll-out which will result in over 96% of Cheshire premises being able to access a fibre broadband service by June 2015. This was combined with a stakeholder event at Oulton Park attended by a wide range of community representatives including Parish Councillors and Digital Champions. The announcement also received wide and favourable media coverage.
- 10.3 To date over 360 roadside cabinet surveys have been completed with over 180 new roadside cabinets having been installed across Cheshire, out of almost 500 expected during the life of the project. These new cabinets are the essential building blocks of the new 'root and branch' fibre networks and house the necessary fibre broadband equipment required for each locality. Combined with the 900 miles of fibre-optic cable that is being laid, they constitute a significant engineering challenge set against a very challenging timescale making the Cheshire roll-out the fastest currently underway in the UK.
- 10.4 To the end of March over 16,000 premises have been reached during the first phase deployment including 17 new telephone exchange areas 'ready for service' from end of March onwards, including Alderley Edge, Lower Peover and Aston. The first area to be switched on was the outskirts of Holmes Chapel and a switch-on event was held with the local community on 18th December 2013 as part of the national 'super-switch-on day' organised by BDUK. Areas in Phase 2 will be live from summer 2014 onwards and phase 3 from winter 2014 onwards.
- 10.5 Over BT 100 engineers and planners are involved in the Cheshire roll-out, plus a number of additional local sub-contractors. A key success of the project to date has been the partnership working between BT and the council's Planning and Highways departments in order to facilitate the necessary road works and approvals required to deploy the fibre infrastructure speedily and minimise disruption to the road network and communities. BT has recognised the positive impact that this work.
- 10.6 The Connecting Cheshire project has recently received external recognition and has been awarded bronze in national the iESE Awards 2014 in the Transforming Local Services category. This further demonstrates the importance and impact of the project for the council.
- 10.7 Through a successful bid submission, initially through the Rural Community Broadband Programme, the Connecting Cheshire Project in March 2014 has been awarded an additional £643k of grant funding from BDUK to provide high-speed broadband to some of the hardest to

reach communities in Cheshire including the areas of Audlem, BurleyDam, Sutton and Wincle. This additional funding is testament to the local communities who have worked tirelessly to support the project team in prepare the business case for grant funding.

- 10.8 Significant advances in broadband technology continue to be made and the Connecting Cheshire Team is working closely with BT to understand how any technology changes will support better speeds and coverage of broadband across Cheshire. Connecting Cheshire has submitted an expression of interest to work with suppliers as part of a £10m innovation fund, where state of the art telecommunications equipment will be piloted. We should learn in the next few months if we have been successful.

Project extension

- 10.9 Based on the high performance and success so far and new opportunities, a strong rationale has been created in support of the Connecting Cheshire project being extended, with the principal considerations as follows:
- i. To build on the successful partnership working achieved to date and deliver a high take-up which in turn can help to ensure that the benefits identified in the Value and Impact study will be realised.
 - ii. The current investment will deliver 96% coverage of high-speed broadband will leave around 19,300 premises not covered across Cheshire, Warrington and Halton, with 7,000 of these being in Cheshire East. These homes and businesses are mainly in rural and outlying communities, and currently suffer from very poor broadband speeds.
 - iii. Not all of the identified strategic employment sites and businesses will be covered by the current project. Extending coverage to these is required to unlock the full economic growth potential within the region as identified in the Value and Impact study.
 - iv. To realise grant funding opportunities including £2.12m awarded to Cheshire by BDUK, and to act as leverage to attract further grant funding including European Structural and Investment Funds, where £5.2m has been allocated to awards ICT investment.
- 10.10 A high-level project plan, see Appendix 1, has been drawn up to detail the key stages and timescales for delivering the project extension.

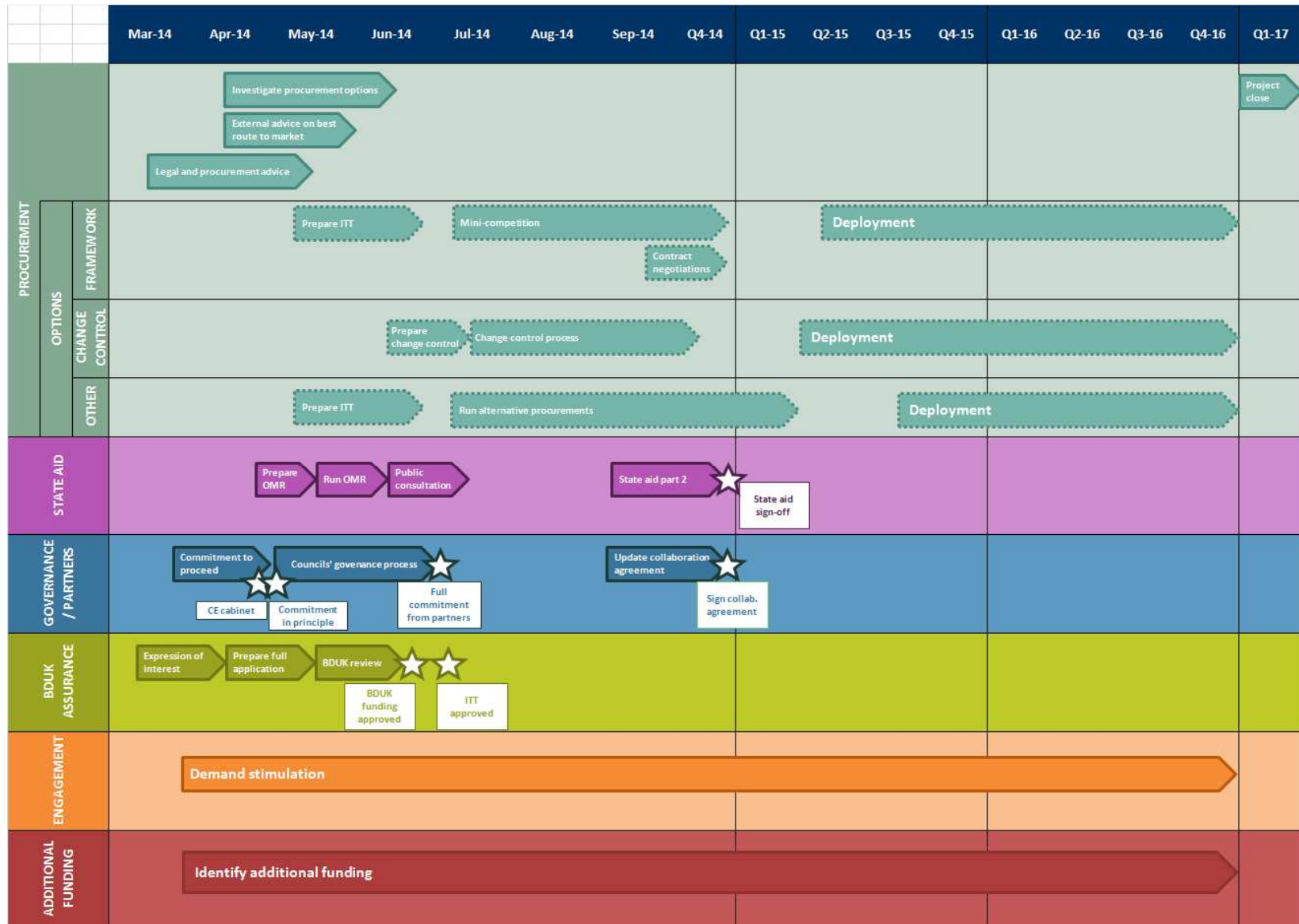
11.0 Access to Information

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

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Appendix 1

High-level project plan



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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 29th April 2014
Report of: Lorraine Butcher, Executive Director of Strategic Commissioning
Subject/Title: Future Delivery Model for the Integrated Transport Unit (Forward Plan Ref: CE 13/14-76)
Portfolio Holder: Cllr David Topping, Environment

1.0 Report Summary

- 1.1 Cheshire East Council is determined to deliver services using a 'best-fit' approach that puts residents first. This proposal has determined that the most appropriate model for delivering Transport services is via a Wholly Owned Company (WOC)
- 1.2 The proposal is in accord with the Councils' declared intent to become a strategic commissioning authority with a hard split between commissioning and service delivery and with a focus on stimulating innovation, efficiency and staff involvement whilst delivering against challenging budgetary targets.
- 1.3 This report therefore seeks Cabinet approval to proceed with the implementation of a Wholly Owned Company (WOC) limited by shares that will deliver all the functions of the Council's Integrated Transport Unit.
- 1.4 The Council has already registered a company under the name Transport Service Solutions Ltd (TSS), 100% owned by the Council.
- 1.5 Officers have developed a detailed business case and plan for the implementation of the new company. This has been subject to the scrutiny provided by the Council's project management regime having been endorsed by TEG on 5 March 2014 and EMB on 2 April 2014. The ambitious aim is to have the new company operational by 1 July 2014 but with a contingency go-live date of 1 October 2014.
- 1.6 The role of TSS will be to deliver transport services on behalf of the council with a current total budget of approximately £17.8M.
- 1.7 This proposal directly accords with the Council's three year plan to becoming a strategic commissioning council. This consists of 29 major

change programmes covering 8 key priorities. This plan sets out the core purpose of the council, and identifies the need to redefine its role in core place-based services.

- 1.8 The catalyst for change is driven by the need to invest in our transport services, to find ways to sustain these services in an era of declining resources and to improve the quality of this service for local residents.
- 1.9 Environment PDG has been fully involved in considering the available delivery options for the Transport Service. There was widespread approval for the WOC model as being the most appropriate for the Integrated Transport Unit, both in terms of financial sustainability as well as service improvements for end users.

2.0 Recommendations

Cabinet is asked to:

- 2.1 Approve the implementation of Transport Service Solutions Ltd as the future management model for integrated transport services, in accordance with the detailed business case and implementation plan attached as Appendix A.
- 2.2 Agree that all current functions of the Integrated Transport Unit are transferred to Transport Service Solutions Ltd whilst accepting that the ultimate strategic direction for Transport remains with the Council.
- 2.3 Give any necessary delegated authority to the Executive Director of Strategic Commissioning, the Head of Local Communities, the Head of Legal Services and the Chief Operating Officer, in consultation with the Portfolio Holder for Environment to proceed with that implementation in accordance with the project plan. That plan includes negotiating appropriate contractual arrangements, arranging leases and central support services plus novating contracts where necessary.
- 2.4 Acknowledge the timetable for the project which aims to establish the company by 1 July 2014 but with a contingency go-live date of 1 October 2014 should operational issues prevent this being achievable.
- 2.5 Agree to the commencement of a formal consultation period with all the staff who might be affected by any proposed TUPE transfer.
- 2.6 Acknowledge that, following Cabinet's approval of this proposal, work will continue to develop the more detailed business plans and draft contracts for the new company. The headline commercial and contractual arrangements will be set out in a further report to Cabinet.

3.0 Reasons for Recommendations

- 3.1 The Council has recognised the need to change the way services are provided in the future in order to create opportunities for innovation and provide service efficiencies. As a result the Council has determined to take a more strategic commissioning role
- 3.2 The Council has developed a Three Year plan and the development of a new delivery model for transport services is identified as one of the major change projects within that plan: Priority 6; Redefining the Council's role in core place-based services; 6.1 Develop new delivery models; 6.1F Transport.

4.0 Scope of Services for the New Delivery Model

- 4.1 The Integrated Transport Unit provide public transport, home to school and social care transport. In addition, a range of associated local travel options are supported, such as walking, cycling and community rail schemes, as well as information provision, on-street infrastructure etc. The majority of these services are statutory, such as home to school travel provision and public transport support.
- 4.2 The Policy Development Group (PDG) considered various different options for the future delivery of this service. These included:
- Continued In House Delivery
 - Outsourcing to a Private Contractor
 - Joint Venture Agreement
 - Wholly Owned Company
 - Creation of a charitable trust
 - Staff mutually owned organisation
- 4.3 PDG concluded that a WOC would offer one of the quickest means of delivering change, promoting cost efficiencies and effectiveness whilst retaining control of a sensitive service area and managing the reputational risks associated with service delivery. It would also improve the speed of decision making and allow staff to develop and implement their entrepreneurial skills. A number of the alternatives were deemed to be non-viable, as they ceded too much control of the day to day decisions to external influences, and did not allow members to have full oversight of service provision.
- 4.4 Whilst the Council would remain in control of the Company, the service would be able to operate with greater freedom and pursue other innovative and creative opportunities that would otherwise be difficult for the service to secure in its current form.

- 4.5 The preferred legal solution for this WOC is a company that is limited by shares and this model is also being adopted for other new delivery vehicles within the Major Change Programme.

5.0 Wards Affected

- 5.1 All Wards are affected.

6.0 Local Ward Members

- 6.1 All local Ward Members.

7.0 Policy Implications

- 7.1 The project accords with the Council's Three Year Plan as part of the major Change Programme to re-define the Council's role in core place-based services.
- 7.2 The Council has a number of contractual and statutory responsibilities in respect of Transport services (e.g. C&W LTB partnership, home to school transport for SEN pupils). It is, therefore, expected that the Council will retain development, ownership and control of all relevant strategies and policies and will subsequently commission TSS to deliver against a number of specific outcomes (an 'output-based specification') which align with these. How TSS will deliver these outcomes will be proposed by the company and agreed in the service specification element of the contract with the company.
- 7.3 It is acknowledged that the staff within TSS have significant experience and expertise in the field of transport and it therefore expected that one of the services they will be commissioned to provide will be to deliver strategic and policy advice and proposals for the most effective means of delivering transport services within the borough.

8.0 Legal Implications

- 8.1 The Council has received legal advice on the options for company models which has been used to identify that a Teckal company model is likely to best meet the Council's operating criteria for transport .
- 8.2 The Council must adhere to good practise principles when assessing the business case for proposed transfers to an alternative delivery vehicle these include:
- Ensuring there is a good case for change and that the business case states whether any relevant parties have been consulted;

- Clarifying how the change will affect the accountability of the Council;
- Undertaking a thorough options appraisal to ensure the most cost-effective and efficient option is chosen;
- Identifying and managing the costs associated with the proposed reorganisation as accurately as possible;
- Identifying and realising the benefits of the proposed change;
- Ensuring the proposed change is well managed and delivered;
- Putting in place effective review arrangements to monitor whether the long-term objectives of the proposed change have been achieved.

8.3 It is important for the Council to:

- Identify the scope of the company and its objects and the relationship with the Council;
- Consider who will be the Board of Directors and how such a role is to be reconciled with any role within the Council, taking into account actual and perceived conflicts of interest and bias;
- Consider the necessary constitutional and administrative processes which the Council has and make any necessary amendments to these to ensure that the subsidiary can be used effectively and efficiently to improve service delivery;
- Consider the effective drafting of the Memorandum and Articles of Association of the Company, to give the Council the necessary degree of control (e.g. the Council would approve any Business Plan (i.e. the overarching "envelope" of the Company's activities), scrutinise the Company's performance and Board activities (directing the Board where necessary to act or not act in a certain way) and exercise a veto at Board level on all or key, strategic decisions affecting the Company), without hampering the day-to-day operations of the Company or discretion of its Board so it retains agility and flexibility.

8.4 In considering the most appropriate model the Council has reflected that 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. However, there is an exception, in certain circumstances, where a contract let by a public body will not be deemed to be a contract for the purposes of the Public Procurement Regime. The relevant circumstances are that:

- The service provider carries out the principal part of its activities with the relevant public body;
- The public body exercises the same kind of control over the service provider as it does over its own departments;
- There is no private sector ownership of the service provider or any intention that there should be any.

- 8.5 The exemption was established by a European Court of Justice case and is referred to as the Teckal exemption. Case law has shown that the contracting authority, the Council, must have the power of decisive influence over the strategic objectives of the company at a constitutional and operational level. The company will need to function as a commercial entity.
- 8.6 The Council will have to establish a service contract with the company to define all the services and the service levels that it will provide to the Council and consider the most appropriate service delivery mechanism where service users are “purchasing “ the service.
- 8.7 In addition the transfer for the service to the company is likely to constitute a relevant transfer under the Transfer of Undertakings Protection of Employment Rights Regulations 2013 (TUPE) under which employees who are working in or for transport immediately before the transfer will transfer.
- 8.8 The Council will have to undertake the necessary due diligence to identify which employees have the right to transfer and to be able to provide the necessary employee liability information in accordance with the TUPE regulations.
- 8.9 The Council and the company 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 Further specialist pension/actuary advice will be required on pension issues for both the Council and the subsidiary/ company
- 8.11 The business case attached has been developed in accordance with the Council's ASDV (Alternative Service Delivery Vehicle) Framework guidance and has been challenged and subsequently endorsed by TEG and EMB

9.0 Financial Implications

- 9.1 The services under consideration currently have a gross budget of £17.8M.
- 9.2 The new company will be able to trade at a profit and the Board of Directors may, subject to the terms of the contract, have the freedom to choose whether to invest such profits in service development and/or declare them as dividends to the Council as 100% shareholder

- 9.3 Two alternative financial projections have been prepared as part of the business case; one 'prudent', the other 'ambitious'. These both show the company to be financially viable with the potential to return profits over 5 years of £615K and £2M respectively. It should be noted that these figures assume a stable contract income from CEC of £14.7M
- 9.4 It is recognised that that all the Council's WOCs, outside of and separate to the NJC bargaining process, will be required to apply an uplift in pay for 2014/15 which is equivalent to the uplift agreed by the NJC for 2014/15. Beyond 2014/15 the Council will review this annually. This factor will be included when developing the detailed financial business plan.

10. Risk Management

- 10.1 The risks within the ASDV programme are identified and managed at 3 levels: Project, Programme and Corporate.
- 10.2 The project risks for this company are detailed within the appended business case. They are managed by the project board which has established appropriate mitigating actions and monitors each risk on a regular basis in accordance with the Council's project management methodology. Risks have been logged and challenged and endorsed by TEG/EMB
- 10.3 Programme risks are those that are common to more than one ASDV project. These risks together with other risks generated by the impact of the overall ASDV programme are identified, managed and monitored by the ASDV Steering Group. There are currently 20 risks and one opportunity captured on the programme risk register.
- 10.4 Corporate risks are those that have the potential to cause corporate concern. These have been identified from the programme risk register and escalated to the corporate Risk Management Group for consideration, monitoring and inclusion on the Corporate Risk Register. The Corporate Leadership Board ensures that actions and recommendations within the Corporate Risk Register are implemented.
- 10.5 The Audit and Governance Committee is responsible for keeping under review the effectiveness of the risk management, control and governance arrangements. Audit and Governance Committee receives a quarterly update on the Corporate Risk Register and considers any changes to the corporate risks and their ratings. Cabinet also receives quarterly monitoring reports and an annual report on the Corporate Risk Management.
- 10.6 The top three project risks that have been identified, and which now have appropriate mitigating actions in place, are:

- The 'Intelligent Client Function' is not established quickly enough and/or lacks understanding and knowledge of transport operations (including market demand, fluctuations and pricing) leading to ASDV contractual arrangements not being robustly specified leading to failure to deliver the effective service as planned;
- The council fails to recognise that some aspects of demand are without the company's control (e.g. SEN transport) leading to unrealistic expectations of profitability and shareholder returns which ensure expected benefits are not delivered;
- The challenging timescales under consideration do not allow for any contingency and assume resources will be readily available when needed. Should resources be overstretched then the project will fail to be completed on time resulting in a delay in delivering planned benefits and potential reputational damage for the council;

11.0 Background and Options

- 11.1 At the meeting of Cheshire East Council on 4 February 2013 it was agreed that the Council should proceed to becoming a strategic commissioning organisation where a small core of commissioning and client managers under the strategic direction of the Executive, identify and prioritise local needs, develop the outcomes that people require and then commission the services most appropriate to the delivery of those outcomes.
- 11.2 The basis of this decision was recognition that the landscape under which local public services are designed, purchased and delivered is changing rapidly under new Government policy and legislation. The establishment of Police and Crime Commissioners, the creation of Clinical Commissioning Groups for health and well being services, and the transfer of Directors of Public Health to become statutory officers of local authorities, all represent this strategic shift in how public services are secured and delivered. In order then to align public services locally, the Council is changing the way it operates to become a strategic commissioning body.
- 11.3 While this shift will not happen immediately there is already momentum towards this new arrangement with the establishment of the Leisure Trust, the Environmental Operations Company (ANSA) and Bereavement Company (ORBITAS) in April 2014. Additionally other forms of alternative service delivery are occurring such as the personal and individual commissioning of care, the multi-local authority collaboration for adoption, the establishment of the Single Legal Entity for Shared Services. Finally, an extensive range of

commissioning review work is underway to inform potential further models for service delivery as well as areas for decommissioning.

- 11.4 Since LGR significant progress has been made in transforming the model of transport delivery previously inherited, resulting in the formation of Cheshire East Transport. Significant financial savings of approximately £6.6m have resulted from a mixture of changes to policy and entitlement, operational practices and tendering processes.
- 11.5 The service has now reached the point where it is difficult to continue to deliver transport efficiently and effectively without the freedoms, flexibilities, greater entrepreneurship and business development options that a WOC will allow.
- 11.6 The key current service delivery areas are:
- Home to school transport
 - Specialised transport
 - Public transport
 - Demand responsive transport
 - Local sustainable transport, such as walking and cycling coordination and support
 - Overall transport policy advice/implementation
- 11.7 An options appraisal has been conducted and has been the subject of policy development through the Environment and Prosperity Policy Development Group. This process has concluded that the new ASDV should take the form of a wholly-owned company limited by shares
- 11.8 It is envisaged that there will be significant business development and growth opportunities arising from having a trading arm and the additional income generated could (with shareholder agreement) be re-invested in the company or declared as dividends payable to the Council.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the author.

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PROJECT INITIATION DOCUMENTATION

DETAILED BUSINESS CASE

Completed By:	Chris Williams & David Laycock	Project Name	Alternative Service Delivery Vehicle for Cheshire East transport
Programme Name	6.1 Develop New Delivery Models	Portfolio Holder:	Cllr David Topping
Project Reference Allocated	6.1F	Service:	Cheshire East Transport
Senior Responsible Owner (SRO):	Lorraine Butcher Executive Director of Strategic Commissioning	Project Manager	David Laycock
Date endorsed at Gate 1	23/1/14	Major Change project number	6.1F

1. Background

The landscape in which frontline services are designed, structured and delivered is changing rapidly in response to new legislation, government policy and changing market conditions. Cheshire East Council (CEC) is responding to these pressures and on February 2013, the Council announced its three year plan to becoming a strategic commissioning council. This consisted of 29 major change programmes covering 8 key priorities. The plan identifies the core purpose of the council, and identifies the need to redefine 'the council's role in core place-based services'.

The intention to become a strategic commissioning council is supported by a clear strategic framework. This framework establishes the key principles of achieving the Council's required financial savings, providing opportunities to deliver qualitative benefits and ensuring residents receive excellent services which meet the changing needs and aspirations of modern life. An objective of the plan is to develop a new operating model for travel and transport services.

To achieve this ambition a review of the service has been completed, identifying and reviewing the differing operating models which could be used to support the travel and transport needs of residents, businesses and other organisations. A guiding principle of this review has been the desire to create a more effective, efficient and locally responsive service, acknowledging that these outcomes are more important than the question of who actually delivers them.

The purpose of this business case is to summarise the findings of the review and demonstrate how the implementation of a Wholly Owned Company (WOC) best meets the Council's objectives.

Cheshire East Transport Scope

The service is responsible for a number of travel and transport measures, ranging from support for walking, cycling, public transport, information, home to school and social care transport needs. It has a statutory role relating to public transport support, and it discharges the Council's duties as a Passenger Transport Authority, as well as the Travel Concession Authority. It is in part a regulator of public transport, as well as having a duty to promote public transport either directly through financial support for bus routes that otherwise would not be viable, or indirect support such as mobilising on-road improvements to junctions to improve bus reliability, bus shelter and stop maintenance, provision of passenger transport information etc. The service has a duty to encourage consideration of travel and passenger transport issues in relation to major development applications, encouragement of staff travel schemes to reduce dependency on private motoring etc.

Key Service Responsibilities:

- The provision of support for public transport in accordance with the statutory duties contained in the various Transport Acts
- The provision of an application process, eligibility assessment and subsequent provision of home to school transport and travel support.
- Provision / maintenance of roadside infrastructure, such as bus stops, shelters and interchanges / stations. (These include 399 bus stops with

shelters, 1084 Bus Stop poles/lighting column signs and bus stations at Macclesfield, Nantwich, Congleton and Knutsford)

- Provision of public information through a variety of mediums including websites, national / regional databases, on-street information etc
- Support for sustainable transport measures, such as cycling, walking and integration of transport modes

Key Service Activities:

- Coordination of all travel and transport functions:
 - Home to school transport delivery and management
 - Social care transport delivery and management
 - Development and management of public transport
 - Contract delivery and management
 - Sustainable transport promotion and project delivery
 - Emergency response

A full list of all the functions proposed for transfer is attached as Appendix 1

Performance Measures and Standards

To evaluate and track performance a number of local methodologies have been developed to assess whether the service is meeting the needs of local residents and others. These will be included in the company's performance framework and are listed below.

- Cost per passenger journey
- Compliance with Construction and Use regulations
- Number of passenger journeys originating in CEC
- Number of complaints upheld
- Annual participation in national MORI Highways and Transport Customer Survey
- Participation in Association of Transport Coordinating Officers surveys, benchmarking, price comparisons etc
- Published service standards
- Customer satisfaction questionnaires
- Transport user forums e.g. LAP-supported rural transport network

It is anticipated that the Council, as commissioner, may wish to incorporate other measures focussed on corporate outcomes such as stronger communities and carbon reduction. These will be agreed by negotiation.

Staffing Resource Implications

The service has approximately 75 established posts. These members of staff are wholly dedicated to the service and responsible for all aspects of travel and transport support. A small – and reducing – element of direct transport provision is managed and provided in-house, namely 7 vehicles used solely for home to school transport for children with special educational needs. All other passenger transport is delivered by external providers. The service provides the council's school crossing patrol service, as well as transport coordination, information dissemination and infrastructure maintenance aspects.

All staff currently delivering the service as their primary role will transfer to the WOC under these proposals. The transfer would be carried out in compliance with 'The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). TUPE regulations protect existing terms and conditions and assumptions have been included in the financial business case to cover this. This proposed transfer would only take place following full consultation with staff, unions and members.

Any known risks that may affect employees have already been recorded and included in this business case and in the developing project plan. Both formal and informal consultation and engagement activities are already underway with staff and unions. This valuable process will continually be used to promote staff involvement and engagement with feedback used to inform decisions and project planning

Service Staff Profile

The table below sets out the core cost and staffing data for the service.

STAFFING GROUP	STAFF NUMBERS
Permanent	75
Total	75

Service Budget

The table below summaries the current service budget

COST/INCOME CATEGORY	TOTAL £K
Employees (including driver attendants and school crossing patrol staff)	1,736
Premises	52
Transport operated under contract / grant	10,817
Supplies & Services	928
Concessionary fares and other transport support	3,767
Net Expenditure	17,300
Support service recharges to service	467
Gross Expenditure	17,767

Note: excluded for this budget is provision for:

- Commissioning roles, which are already funded from other budgets
- Corporate support charges. These budgets are held within the corporate services.
- Project budgets relating to capital projects, sustainable transport projects etc
- Capital and revenue schemes funded through hypothecated grants e.g. Local Sustainable Transport Fund

Out of Scope Activities

Certain activities are carried out by commercial transport providers (e.g. management of Crewe Bus Station, commercially operated bus routes) or by other providers (e.g. the issuing of concessionary bus passes and the reimbursement of

concessionary fares to bus companies). Whilst the overall coordinating and delivery role will be a company responsibility, the actual provision of the services is expected to be at the company's discretion whether they be directly delivered, delivered in partnership with a provider/other council, or through external contractors.

Future Scope

In The Council's three year strategic plan there is a clear prioritised framework to becoming a commissioning council. This recognises the necessity to phase the creation of alternate service delivery vehicles, allowing for resources to be allocated, to be prioritised and for lessons to be learnt.

Cheshire East Transport is in the third phase of this plan and will soon be followed by a much broader review of Council Services. As this review progresses the Council is seeking to identify improved delivery vehicles for many services. As the Council provides a range of customer focused services it may be advantageous for the Council, over time, to consider extending the remit and responsibilities of the proposed WOC to include other suitable services. Such considerations would necessitate the development of robust feasibility studies and business cases

2. Why is the Project needed?

Drivers for Service Change

The Council has realised the need to change the way future services are provided in order to create opportunities for innovation and provide service efficiencies. As a result the Council has determined to take a more commissioning role. This aspiration to redefine its role in core place-based services is set out in the Council's Three Year Plan.

All service areas will have to identify the most appropriate future delivery model in order to sustain current service provision, but in a more financially sustainable way. Travel and transport is a service area that – due to high levels of provision by commercial providers – gives a clear opportunity to exploit the potential to change the relationship with external providers and the council's own contracted services. By entering into significantly more commercially aware contract and partnership arrangements – along with associated incentives to align commercial provider objectives with those desired by the WOC – a “win-win” scenario is envisaged: commercial providers get more stable and secure contracts with the WOC, and the WOC benefits from reduced prices or service enhancement that will result.

The existing travel and transport service has delivered significant cost reductions over the recent past. Some of this has resulted from policy changes in areas such as social care transport and home to school transport. However, much has been delivered through aggressive cost management, operational changes (e.g. externalising service delivery where staff costs in particular have made it uneconomic to continue with direct service delivery), etc. The limits have been reached in reducing costs further – or indeed, containing industry cost pressure – without having the freedom and flexibility that an ASDV would allow. The alternative is to accept significant reductions in service provision such as termination of support for bus routes, abandonment of infrastructure, etc.

Travel and transport is a high-profile service area. Around 35,000 people a day are estimated to be supported in one form or another with their travel and transport needs. Service failure (e.g. home to school transport arriving late or not at all) is a constant risk, and when service failure does occur it is noticed by service recipients immediately. Therefore a key driver is to allow greater flexibility to improve customer satisfaction levels with services provided, and to ensure as far as possible lost mileage / service unreliability is avoided through incentives to contractors.

With the advent of greater personalisation in social care and special educational needs support arrangements, there is a need for the council as a whole and also for transport in particular to become more facilitative in meeting people's transport needs. Monolithic service delivery – where the user is in effect told exactly what transport destinations they are allowed to travel to, when and by what method – will inexorably give way to individual decision making. In the absence of a commercial solution to meeting these needs, it is likely that many clients will be unable to travel cost effectively, or even at all. By allowing the WOC to work with commercial operators – or through the freedom to trade be able to offer bespoke travel solutions – client needs will be better met and at potentially lower cost.

The adequate provision of transport to meet the needs of communities is a key priority for Cheshire East. The setting up of the WOC will enable us to meet the ever

changing demand for transport to meet employment, health, education and social care requirements, as well as more universal services such as culture, arts, sports and lifelong learning. The WOC will make a direct contribution to health and wellbeing by enabling:

- Reducing rural isolation and improved access to local services
- Increased accessibility and independence of older people and those with disabilities
- Improved social, financial and economic inclusion, social and emotional wellbeing and mental health
- Increased healthy lifestyles

The provision of safe, sustainable, reliable and economically efficient integrated local transport provision within the WOC which focuses on the health and wellbeing agenda and the opportunities for choice and control over involvement in universal activities in local communities will provide valuable assistance in assisting our Stronger Communities agenda.

Finally, transport has a number of transactional-type services that can usefully be aggregated across authority boundary areas to drive economies of scale and scope. By being amongst the first local authority transport service areas to be given freedom to trade – with the expected resultant lower costs – there could be a compelling sales proposition to offer to other authorities. For each additional authority who may wish to participate with some or all of their travel and transport services, the benefits will be multiplied through greater overhead sharing, increased purchasing power and ability to specialise.

The outcomes for the Council can thus be summarised as:

- To safely discharge the council's statutory duties in relation to home to school, social care, public transport, and other travel and transport related obligations such as promotion of walking and cycling;
- To secure the financial savings as identified within the Council's Financial Plan;
- To create a new identity for the service that enhances the user experience, and gives a single point of contact and focus for all travel and transport related activity;
- To have the option of allowing the company to increase the range of services provided by absorbing other aspects of travel and transport from within other council service areas
- To gain additional benefit by allowing the company, over time, to develop a compelling offer to other councils, within and outside the region, so that costs, expertise etc can be shared and financial and other benefits accrue to all participants
- To provide valuable assistance to our Stronger Communities agenda by delivering safe, sustainable, reliable and economically efficient transport provision

Objectives and deliverables

The primary objective is:

To create (by 1st July) an efficient, effective and profitable Wholly Owned Company (WOC), limited by shares, for the delivery of the Council's statutory and discretionary transport services which support strong and supportive communities, green and

sustainable places and a strong and resilient local economy. This will place the needs of Cheshire East residents at the heart of the company's activities

Supporting objectives

- To create (by 1st July) a wholly owned company, limited by shares, for the delivery of all current transport services that is fully equipped to succeed as possible by virtue of having
 - Robust contractual arrangements agreed by both parties
 - A positive brand identity
 - A detailed business plan and marketing strategy for the subsequent 3 years with outline plans for the succeeding 2 years
- To achieve best value and quality for Transport services and to reduce net operating costs wherever possible, as measured quarterly using an agreed performance framework, that will ensure the best possible service for customers
- To maximise the new opportunities and flexibilities to deliver services that a WOC offers hence delivering the expectations of the business plan and in accordance with the assumptions and timings contained within that plan
- To identify, retain and subsequently TUP transfer all 75 staff to the new delivery vehicle by 1st July and subsequently develop and motivate said staff to deliver service improvements and excellence as measured quarterly using an agreed performance framework

Key deliverables

- The set up and registration of a company limited by shares (this has already been accomplished)
- Appointment of a company board of Directors
- A detailed service specification and contract (including all assets, maintenance issues and performance measures) which has been agreed by both the Company and Council
- Detailed TUPE consultation with all 75 affected staff
- Successful user acceptance testing (UAT) of all supporting systems and procedures
- Formal transfer of staff and the service responsibilities detailed in Appendix 1

3. Proposed Solution

The continuing provision of the full range of travel and transport service delivery remains a key priority for Cheshire East Council as it moves to becoming a Commissioning Authority. To consider how this can best be achieved an options appraisal exercise has been completed to review alternate delivery models for running the service.

To ensure the service is best placed to meet current and future challenges the review has focused on identifying ways of delivering the service which can create greater flexibility, are more commercially focused and yet still retain and enhance existing relationships with local communities, voluntary and charitable groups, parish councils etc. A guiding principle of this review has been acknowledging these outcomes are more important than the question of who actually delivers them.

During this exercise consideration has been given to the following operating models:

- a) Continuing in house provision
- b) External tender
- c) Joint venture company (with other independent organisations or partners)
- d) Charitable models such as Industrial and Provident Society
- e) Staff mutually owned company
- f) Local authority wholly owned company

The options appraisal (Appendix 2) concluded that Cheshire East Transport should transfer to an external provider, with the most appropriate model being a wholly owned company.

This appraisal and recommendation was subsequently submitted to, and discussed by, the Council's Policy Development Group for Environment in summer and autumn of 2013. The PDG has made a recommendation to the Portfolio Holder and Cabinet that the WOC is the preferred option, subject to clarification of the governance arrangements to ensure enhanced member input into decision making surrounding transport support.

Management Arrangements

Governance

The WOC will be directly accountable to a board of directors which will include 3 appointed members who will represent the interests of the Council, as the sole shareholder for the WOC. There will also be a nominated officer representation on the board. There will be no private interests.

The Board will primarily focus on the strategic management of the business. However, unlike other WOCs proposed by Cheshire East, the Board will also have an enhanced role in decisions regarding support for services such as subsidised transport, subject to appropriate controls agreed by CEC which will be incorporated in the service contract negotiated with the company.

Proposed Governance Board Membership:

ROLE	COMPOSITION
CHAIRMAN	MEMBER – Cllr Rod Menlove
DEPUTY CHAIR	MEMBER – Cllr Peter Groves
DIRECTOR	MEMBER - TBC
TRANSPORT MANAGER	OFFICER – Chris Williams

Alongside the other ASDVs that the Council is establishing, it is anticipated that the WOC will become a subsidiary company within the overarching holding company formation currently under discussion.

Within that governance structure it is critical that individual roles and responsibilities are defined in a way which allows for clear and robust arrangements which value and recognises the contribution of both organisations.

These responsibilities will clearly be set out in the 'Articles of Association' and service specification which will define the type and amount of influence that the authority will have with the WOC and will cover key issues such as:

- Financial responsibilities
- Management of Risk
- Business Planning
- Service Standards

It should be noted that the on-going viability of the project will continue to be monitored by the Board of Directors and the Council's Shareholder Committee.

Contractual arrangements

The WOC will have a strategic contract, a tailored element to the contract, a detailed method statement and a set of outcome based Key Performance Indicators. To oversee the delivery of this it is acknowledged that CEC will need to develop the role of the commissioner to manage the contract and contractual relationships. This will include the relevant contract monitoring and management, general client relationship and any specific management requirements.

Constraints and Dependencies

Cheshire East Transport is currently reliant on a number of support services provided by CEC directly. These are critical in allowing the service to perform and would need reflecting through service level agreements so that – at least for the short term 'incubation period' – the service can continue to function adequately while it becomes fully established. The expectation is that over time the company will be given freedom to explore alternative support arrangements where these can be more cost effectively obtained elsewhere. The support services include (although not exclusively);

- Existing Central Support Services – Includes IT, Finance, HR support
- Environment Services – Provision and maintenance of fleet

Business Planning

This business case is intended to provide a framework for planning, managing and defining the proposed business change. A separate, detailed business plan will need to be prepared and agreed which defines the business goals, the rationale behind them, the plan to achieve them and fully developed financial projections covering the first 3 years of operation.

4. SWOT Analysis

The table below identifies the relative strengths, weaknesses, opportunities and threats to the project. These are reflected throughout this Business Case and will be revisited and updated as the project develops.

<p style="text-align: center;">STRENGTHS</p> <ul style="list-style-type: none"> • Aligns with the Councils ambition to become a commissioning Council • Company 'Wholly Owned' by local authority providing clarity and transparency in ongoing service delivery and clear governance arrangements. • Council retains assets and income – all benefits are retained in full by the Council rather than 'shared' with another partner • Ability to tailor service, products , approach and systems to meet changing demands • Reduction in bureaucracy will lead to improved service responsiveness, effectiveness and flexibility • Reduced reliance on the corporate centre • Core Council work can legitimately be devolved without a lengthy procurement exercise being required 	<p style="text-align: center;">WEAKNESSES</p> <ul style="list-style-type: none"> • Council retains statutory responsibility for service provision • Limited scope to act wholly commercially unless a subsidiary company is set up for this purpose • Initially difficult to expand commercially whilst credibility and experience are established • Potential negative impact on Council corporate services if they are not providing a service to the WOC • Council's reputation linked to Company performance • Dependant on Council for funding and workload (altering either could affect company viability)
<p style="text-align: center;">OPPORTUNITIES</p> <ul style="list-style-type: none"> • Ability to act in a commercial way and attract/generate new income streams • Able to develop a new brand and service culture that better meets the Council's changing needs • Opportunities for partnership working and shared delivery with other local authorities • Opportunities for staff incentivisation /self determination and reward, leading to innovation and a more entrepreneurial culture • Opportunities to reduce the core cost of the service once established • Provides a vehicle which could run additional services on behalf of the Council 	<p style="text-align: center;">THREATS</p> <ul style="list-style-type: none"> • Insufficient budget provision would reduce standards, service delivery and ability to generate income • Council breaches agreement to devolve all forms of travel and transport support to the company, leading to user dissatisfaction, cost escalation, loss of staff buy-in to concept of company acting as sole deliverer of transport support services

5. Benefits and Benefit Realisation

Service Quality Benefits

The current service is of good quality and generally well regarded by service users. This quality derives from the experience, affiliation and in depth knowledge of the current team who exhibit a genuine motivation to provide high levels of service and care for service users. The staff delivering the service would TUPE transfer into the WOC ensuring their skills and abilities are retained.

Furthermore real opportunities will exist for the team to shape how the service is delivered, designed and provided. This increased level of involvement in running the service, coupled with the ability to act promptly on decisions is undoubtedly a key way of engaging and motivating the team and has been acknowledged by staff during stakeholder meetings.

With the ability to offer a broad range of services, to introduce incentivised performance management and to act quickly it is likely a WOC would offer a better and more responsive service for users.

Continued or enhanced take up of the service would create the potential for additional revenue streams to be established. This could be used to reduce unsustainable costs, to provide a source of new investment to improve the service and/or to provide a tangible means of financially rewarding staff for good performance.

Innovation and Growth Benefits

The review of service delivery options concluded that a WOC can offer one of the quickest means of delivering change, promoting cost efficiencies and effectiveness whilst managing the reputational risks associated with service delivery.

Whilst this may take time to develop, there will clearly be opportunities for employees to develop and implement their entrepreneurial skills without being constrained by the red tape found in larger organisations. Already ideas have emerged during the staff engagement process of new ways to expand the type of services offered and their scope.

There is also the possibility of incorporating the WOC, as a subsidiary within a larger group structure as well as possibilities for the WOC to expand its own operations and areas of responsibility. This could allow the Council to incorporate further service areas in an established WOC at a later date.

New Business and Income Generation

There is an expectation that from year 2 the WOC will be able to create new and additional income streams. At staff stakeholder meetings there has been a consensus that by becoming a WOC, service levels would improve through quicker decision making and greater flexibility to enhance the services provided.

From the existing meetings held already, and management discussions, the following ideas have already been suggested:

- Winning transport management contracts from other, neighbouring local authorities. This would both simplify cross-border transport arrangements and offer economies of scale. Such economies would for example; see a doubling in services delivered whilst only needing an estimated 50% growth in administrative and management capacity since contracts are likely to be with the same companies and will simply be extended. The proposal would be to share these savings pro-rata with the partner authorities
- “Works” or college transport – public or privately-hired transport provided for employee or student use – offers the potential for long-term partnering or management fees. By securing contracts on behalf of employers, the council can link such contracts to home to school / public transport contracts. In this way, even if the works contract price cannot be bettered, the WOC will be able to take advantage of the combined contract purchasing power to reduce the cost of the WOCs own transport needs. It is known, for example, that one local college employs three transport coordinators to manage a fleet of 18 vehicles. A management fee of £25K would more than halve their costs making it an attractive proposition for both parties
- Given that the WOC will be a ‘first-mover’ in externalising its transport operations it can reasonably be anticipated that other LAs will be interested in learning from the experience, even if they don’t wish to join the company. Three-day consultancy contracts valued at £3K each would not be unrealistic in terms of expectation
- All walking, cycling, rail and other sustainable transport activity is migrated to the company. This could provide a significant additional revenue stream and – coupled with the devolution of any future funding from DfT for sustainable transport measures – would ensure additional future funding.
- Coordination of non-statutory education transport. With recent withdrawals of entitlement to free travel - e.g. post-16 transport, denominational transport – there is the potential to offer services to colleges, schools, university etc to coordinate and supply the transport that they have recently assumed responsibility for.
- By being able to negotiate, (and hence reduce the costs of its contracted transport) the WOC will have a compelling proposition for other local authorities. In addition, for transactional services, the shared cost of processing the transactions will be an added benefit. Finally, the shared overheads and management costs will make unit costs lower for each authority that participates.
- Through better use of roadside infrastructure (bus stations, shelters, stops etc) there is the potential to attract a range of advertising and marketing offers. For example, displays in each bus shelter have the potential to attract and retain adverting from commercial advertisers, and for those with limited commercial appeal the WOC could offer space to other council services / public bodies to display information.
- Where home to school transport or public transport is deemed to be operating without adequate competition, the WOC could directly provide services to act as a price regulator. Historically, this was the case in parts of the Borough when the introduction of Yellow School Buses was used to directly compete down prices. Recently, the depressed nature of the market for transport has moderated pricing but – as discussed elsewhere – this downward pressure will not be sustainable. With the freedom to offer different terms and conditions to staff (hence reducing the single biggest cost element in

transport) the WOC would be able to help reduce pricing power in the industry, as well as earn additional income from profits no longer earned by external providers.

It would of course be important for the WOC to assess the viability of new initiatives, and constantly monitor the market place it operates in. This would be a key part of business planning for the WOC and ideas would have to be fully assessed, comply with the established governance structures and regulations and be approved by the Board (and hence by the Shareholder Committee) and agreed with the Council's commissioning function

However, in order to demonstrate the financial impact of some of these initiatives the top 3 on the list above have been assessed using a combination of local knowledge and soft-market testing. The results are incorporated into Appendix 3B and demonstrate a potential profit of over £2M within 5 years.

It should be noted that extra income in Appendix 3B is shown nett given that it is difficult at this stage to calculate what the extra costs will be, however they will be detailed further in the business plan

The table below illustrates the range of key benefits, both cashable and non-cashable, that will be delivered by the company. A detailed benefits realisation plan will be developed and included in the performance management framework incorporated into the service specification

Benefit	Type	Comment	Anticipated date of benefit commencement / delivery
Financial savings from different ways of working, cost growth avoidance etc	Financial	Over time, savings estimated to be £0.45m a year	2014-15 onward
Other transport delivery - savings from contract renegotiation	Financial	Savings estimated to be £0.1m a year	From 2015 onward
Other transport delivery - income from trading	Financial	Additional income / cost savings from shared overheads	From 2016 onward
Reduced non-service costs (e.g. corporate support costs) / increased emphasis on prioritising resources to front line delivery	Financial	Net impact of support cost reduction likely to be 5% per annum	2017 onward
Increased customer / partner involvement in decision making	Service improvement	Additional input into targeting energies and effort to best customer effect	2014 onward
Involvement of additional commercial expertise in board decision making, such as through appointment of bus industry experts, voluntary / public sector partners	Process improvement	Increased commercial focus will improve cost effectiveness, increase customer focus and drive process improvement	2014/15 onward
	Service improvement		
	Financial		
Greater managerial / staff autonomy leading to enhanced staff engagement and better customer focus	Process improvement	Service innovation will be driven by better incentives to staff, greater autonomy and reduction in bureaucracy	2014 onward
	Service improvement		
Ability to improve partnership working with e.g. Town and Parish Councils, local employers, voluntary sector	Service improvement	Wider and deeper understanding of local transport needs and how they can best be met	2015 onward
Single service focus will allow for increased specialisation and reduced distraction from core purpose	Process improvement	Ability to focus on core service purpose will lead to greater innovation, ability to tailor processes etc	2015 onward
	Service improvement		
Opportunity for the company to take on additional service areas should the council wish	Service improvement	Further service areas relevant to transport and travel can be included in future	2014 onward
Increased speed of decision making and response to emerging national, regional and local issues	Service improvement	Better able to react to new priorities and needs, especially devolution agenda	2015 onward
Flexibility to quickly and decisively respond to local market conditions	Process improvement	Ability to more adeptly manage commercial issues, and react to market conditions	2014 onward
	Financial		

6. Project and Investment Appraisal

In considering the financial viability of a WOC consideration has been given to the potential financial benefits for both the Council and the WOC. Two alternatives have been considered: a prudent approach which ignores new business growth and a more ambitious approach which incorporates additional business opportunities where these can reasonably be assessed. A high-level summary of the benefits of each is provided below with more detail included in the Finance Appraisal (Appendices 3A and 3B)

The 'prudent' approach demonstrates that, even if some growth initiatives are thwarted, the company still remains a viable and profitable enterprise

Summary Financial Business Case – Prudent approach

Table 1a) - Summary

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
	2014/15	2015/16	2016/17	2017/18	2018/19	5 years
	£k	£k	£k	£k	£k	£k
Total Costs	75	75	75	75	75	375
Total Benefits	(91)	(137)	(200)	(254)	(308)	(965)
Net	(16)	(62)	(125)	(179)	(233)	(615)

*Does not incorporate inflation / interest rates.

Summary Financial Business Case – Ambitious approach

Table 1b) - Summary

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
	2014/15	2015/16	2016/17	2017/18	2018/19	5 years
	£k	£k	£k	£k	£k	£k
Total Costs	75	75	75	75	75	375
Total Benefits	(117)	(171)	(507)	(632)	(959)	(2386)
Net	(42)	(96)	(432)	(557)	(884)	(2011)

*Does not incorporate inflation / interest rates.

Detailed Financial Considerations

Like any product, the total cost of transport is a function of volume multiplied by the cost of provision. In respect of volume, it is likely that over time, there will be little movement. There are unlikely to be substantial policy changes, given that there is little discretionary transport provision remaining. The exception to this is transport for children with special educational needs, where the long term experience is for an increase of perhaps 1% - 2% per year in the number of children that are entitled to transport. In addition, the complexity of the transport needs of such children is also increasing, so that the underlying unit cost of transport is increasing by around 3%-4% per year on average.

However, the greatest impact over recent years has been the relatively benign market pricing that most councils have experienced. In the deep recession starting in 2008 and the associated reduction in transport demand from other sources, the cost of transport fell in real terms. Cheshire East Transport experience in this period was that contract prices fell not just in real terms but in absolute terms when compared on a like for like basis. This is due to operators adopting “survival pricing”, where operators tendered prices that were not sustainable in the long term but allowed redundancy / vehicle disposal costs to be avoided in the short term. Recently, contract prices have started to drift upward as providers seek to rebuild margins and adopt more sustainable pricing levels.

Unchecked, the ability of the market to exert pricing pressure will result in both the volume effect as well as the pricing effect leading to higher contract values. Already, the Confederation of Passenger Transport North West survey of transport providers has highlighted that inflation in the industry is no longer being contained by operators. It is therefore imperative that the WOC quickly seek to adopt strategies to embed wherever possible the current low contract prices. The business case should therefore be viewed in the light of the 4%-6% cost pressure that Cheshire East Council will face.

The Transport service essentially currently acts as a contracting agent for the Council with over £15M of its turnover being spent on service delivery contracts with the independent sector (bus operators, taxi companies etc.). There are over 460 contracts with 150+ different companies. Each contract contains an uplift clause which obliges the Council to renegotiate contract prices annually taking due account of the Confederation of Passenger Transport cost survey which is currently showing 4.7% growth. It is anticipated that the new commercial freedoms of the ASDV will allow it the flexibility and commercial ‘nous’ to negotiate such changes downwards. This ambitious target, if met, would see an approximate 5% reduction in contract costs. There is a risk that this target is not fully met. These factors will be included in the annual negotiation between the Council and the company in which the savings targets and fees for the provision of the service will be agreed as specified in the contract. An example of such a freedom would be the ability to negotiate post-tender. This is specifically prevented by current CEC guidance on variances to contracts above £10K yet is the approach recommended by the Dept of Transport for all contracts falling below the OJEU threshold of £170K

The business case assumes an ongoing reduction of support service costs by the end of year 4 if the existing volume of transport support is maintained. This is helped by the WOC potentially being able to use CEC services / frameworks where beneficial, and establishing its own where not.

It should also be noted that the WOC would have the opportunity to generate new and additional income streams through activities such as the sale of additional services. Income streams are projected to yield further benefits to the Council and further support the business case.

Expanding the business and changing the income profile will have significant implications for the WOC and these would need to be fully considered as the WOC matures.

Typically existing operating models indicate that efficiency savings may define the former years whilst energies are focused on developing new income streams during the latter years.

Corporate core costs

Corporate core costs are still being fully evaluated. It has been confirmed that there will be an incubation period for this transition where support services will continue to be used for a period up to 3 years. After this period there is the potential to further enhance financial viability by achieving savings on the back of reduced 'back office' support costs and corporate overheads. Consequently, from year 4 onwards a notional 5% efficiency saving has been incorporated in the budget projections. In 2012/13 the recharge to the service for corporate support costs was £467k, (excluding the capital charges)

Financial Management

It is anticipated that the company and the Council would agree annually the level of funding that is required to discharge the Council's statutory duties, as well as the discretionary services that the two parties agree. Until the company has built up its reputation and hence marketability to others, it is likely that the primary objective of a financial management regime would be to ensure that the cost pressure in the industry is absorbed, and the current levels of service provision are maintained. The construction of a five year business plan will identify the key cost drivers, activities that can be undertaken to mitigate the cost pressure, and embed better contract and tender management.

Financial assumptions

- The Business Case assumes that capital expenditure on major infrastructure (such as facilitating an on-street replacement for Crewe Bus Station) would be funded by Cheshire East Council in addition to ongoing maintenance costs for all infrastructure, with ownership of the assets being retained by the Council.
- The financial case assumes that LSTF – both current and future – would continue to be delivered by the company. However, because this is a "nil net cost" to the council as all costs are reimbursed by the Department for Transport, they are not included in the financial analysis nor in the estimates of income and expenditure.
- The financial business case assumes there is no retained cost for the Council to manage the 'client' relationship as this capacity is already in place in Children's Services and Communities respectively.
- If the WOC is established and a TUPE Transfer takes place, pension provision will be provided by the WOC as either designated or admitted body status. This means that employee's pensions will continue to be provided through existing arrangements. New staff would, however, be likely to be refused admission to the LGPS and instead would be offered an attractive, employer-supported defined contribution pension plan.

7. Risk

A full risk log is attached as Appendix 4. This separately identifies risks to the project, the company and the Council

It is recognised that predicting future needs, demand, user responses and financial viability is an evolutionary process and the process of identifying risks and preparing suitable responses and mitigation, is a continual activity which will be a key part of the Business Case and subsequent Business Plans for the company and the Council.

8. Equality Impact Assessments

An Equalities Impact Assessment is attached as Appendix 5.

9. Resource requirements to deliver the project

<i>Resource</i>	<i>Estimate of number of days required</i>	<i>Source of Resource (corporate/service/Shared Service/external)</i>	<i>Comment from Service Manager (for example: require additional expertise, can manage within existing capacity)</i>
Project Management	100	Corporate	David Laycock – Manage within existing capacity
ICT	86	Corporate / Shared Service	Val Poyser - Can manage within existing capacity
HR	40	Corporate	Karen Begley: Can manage within existing capacity
Communications Planning	20	Service and Corporate	Michael Moore - Can manage within existing capacity
Procurement		N/A	
	25	Corporate	Sam Clements - Likely to be managed from within existing arrangements after 01 April 2014
	90	Corporate and External	Jayne McLaughlin - Can manage within existing capacity with additional locum support for novation of contracts, property issues and council / company contract drafting
Legal	5		Iolanda Puzio – Can manage within existing capacity for issues re bus stops etc
Assets	10	Corporate and External	Denise Griffiths - Can manage within existing capacity and the resources that have been currently sourced
Finance	60	Corporate	Mike Wall - Can manage within existing capacity
Risk Management	20	Corporate	Jo Butler – Risk logs have been produced, ongoing can manage within existing capacity
Other:- please specify		N/A	

10. Review Monitoring & Evaluation

There is a statutory requirement that a business case is prepared and approved by the Council before the Council may trade through a company. Thereafter the Council is required to have regard to guidance issued by the (then) ODPM, which advises that the business case, once approved is used as the basis of developing a business plan to be used by the company in future years.

Up until the go-live date this document will be continuously reviewed by the Project Manager and SRO to ensure compliance with the legal requirements of establishing a trading company and refreshed with any new information. Where this has a material effect on any of the proposals for the project it will be resubmitted through the Council's approval process.

11. Exit Strategy

Any material changes that will result in failure to deliver reduction in costs or improvements in outcomes or sustainability may give rise to concerns that the WOC will not be sustainable over the long term.

It is anticipated that the additional trading opportunities will not be fully known until the WOC formally commences trading. There is a recognition that culture change, efficiency savings through different ways of working and contracting, and new business opportunities are the three main drivers for change through which we aspire to achieve a step change in the company provision.

In the event that sufficient trading potential has not been realised within a 5 year window or costs begin to spiral, the Shareholder Committee will have the power subject to Cabinet approval to review the on-going viability of the WOC and what steps if any it needs to take in the way the WOC is governed and/or managed to achieve the required benefits.

Given that the Council is the sole shareholder, it potentially has the power to bring the service back in-house or to conduct a formal outsourcing exercise or indeed to sell the WOC subject to any agreed processes or relevant legislation. It should be noted that the sale of the company or of any part of it, to the private sector will remove the Teckal exemption and all contracts then held by the company in reliance on the Teckal exemption would have to be re-procured.

12. Additional Information

This business case is a summary of work carried out over the past 12 months. This work produced additional documentation which is available on request from the report's author

It includes:

- PESTLE analysis
- Reports and presentations to PDG
- Stakeholder analysis

13. Appendices:

Appendix 1: Services in Scope
Appendix 2: Options Appraisal
Appendix 3: Finance Appraisal
Appendix 4: Risk Log
Appendix 5: Equality Impact Assessment

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TRANSPORT ASDV – Services in Scope

- **Home to school transport**
 - Overall home to school transport policy advice, including assessment of impact of legislative change, changes to entitlement etc
 - Eligibility and assessment, including applications for transport assistance, measurement of distance, assessment of available walking routes, decision-making in individual cases, processing of appeals for member consideration
 - Planning and specifying appropriate transport (bus pass, coach, minibus or taxi)
 - Negotiating and arranging payment of parental expenses
 - Tendering and entering into contracts for transport provision
 - Monitoring of safety, reliability and ongoing suitability of transport
 - Customer and school contact
 - Health and safety oversight
 - Training and ongoing support to contractors
 - Safeguarding referrals relating to transport, drivers and passenger assistants
 - Driver and passenger assistant vetting including Disclosure and Barring Service assessment
- **Specialised transport (e.g. special educational needs transport)**
 - Assessment of transport needs, including individual transport risk assessment
 - Specification of appropriate transport, including vehicle, equipment, training and emergency / first aid procedures
 - Liaison with schools / parents / operators
 - Wheelchair / equipment specification and training
 - Provision of own council-managed fleet for specialised transport
- **Public transport**
 - Discharge of Transport Act responsibilities including tendering contracts for unmet public transport needs, contracts for supported transport, Bus Service Operator Grant etc
 - Information provision e.g. timetables, data systems, Traveline telephone service
 - Submission of statutory data returns and links to data bases
 - Roadside infrastructure (e.g. shelters, stops and stations / interchanges) provision and maintenance
 - Public transport integration and coordination
 - Operation of concessionary bus pass application system, reimbursement of operators etc
 - Reimbursement of Bus Service Operator Grant / associated public transport support
 - Receipt, processing and dissemination of commercial registrations, de-registrations and variations of bus services
 - Oversight of local service disruption mitigation e.g. roadworks
 - Monitoring of public transport performance, reporting to regulatory agencies / central government etc

- **Demand-responsive transport**
 - Operation of concessionary scheme
 - Specification, tendering and contract processes: ongoing contract management
 - Contract management e.g. booking system, areas of operation, times of operation etc
 - Operational practices relating to flexible transport
- **General transport activities**
 - Overview of passenger transport including bus and rail policy
 - Applications to (and implementation of) schemes funded by DfT etc
 - Coordination/delivery of sustainable travel projects and schemes e.g. walking, cycling, car reduction schemes
 - Management of school crossing patrols etc
 - Passenger transport infrastructure coordination e.g. bus / rail integration
 - Construction of acceptable transport plans in response to development control applications
 - Formal advice on transport legislative change, central government policy, migration of funding from DfT e.g. Bus Service Operator Grant
 - Regional / national liaison e.g. information strategies, registration, punctuality improvement partnerships with bus operators



Alternative Service Delivery Vehicles for Transport Services

An Options Appraisal

Chris Williams
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Environment and Prosperity Policy Development Group

Oct 2013

1. Background

At the meeting of Cheshire East Council on 4 February 2013, full Council agreed the adoption of a revised operating model for service delivery. The council is moving toward becoming a strategic commissioning organisation, where a small core of commissioners identify and prioritise local needs, develop the outcomes that local people require, and then commission the services that will best deliver those outcomes.

Cheshire East Transport is the council's integrated transport service. It is currently responsible for ensuring the council meets its statutory obligations in respect of passenger transport, as well as a variety of additional transport and travel related functions. Substantial change has taken place since the ending of the previous Shared Service arrangement in 2011. There is a clear case for further change if the travel and transport needs of local residents and businesses are to continue to be met in an era of declining resources.

This report explores the alternative delivery vehicles that would support such change in line with the Council's aim of becoming a commissioning organisation

2. The Appraisal Process

This report summarises the output from a programme of meetings with Senior Management and staff of the Transport service followed by detailed discussions at the Environment and Prosperity Policy Development Group

The discussions focussed on the range of alternative delivery vehicles that council services could seek to adopt. Broadly, these fall into the following types of organisational model:

Charitable models

A "trust" type model, - registered charity or Industrial and Provident Society,

Social enterprise models

Community interest company / service user co-operative

Traditional outsourcing

Contracted service or joint venture

Staff mutual

Worker cooperative or staff mutually-owned company

Wholly-owned company

Company limited by shares or guarantee, owned by council

The varying models each have strengths and weaknesses. Also, what may suit one service area's needs may not suit another's. For example, the charitable trust model utilised for Leisure services will derive significant financial benefits from rate relief on buildings; something which has very little relevance to Cheshire East Transport as it controls few buildings.

The analysis at Appendix A illustrates the level of benefits from each the individual models against a number of factors critical to both the Council and future service delivery

Further consideration of the factors used allows the following conclusions to be drawn:

- **Member control / decision making**

Transport is a highly policy led area (as opposed to a transactional type service) and the individual decisions made by officers have a very high impact publically and politically. The options that place substantial decision making power in the hands of other organisations are therefore considered to be unattractive. Even with a carefully constructed contract – with appropriate high level decision making over public transport routes, home to school entitlements etc – there would still be a substantial democratic deficit. Put simply – members would be unable to ensure their views and the needs of residents are at the forefront of decision making

For this reason, it is recommended that the two options of a charity and outsourcing the service are ruled out.

Conversely, the retention of the service as a directly managed council service would retain greatest member control. The WOC option would – through an appropriate member oversight committee – ensure that the decisions are made with member control.

- **Financial / service benefits**

From the council's perspective, the desired outcome is to achieve the best possible service, whilst at the same time achieve cost reductions to contribute to corporate cost targets.

The greatest reduction of cost is likely to result from an outsourced model. However, the cost reduction would have to be shared with shareholders as profit on the contract. This is likely to negate the savings – or, alternatively, give a powerful incentive to the outsourced company to make even deeper cuts in service or radically change the arrangements for home to school transport.

Some of the models – such as a social enterprise – may have no real incentive to lower costs, and would therefore be little different to current council-operated services.

- **Ability to attract additional funding**

There are grant awarding organisations that may be prepared to consider funding some of the models but not others. For example, the charity model is generally considered to be able to access grants that are not available to councils or private sector providers. Unlike services that utilise a large number of buildings – where the government part funds business rate relief for charities - transport does not have a significant portfolio of buildings. In addition, it is unlikely that substantial additional trading opportunities exist, so there is little to choose between the various models on the basis of extra trading income.

- **Ability to take on additional CEC services**

For a charity or outsourced model, there would be a requirement to undertake a formal tender process should the council wish to transfer additional services. Conversely, it is relatively straightforward for internal council service and Teckal-compliant WOC to absorb additional services.

- **Ability to take on additional other local authority services**

There is a clear desire from central government for councils to co-manage service delivery wherever this makes good financial sense. Whilst transport - by its very nature – has to be managed and monitored locally, there are many functions that can be shared. For example, transactional services such as issuing bus passes, paying contractors, managing information provision etc can be shared and the overhead costs significantly reduced. In addition, the ability to share management costs (especially in areas such as legal, procurement, finance, ICT etc) is clearly attractive.

For this reason, the WOC model is considered the best fit as it allows for sharing with other councils, without introducing layers of bureaucracy from a council-provided shared service approach. It may allow for job preservation / creation in Cheshire East, as well as access to expertise from other council areas.

- **Change of culture / commercial focus**

Whilst an outsourced service is likely to be the most commercial in outlook, it is unlikely the council will receive the benefits as the private company would need to make a net profit of around 6% or more. It is difficult to estimate what this means in practice, but clearly the additional benefit of the commercial focus would be lost through shareholder rewards.

Whilst Cheshire East Transport has become more commercial in focus in recent times it is forced to operate within existing Council rules and restriction. However, the freedom afforded by a WOC, but with the benefits remaining within the control of the council, is attractive.

- **Additional costs**

There are additional costs – migration, additional administration and statutory requirements etc – for any of the “non-council” models. However, these are not considered too excessive and are likely to be similar for each of the non-council models.

- **Ease of transition**

Any substantial service change implies risk – to service delivery, council responsibilities, financial risks etc. However, in the case of the transport service, it would be of benefit to the council to mandate that transport delivery in any other model would be at least of equivalent standard, for the same or lower cost, for the foreseeable future. For this reason, the service delivery risks would be passed to the new delivery vehicle, and the council would be assured that the vehicle would only be paid when the cost and quality targets were achieved. Hence, the risk to the council is neutralised, and only positive “upside” risks would remain.

- **Staff engagement**

A substantial amount of staff engagement has taken place as part of the options review. The overwhelming view of staff is that the wholly owned company model is preferred, over all other options, including remaining as a council service. Members will need to take into account the substantial boost to motivation, morale and performance that would likely result if staff achieve their desired outcome.

- **Council reputation management**

Transport is by its very nature an inherently risky undertaking. More people are killed or seriously injured at work through transport activity than any other, including trips and falls. Transport of vulnerable passengers is even more inherently risky. It is therefore clear that any service delivery vehicle that can improve safety management is to be preferred. The Council’s understandable current focus on cost efficiency makes it difficult to maintain the balance between safety and expediency in service delivery

Private companies, on the other hand, accord safety the priority it deserves since their trading reputation relies on ongoing good reputation in this area. For this reason, the WOC / outsourced models perform better. In addition, should any adverse incidents occur, the company would shoulder responsibility, protecting the council’s reputation and legal position.

- **Innovation**

Councils have changed significantly in recent years. Nevertheless, their ability to innovate is hindered by lack of capacity and lack of management incentive, Therefore, external models are to be preferred, and in particular the outsourcing, charity and WOC model

- **Council strategic fit**

Finally, it is important to note that the desire of council is for service delivery to migrate to external delivery vehicles wherever possible. The analysis herein demonstrates that there is a clear rationale for migration to a WOC, even if the council had not already expressed an intention to migrate most service provision.

Conclusion

For all the reasons detailed above the recommendation of this appraisal is that Transport Services should be delivered by a wholly owned company limited by shares

APPENDIX A

	Charity / IPS	Social enterprise	Outsourcing	Staff mutual	Council wholly-owned company	Internal council service
Member control / decision making	Low benefit - Members lose control to Board of Trustees	Moderate benefit - Members can influence but not control	Low benefit - Members lose control to private company	Moderate benefit - Members lose control to staff	High benefit - Members control, but day-to-day decisions ceded	High benefit - Members retain full control
Financial / service benefit	Moderate benefit – potential savings reinvested in provision	Low benefit – no incentive to make significant savings	Low benefit – highest potential to make savings, but return on capital / profit will absorb	Moderate benefit – incentive to make savings (shared with staff)	High benefit – many of the benefits of outsourcing, but council retains benefit	Low benefit – no incentive to make significant savings
Ability to seek additional sources of funding e.g. grants	High benefit – easier to tap into other charitable funds / grants	High benefit – easier to tap into other charitable funds / grants	Low benefit – unlikely to be any more successful than council	Moderate benefit – may be easier to access central government grants	Low benefit – unlikely to be any more successful than council	Low benefit – being a council reduces links to charitable sector
Ability to take on other CEC functions / internal economy of scale	Low benefit – charity constitution would have to be amended	Low benefit – has to generate a surplus to make it worthwhile	Moderate benefit – contract can stipulate additional required services	Moderate benefit – staff would have final say on aggregation of other services; able to share overheads	High benefit – able to share overheads, management costs etc	Low benefit – no significant economy of scale; no opportunity to reduce overheads
Ability to take on other LA	Low benefit -	Moderate benefit –	Low benefit –	Moderate benefit – staff	High benefit – able to	Low benefit

<u>APPENDIX A</u>	Charity / IPS	Social enterprise	Outsourcing	Staff mutual	Council wholly-owned company	Internal council service
functions / external economy of scale	charity constitution would have to be amended	could offer services to other councils	contractor would secure any efficiencies from joint management	would have final say on aggregation of other services; able to share overheads	share overheads, management costs etc; however, external political sensitivities	
Commerciality / change of culture	Moderate benefit – charity ethos would lead to better value for money	Low benefit – unlikely to lead to substantial culture change	High benefit – most likely to be commercially aware; but benefits accrue to contractor	Moderate benefit – freedom to innovate and be commercial, but retain public sector ethos	Moderate benefit – freedom to innovate and be commercial, but retain public sector ethos	Low benefit – current culture (esp. of support services) hinders culture change
Sharing of risk / reward	Moderate benefit – charity risk-taking constrained	Low benefit – unlikely to wish to take risks	High benefit – but needs highly detailed contract if split is to be equitable	Low benefit – staff unlikely to take substantial risk unless very high reward	Moderate benefit – council can take additional risk and also takes full reward; mainly upside risk not downside	Low benefit – council service, not disposed to risk taking so no rewards available
Overhead reduction – savings to CEC from overhead / central service costs	High benefit – charity able to decide own needs	Moderate benefit	High benefit – but without TUPE transfer, overheads fall on remaining council services	Moderate benefit	High benefit – but without TUPE transfer, overheads fall on remaining council services	Low benefit
Additional cost	Low benefit – constraints	Moderate benefit – likely to be	Low benefit – no direct additional	Moderate benefit – likely to be relatively	Moderate benefit – likely to be relatively	High benefit

<u>APPENDIX A</u>	Charity / IPS	Social enterprise	Outsourcing	Staff mutual	Council wholly-owned company	Internal council service
	imposed by charitable status	relatively cost effective	costs from outsourcing, but contractor profit level of 6-8%	cost effective	cost effective	
Ease of transition	Low benefit – likely to be protracted, TUPE issues etc	Moderate benefit – may require additional expertise but not a procurement	Low benefit – likely to be most protracted, procurement, TUPE issues etc	Moderate benefit – could commence as Teckal (no procurement) and then migrate further	High benefit – Teckal would apply and staff secondment / TUPE	N/A
Staff engagement	Moderate benefit	Moderate benefit	Low benefit – least preferred option	Moderate benefit	High benefit – most preferred option	Low benefit
Council reputational management	Moderate benefit – arms length	Moderate benefit – arms length	High benefit – contractor assumes all adverse risk	Moderate benefit – arms length but staff potentially viewed as council staff	Moderate benefit – arms length but staff potentially viewed as council staff	Low benefit – council retains all reputational and legal risk
Ease of innovation	High benefit – charity sector able to easily pursue as not under council control, but risk to council	Moderate benefit – social enterprises would have to consult staff and users over new methods	High benefit – sector able to easily pursue as not under council control, but risk to council	Moderate benefit – benefits to company if staff agree	Moderate benefit – WOC not completely free to innovate as still technically public body	Low benefit – current culture is risk averse so innovation is stifled

APPENDIX A

	Charity / IPS	Social enterprise	Outsourcing	Staff mutual	Council wholly-owned company	Internal council service
Strategic fit with overall council strategy	High benefit	High benefit	High benefit	High benefit	High benefit	Low benefit

Transport ASDV- Prudent Approach

Current Cost of Service, Forecast Trading Position Year 1 and impact of implementing growth proposals

Detailed expansion of table 6 high level business case

(Add extra columns if required to demonstrate savings achieved in future years)

CIPFA standard sub-categories

Expenditure Year	Service budget 14-15	Current cost of delivery 12-13	Year 1 14-15	Year 2 15-16	Year 3 16-17	Year 4 17-18	Year 5 18-19	(Saving) or Growth 5 year
	£000	£000	£000	£000	£000	£000	£000	£000
Employees	1736	1,736	1,736	1,736	1,736	1,736	1,736	0
Premises	52	52	52	52	52	52	52	0
Transport	10817	10,817	10,786	10,755	10,692	10,661	10,629	-562
Supplies & Services	928	928	1,003	1,003	1,003	1,003	1,003	375
3rd Party Payments	3657	3,657	3,657	3,657	3,657	3,657	3,657	0
Transfer Payments	110	110	110	110	110	110	110	0
Support Services	467	467	467	467	467	444	422	-68
Total Expenditure	17,767	17,767	17,811	17,780	17,717	17,663	17,609	-255
Income	£000	£000	£000	£000	£000	£000	£000	£000
Fees & Charges	284	284	344	359	359	359	359	360
Grants (via CEC)	1161	1,161	1,161	1,161	1,161	1,161	1,161	0
Other Income	285	285	285	285	285	285	285	0
Recharges	8892	8,892	8,892	8,892	8,892	8,892	8,892	0
Total Income	10622	10622	10682	10697	10697	10697	10697	360
Net cost of service (profit/(loss))	7,145	7,145	7,129	7,083	7,020	6,966	6,912	-615

Commercial' Presentation

Year	Service budget 14-15	Current cost of delivery 12-13	Year 1 14-15	Year 2 15-16	Year 3 16-17	Year 4 17-18	Year 5 18-19	(Saving) or Growth 5 year
	£000	£000	£000	£000	£000	£000	£000	£000
Income	£000	£000	£000	£000	£000	£000	£000	£000
CEC Contract Income	14676	14,676	14,676	14,676	14,676	14,676	14,676	0
Fees & Charges	284	284	284	284	284	284	284	360
Grant Income (via CEC)	1161	1161	1161	1161	1161	1161	1161	0
CEC Management Fee	1,361	1,361	1,361	1,361	1,361	1,361	1,361	0
Other Income	285	285	285	285	285	285	285	0
Total Income	17767	17767	17767	17767	17767	17767	17767	360
Expenditure	£000	£000	£000	£000	£000	£000	£000	£000
Contract Payments	15512	15512	15496	15450	15387	15356	15324	-187
Staffing Costs - direct	718	718	718	718	718	718	718	0
Other direct costs	26	26	26	26	26	26	26	0
Total Direct Cost	16256	16256	16240	16194	16131	16100	16068	-187
Gross Profit	1511	1511	1527	1573	1636	1667	1699	547
Other running costs								
Staffing costs - indirect	1018	1018	1018	1018	1018	1018	1018	0
Other running costs	493	493	493	493	493	470	448	-68
Total Indirect Costs	1511	1511	1511	1511	1511	1488	1466	-68
Net Profit	0	0	16	62	125	179	233	615

Capital Expenditure and Funding (table 7 high level business case)

(To be used where there is capital investment as part of the project)

Expand year columns if required

Expenditure	2013/14 £000	2014/15 £000	2015/16 £000	Total £000
Land/Building Purchase				0
Professional Fees (External)				0
Contracted Services				0
ICT Hardware				0
Software Licences				0
Furniture, Plant , Equipment				0
Capitalized Staffing Costs				0
Grants & Loans (Given)				0
Other Costs				0
Total Expenditure	0	0	0	0
Income				
Grants				0
Developer & Other Contributions				0
Revenue Contribution				0
External funding				0
Total Income	0	0	0	0
Capital Receipts				
Prudential Borrowing				0
Total Funding	0	0	0	0

Revenue Expenditure and Income

(use to reflect the revenue expenditure incurred to realise the project, any funding received and who will incur the net cost)

Expenditure (List)	£000	Cost falls to (CEC/ADSV/ Other)
External Legal Fees	10	CEC
Consultant Fees	31	CEC
Insurance Fees	5	CEC
Actuarial report	10	CEC
Transfer of contracts	4	CEC
TOTAL Expenditure	60	0
Funding (List)		
Project budget		
External funding		
TOTAL Funding	0	0

To be used where there is capital investment as part of the project

Amend columns according to return period on the project

Financial Business Case Template							
		Year 1	Year 2	Year 3	Year 4	Year 5	
Costs							
	Description of cost 1						
	Description of cost 2						
	Description of cost 3						
	Description of cost 4						
	Description of cost 5						
	Description of cost 6						
	Description of cost 7						
	Description of cost 8						
	Description of cost 9						
	Description of cost 10						
Benefit							
	Description of Benefit 1						
	Description of Benefit 2						
	Description of Benefit 3						
	Description of Benefit 4						
	Description of Benefit 5						
	Description of Benefit 6						
	Description of Benefit 7						
	Description of Benefit 8						
	Description of Benefit 9						
	Description of Benefit 10						
Tot							
	Total Costs	£0	£0	£0	£0	£0	£0
	Total Benefits	£0	£0	£0	£0	£0	£0
	Net	£0	£0	£0	£0	£0	£0
	Payback period	#DIV/0!					
	NPV	£0					
	IRR	#NUM!					
Parameters							
	Discount rate for NPV	5%					

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Transport ASDV - With ambitious growth strategy

Current Cost of Service, Forecast Trading Position Year 1 and impact of implementing growth proposals

Detailed expansion of table 6 high level business case

(Add extra columns if required to demonstrate savings achieved in future years)

CIPFA standard sub-categories

Expenditure Year	Service budget 14-15	Current cost of delivery 12-13	Year 1 14-15	Year 2 15-16	Year 3 16-17	Year 4 17-18	Year 5 18-19	(Saving) or Growth 5 year
	£000	£000	£000	£000	£000	£000	£000	£000
Employees	1736	1,736	1,719	1,711	1,703	1,697	1,689	-161
Premises	52	52	52	52	52	52	52	0
Transport	10817	10,817	10,786	10,755	10,692	10,661	10,629	-562
Supplies & Services	928	928	943	1,003	1,003	1,003	1,003	315
3rd Party Payments	3657	3,657	3,657	3,657	3,657	3,657	3,657	0
Transfer Payments	110	110	110	110	110	110	110	0
Support Services	467	467	467	467	467	444	422	-68
Total Expenditure	17,767	17,767	17,734	17,755	17,684	17,624	17,562	-476
Income	£000	£000	£000	£000	£000	£000	£000	£000
Fees & Charges	284	284	344	359	359	359	359	360
Grants (via CEC)	1161	1,161	1,161	1,161	1,161	1,161	1,161	0
Other Income	285	285	285	285	285	285	285	0
Recharges	8892	8,892	8,841	8,901	9,166	9,231	9,496	1,175
Total Income	10622	10622	10631	10706	10971	11036	11301	1535
Net cost of service (profit/(loss))	7,145	7,145	7,103	7,049	6,713	6,588	6,261	-2,011

Commercial' Presentation

Year	Service budget 14-15	Current cost of delivery 12-13	Year 1 14-15	Year 2 15-16	Year 3 16-17	Year 4 17-18	Year 5 18-19	(Saving) or Growth 5 year
	£000	£000	£000	£000	£000	£000	£000	£000
Income	£000	£000	£000	£000	£000	£000	£000	£000
CEC Contract Income	14676	14,676	14,676	14,676	14,676	14,676	14,676	0
Fees & Charges	284	284	284	284	284	284	284	0
Grant Income (via CEC)	1161	1161	1161	1161	1161	1161	1161	0
CEC Management Fee	1,361	1,361	1,361	1,361	1,361	1,361	1,361	0
Other Income	285	285	285	285	285	285	285	0
*1 - Contracts with other LAs					200	200	400	800
*2 - New education/large Co contract					65	130	195	390
*3 - Consultancy for other Las			9	9	9	9	9	45
Total Income	17767	17767	17776	17776	18041	18106	18371	1235
Expenditure	£000	£000	£000	£000	£000	£000	£000	£000
Contract Payments	15512	15512	15496	15450	15387	15356	15324	-547
Staffing Costs - direct *4	718	718	711	708	705	702	699	-65
Other direct costs	26	26	26	26	26	26	26	0
Total Direct Cost	16256	16256	16233	16184	16118	16084	16049	-612
Gross Profit	1511	1511	1543	1592	1923	2022	2322	1847
Other running costs								
Staffing costs - indirect *4	1018	1018	1008	1003	998	995	990	-96
Other running costs	493	493	493	493	493	470	448	-68
Total Indirect Costs	1511	1511	1501	1496	1491	1465	1438	-164
Net Profit	0	0	42	96	432	557	884	2011

Capital Expenditure and Funding (table 7 high level business case)

(To be used where there is capital investment as part of the project)

Expand year columns if required

Expenditure	2013/14 £000	2014/15 £000	2015/16 £000	Total £000
Land/Building Purchase				0
Professional Fees (External)				0
Contracted Services				0
ICT Hardware				0
Software Licences				0
Furniture, Plant , Equipment				0
Capitalized Staffing Costs				0
Grants & Loans (Given)				0
Other Costs				0
Total Expenditure	0	0	0	0
Income				
Grants				0
Developer & Other Contributions				0
Revenue Contribution				0
External funding				0
Total Income	0	0	0	0
Capital Receipts				
Prudential Borrowing				0
Total Funding	0	0	0	0

Revenue Expenditure and Income

(use to reflect the revenue expenditure incurred to realise the project, any funding received and who will incur the net cost)

Expenditure (List)	£000	Cost falls to (CEC/ADSV/ Other)
External Legal Fees	10	CEC
Consultant Fees	31	CEC
Insurance Fees	5	CEC
Actuarial report	10	CEC
Transfer of contracts	4	CEC
TOTAL Expenditure	60	0
Funding (List)		
Project budget		
External funding		
TOTAL Funding	0	0

To be used where there is capital investment as part of the project

Amend columns according to return period on the project

Financial Business Case Template							
		Year 1	Year 2	Year 3	Year 4	Year 5	
Costs							
	Description of cost 1						
	Description of cost 2						
	Description of cost 3						
	Description of cost 4						
	Description of cost 5						
	Description of cost 6						
	Description of cost 7						
	Description of cost 8						
	Description of cost 9						
	Description of cost 10						
Benefit							
	Description of Benefit 1						
	Description of Benefit 2						
	Description of Benefit 3						
	Description of Benefit 4						
	Description of Benefit 5						
	Description of Benefit 6						
	Description of Benefit 7						
	Description of Benefit 8						
	Description of Benefit 9						
	Description of Benefit 10						
Tot							
	Total Costs	£0	£0	£0	£0	£0	£0
	Total Benefits	£0	£0	£0	£0	£0	£0
	Net	£0	£0	£0	£0	£0	£0
	Payback period	#DIV/0!					
	NPV	£0					
	IRR	#NUM!					
Parameters							
	Discount rate for NPV	5%					

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RISK LOG SUMMARY

PROJECT/PROGRAMME TITLE	TRANSPORT ASDV
Completed by:	David Laycock/Jo Butler

17/02/14

	Risk Type	Scope of Risk (Detail)	Gross Score (without controls)			Existing Controls	Net Score			Risk Treatment and Control Measures to be introduced	Anticipated Score			Officer Responsible for Risk
			Likelihood	Impact	Total Score		Likelihood	Impact	Total Score		Likelihood	Impact	Total Score	
			L	I	LxI		L	I	LxI		L	I	LxI	
PR1	THREAT	There is a risk that the Intelligent Client Function is not established quickly enough and/or lacks understanding and knowledge of transport operations (including market demand, fluctuations and pricing) leading to ASDV contractual arrangements not being robustly specified leading to failure to deliver the effective service as planned.	4	4	16	Acceptance	4	4	16	Recruitment of external expertise into ICF function	3	4	12	Lorraine Butcher
PR2	THREAT	The council fails to recognise that some aspects of demand are without the company's control (e.g. SEN transport) leading to unrealistic expectations of profitability and shareholder returns which ensure expected benefits are not delivered	4	4	16	Acceptance	4	4	16	Robust negotiation of contractual terms and governance arrangements to ensure due accountability and flexibility	3	3	9	Lorraine Butcher
PR3	THREAT	Lack of understanding or awareness of the impact of commissioning decisions give rise to cost overruns for the WOC resulting in inefficient and ineffective delivery	4	4	16	Acceptance	4	4	16	Robust negotiation of contractual terms and governance arrangements to ensure due accountability and flexibility	3	3	9	Lorraine Butcher
PR4	ISSUE	There is a risk that the challenging timescales under consideration do not allow for any contingency and assume resources will be readily available when needed. Should resources be overstretched then the project will fail to be completed on time resulting in a delay in delivering planned benefits and potential reputational damage for the council	4	4	16	Acceptance	4	4	16	Full briefing and involvement of all enabler services. Commission Oracle build to begin ASAP with additional resource to be employed. Contingency is to plan a fall-back go-live date of 1st Oct	3	3	9	Lorraine Butcher
PR5	THREAT	A change in local political perspectives reduces the appetite for outsourcing services leading either to delay, reduction or cancellation of the initial concept	3	4	12	Awareness of issue and current politics which are favourable	2	4	8	No further action possible	2	4	8	Lorraine Butcher

RISK LOG

PROJECT/PROGRAMME TITLE	TRANSPORT ASDV
Completed by:	David Laycock/Jo Butler

17/02/14

Risk No	Risk Type	Scope of Risk (Detail)	Gross Score (without controls)			Existing Controls	Net Score			Risk Treatment and Control Measures to be introduced	Anticipated Score			Officer Responsible for Risk
			Likelihood	Impact	Total Score		Likelihood	Impact	Total Score		Likelihood	Impact	Total Score	
			L	I	LxI		L	I	LxI		L	I	LxI	
CR1	COUNCIL THREAT	There is a risk that the Intelligent Client Function is not established quickly enough and/or lacks understanding and knowledge of transport operations leading to ASDV contractual arrangements not being robustly specified leading to failure to deliver the full council objectives and benefits	4	4	16	Awareness only at this stage	4	4	16	Recruitment of external expertise into ICF function	3	4	12	Lorraine Butcher
CR2	COUNCIL THREAT	Lack of understanding or awareness of the impact of commissioning decisions give rise to cost overruns for the company resulting in ineffective delivery of expected outcomes	4	4	16	Acceptance	4	4	16	Robust negotiation of contractual and governance arrangements plus developing the understanding of the ICF role. Council ownership permits renegotiation of contract if necessary	3	3	9	Lorraine Butcher
CR3	COUNCIL ISSUE	There is a risk that resources may be diverted to this project at the expense of other ASDVs resulting in their failure to launch on time and deliver benefits as planned	4	4	16	Acceptance	4	4	16	Additional resource recruited by this project to avoid demands on other projects	3	3	9	Lorraine Butcher
CR4	COUNCIL THREAT	There is a risk that information sharing protocols between CEC, the new company and any subcontractors are either not in existence, inadequate or are breached leading to legal challenge and possible financial penalties plus serious reputational damage. This will have a detrimental impact on the achievement of the council's priorities and may expose the Council and Cheshire East residents to other serious risks.	4	4	16	Contractors are currently required to agree to appropriate standards, obligations which will be transferred	3	3	9	Close monitoring of contract adherence and inclusion of relevant terms and conditions	3	3	9	Lorraine Butcher
CR5	COUNCIL THREAT	There is a risk that the new company (and any subcontractors) do not follow all necessary safeguarding procedures and practice and make relevant insurance arrangements resulting in safeguarding issues, complaints and prosecutions leading to financial penalties and reputational damage	4	4	16	Contractors are currently required to agree to appropriate standards, obligations which will be transferred	3	3	9	Close monitoring of contract adherence and inclusion of relevant terms and conditions	3	3	9	Lorraine Butcher
CR6	COUNCIL OPPORTUNITY	There is the potential for the SLE to become so successful that not only does it mitigate current council liabilities but actually delivers a substantial revenue income to shareholders which contributes positively to the Council's bottom line	1	2	2	Awareness	1	2	2	Avoid taking short term returns which have an adverse impact on the potential for future growth	2	2	4	Lorraine Butcher

RISK LOG

PROJECT/PROGRAMME TITLE	TRANSPORT ASDV
Completed by:	David Laycock/Jo Butler

17/02/14

Risk No	Risk Type	Scope of Risk (Detail)	Gross Score (without controls)			Existing Controls	Net Score			Risk Treatment and Control Measures to be introduced	Anticipated Score			Officer Responsible for Risk
			Likelihood	Impact	Total Score		Likelihood	Impact	Total Score		Likelihood	Impact	Total Score	
			L	I	LxI		L	I	LxI		L	I	LxI	
CoR1	COMPANY THREAT	There is a risk that governance, management or contractual arrangements do not allow for decisions to be taken at the appropriate levels or by appropriate people resulting in detrimental impact to service delivery and failure to deliver against the Council's ability to achieve its key community outcomes	4	4	16	Awareness only at this stage	4	4	16	Robust negotiation of contractual and governance arrangements plus developing the understanding of the ICF role	3	4	12	Chris Williams
CoR2	COMPANY THREAT	There is a risk that the Intelligent Client Function is not established quickly enough and/or lacks understanding and knowledge of transport operations leading to ASDV contractual arrangements not being robustly specified leading to failure to achieve its business plan (e.g. lack of freedom)	4	4	16	Awareness only at this stage	4	4	16	Recruitment of external expertise into ICF function	3	4	12	Chris Williams
CoR3	COMPANY THREAT	Lack of understanding or awareness of the impact of commissioning decisions give rise to cost overruns for the WOC resulting in inefficient delivery and loss of profitability and ineffective delivery	4	4	16	Awareness only at this stage	4	4	16	Robust negotiation of contractual and governance arrangements plus developing the understanding of the ICF role	3	3	9	Chris Williams
CoR4	COMPANY THREAT	There is a risk that information sharing protocols between CEC, the new company and any subcontractors are either not in existence, inadequate or are breached leading to legal challenge and possible financial penalties which negatively impact to ongoing commercial viability of the company	4	4	16	Contractors are currently required to agree to appropriate standards, obligations which will be transferred	3	3	9	Close monitoring of contract adherence and inclusion of relevant terms and conditions	3	3	9	Chris Williams
CoR5	COMPANY THREAT	Short term contractual arrangements (e.g. overpricing of CEC back office services provided during the incubation period) overburden the formative company and/or impacts its long term future resulting in financial failure	4	4	16	Awareness and inclusion of assumptions in business case	3	4	12	Robust contract negotiation on support costs and freedoms	2	4	8	Chris Williams
CoR13	COMPANY OPPORTUNITY	The potential for offering staff rewards and greater involvement has a positive impact on performance allowing over-delivery against the business plan and higher returns for shareholder	2	3	6	Recognise but don't over-estimate impact at an early stage	3	3	9	Ensure longer terms plans accommodate this option and that staff are fully engaged by the potential	4	3	12	Chris Williams
CoR14	COMPANY OPPORTUNITY	The increased freedom of operations means that profits can be re-invested in service development, decisions made faster and a better image presented to customers. All of these allow over-delivery against original business plans and higher shareholder returns	2	2	4	Recognise but don't over-estimate impact at an early stage	2	3	6	Exploit such options and ensure that the long-term benefits are prioritised over short term gains	3	4	12	Chris Williams

CoR15	COMPANY OPPORTUNITY	There is an opportunity for the company to apply for alternative grant funding (e.g. LSTF) not currently open to LAs that will permit it to develop new innovative, community services and increasing marketability	1	2	2	Awareness	1	2	2	Ensure company has the capacity and knowledge to 'horizon scan' and seek new opportunities	2	3	6	Chris Williams
CoR16	COMPANY OPPORTUNITY	There is an opportunity for the new company to reduce it's back office cost base in the longer term so allowing it to become more competitive and profitable	1	2	2	Close awareness of shared service costs included in business plans	2	2	4	Renegotiate costs or seek alternatives post-incubation period	3	3	9	Chris Williams
CoR17	COMPANY OPPORTUNITY	There is an opportunity to offer new package deals and other contractual terms that are more attractive to operators thereby improving turnover and market share which allows the SLE to outperform its business plan and deliver higher returns to shareholders	2	2	4	Awareness	2	2	4	Ensure beneficial contracts are developed and that the new company has a focus on market development	3	3	9	Chris Williams

EQUALITY IMPACT ASSESSMENT FORM



Equality impact assessment is a requirement for all strategies, plans, functions, policies, procedures and services under the Equalities Act 2010. We are also required to publish assessments so that we can demonstrate how we have considered the impact of proposals.

Section 1: Description

Department	Communities		Lead officer responsible for assessment		Chris Williams	
Service	Cheshire East Transport ASDV		Other members of team undertaking assessment		Steph Cordon, David Laycock	
Date	19/2/14		Version 1.1			
Type of document (mark as appropriate)	Strategy ✓	Plan ✓	Function	Policy	Procedure	Service ✓
Is this a new/existing/revision of an existing document (mark as appropriate)	New ✓		Existing		Revision	
Title and subject of the impact assessment (include a brief description of the aims, outcomes , operational issues as appropriate and how it fits in with the wider aims of the organisation) Please attach a copy of the strategy/plan/function/policy/procedure/service	<p>The creation of an Alternative Service Delivery Vehicle for Cheshire East Transport</p> <p>In accordance with the Council's declared goal of becoming a strategic commissioning authority this proposal is about establishing a wholly-owned company that will fulfil all the current functions of the Councils Integrated Transport Unit whilst having new-found freedom to expand, develop new services and explore new ways of reducing costs , increasing efficiency and improving service delivery.</p> <p>All the above aligns with several of the Council's core priorities:</p> <ul style="list-style-type: none"> • Cheshire East has a strong and resilient economy • People have the life skills and education they need to thrive • Cheshire East is a green and sustainable place • Our local communities are strong and supportive <p>This document forms part of the Detailed Business Case for the proposal which sets out the plan fully</p>					
Who are the main stakeholders? (e.g. general public, employees, Councillors, partners, specific audiences)	<ul style="list-style-type: none"> • Members of the general public who use/potentially could use public transport • Recipients of statutory/discretionary services (e.g. home to school transport, social care transport) • Service providers (bus operators, taxi companies etc) 					

EQUALITY IMPACT ASSESSMENT FORM

- Councillors
- Employees of Transport services

Section 2: Initial screening

Who is affected? (This may or may not include the stakeholders listed above)	<ul style="list-style-type: none"> • Service providers (bus operators, taxi companies etc) • Councillors • Employees of Transport services <p>NB: Service users are not directly affected since this proposal is regarding the back-office commissioning and management of services rather than their front-line delivery which will essentially remain unchanged</p>
Who is intended to benefit and how?	<ul style="list-style-type: none"> • Service providers will benefit from a reduced administrative burden in tendering for transport services thereby freeing up resources for service delivery and delivering potential cost reductions • The Council/company will benefit from the freedom to operate in a less bureaucratic way, delivering efficiency savings and with the potential to develop new, more effective service offerings working in partnership with providers
Could there be a different impact or outcome for some groups?	<p>No – the project is purely about developing a new company not about making any changes to the actual services on offer nor the way in which they are already delivered - fairly and equitably.</p> <p>Any new service proposals would be subject to further EIAs as appropriate</p>
Does it include making decisions based on individual characteristics, needs or circumstances?	<p>No – the project is purely about developing a new company not about making any changes to the actual services on offer nor the way in which they are already delivered - fairly and equitably.</p> <p>Any new service proposals would be subject to further EIAs as appropriate</p>
Are relations between different groups or communities likely to be affected? (e.g. will it favour one particular group or deny opportunities for others?)	<p>No – the project is purely about developing a new company not about making any changes to the actual services on offer nor the way in which they are already delivered - fairly and equitably.</p> <p>Any new service proposals would be subject to further EIAs as appropriate</p> <p>There is a potential benefit for some groups (e.g. isolated rural communities) as new opportunities are explored for developing their transport links</p>
Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?	<p>No – the project is purely about developing a new company not about making any changes to the actual services on offer nor the way in which they are already delivered - fairly and equitably</p> <p>However the aim of developing new services to meet demand will mean that, in future, specifically targeted services could be developed as necessary.</p>

EQUALITY IMPACT ASSESSMENT FORM

Any new service proposals would be subject to further EIAs as appropriate												
Is there an actual or potential negative impact on these specific characteristics? (Please tick)												
Age	Y	N ✓	Marriage & civil partnership	Y	N ✓	Religion & belief	Y	N ✓	Carers	Y	N ✓	
Disability	Y	N ✓	Pregnancy & maternity	Y	N ✓	Sex	Y	N ✓	Socio-economic status	Y	N ✓	
Gender reassignment	Y	N ✓	Race	Y	N ✓	Sexual orientation	Y	N ✓				
What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts									Consultation/involvement carried out			
									Yes ✓		No	
Age	<p>The project is purely about developing a new company not about making any immediate changes to the actual services on offer nor the way in which they are already delivered - fairly and equitably</p> <p>The new company will only directly affect the commercial relationship with the provider services with whom CEC currently/could work with in the future – it has no direct impact on the public at large or specific service recipients</p>										<p>The entire staff group (and unions) affected has been kept informed of this development over the last 12 months. They have contributed positively with suggestions as to how services could be developed under a new regime</p> <p>Councillors have been actively involved in the development of proposals under the auspices of the relevant PDG</p> <p>Bus operators have been briefed via the Bus Operators Forum and have responded positively to the potential for reduced bureaucracy and active involvement in service development</p>	
Disability												
Gender reassignment												
Marriage & civil partnership												
Pregnancy & maternity												
Race												
Religion & belief												
Sex												
Sexual orientation												
Carers												
Socio-economic status												

EQUALITY IMPACT ASSESSMENT FORM

Proceed to full impact assessment? (Please tick)	Yes	No ✓	Date 19/2/14

EQUALITY IMPACT ASSESSMENT FORM

If yes, please proceed to Section 3. If no, please publish the initial screening as part of the suite of documents relating to this issue

Section 3: Identifying impacts and evidence

This section identifies if there are impacts on equality, diversity and cohesion, what evidence there is to support the conclusion and what further action is needed

Protected characteristics	Is the policy (function etc....) likely to have an adverse impact on any of the groups? Please include evidence (qualitative & quantitative) and consultations	Are there any positive impacts of the policy (function etc....) on any of the groups? Please include evidence (qualitative & quantitative) and consultations	Please rate the impact taking into account any measures already in place to reduce the impacts identified High: Significant potential impact; history of complaints; no mitigating measures in place; need for consultation Medium: Some potential impact; some mitigating measures in place, lack of evidence to show effectiveness of measures Low: Little/no identified impacts; heavily legislation-led; limited public facing aspect	Further action (only an outline needs to be included here. A full action plan can be included at Section 4)
Age	FURTHER ASSESSMENT NOT REQUIRED			
Disability				
Gender reassignment				
Marriage & civil partnership				
Pregnancy and maternity				
Race				
Religion & belief				
Sex				
Sexual orientation				

EQUALITY IMPACT ASSESSMENT FORM

Carers	
Socio-economics	
Is this project due to be carried out wholly or partly by contractors? If yes, please indicate how you have ensured that the partner organisation complies with equality legislation (e.g. tendering, awards process, contract, monitoring and performance measures)	

Section 4: Review and conclusion

Summary: provide a brief overview including impact, changes, improvement, any gaps in evidence and additional data that is needed			
Specific actions to be taken to reduce, justify or remove any adverse impacts	How will this be monitored?	Officer responsible	Target date
Please provide details and link to full action plan for actions			
When will this assessment be reviewed?			
Are there any additional assessments that need to be undertaken in relation to this assessment?			
Lead officer signoff		Date	

EQUALITY IMPACT ASSESSMENT FORM

Head of service signoff		Date	
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Please publish this completed EIA form on your website

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	29 th April 2013
Report of:	Caroline Simpson – Director of Economic Growth and Prosperity
Subject/Title:	Property Asset Disposals – Park Lane, Macclesfield (Forward Plan Ref: CE 13/14-88)
Portfolio Holder:	Cllr Peter Raynes, Finance

1.0 Report Summary

- 1.1 This report, in accordance with the Council's agenda for property portfolio rationalisation, accelerated property asset disposals, corporate revenue savings and stimulating local economic growth, is intended to seek approval to the sale of the freehold title extending to approx. 1.8 acres for the land and buildings edged red on the attached plan and known as:

- The Willows, Park Lane, Macclesfield
- Peatfield Centre, Park Lane, Macclesfield
- Park Lane Offices, Macclesfield
- 352C, Park Lane, Macclesfield

for £700,000, upon the terms outlined in this report to Macclesfield College. The College are proposing to construct a new conference and lecture facility to expand their Higher Education provision and offer facilities for use to local businesses and the community.

2.0 Recommendations

- 2.1 It is recommended to Cabinet

1. That the freehold interest in all 4 buildings listed in 1.1 above be sold to Macclesfield College upon the terms outlined in Section 10 of this report.
2. That the Chief Executive or his identified nominee, in consultation with the Cabinet Member for Finance and the Head of Legal Services, and subject to consideration by the Chief Operating Officer, be given delegated authority to finalise the details of the sale in accordance with the terms and conditions outlined in this report.

3.0 Reasons for Recommendations

- 3.1 The proposed sale is aligned to the Council's major change projects delivering accelerated property asset disposals, significant revenue savings and capital receipts and stimulating economic growth in local communities, resident businesses first – meeting local residents and community needs.
- 3.2 The District Valuer confirmed the Asset Management Service's recommendation that this capital receipt of £700,000 payable for the whole site is market value and the disposal will reduce the Council's carbon footprint and liability for carbon tax.

4.0 Wards Affected

- 4.1 Macclesfield Central

5.0 Local Ward Members

- 5.1 Cllr Janet Jackson, Cllr Ken Edwards

6.0 Policy Implications

- 6.1 Disposal of buildings will reduce the Council's carbon footprint and liability for carbon tax.

7.0 Financial Implications

- 7.1 Capital receipt in accordance with the Council's obligations under Section 123 of the Local Government Act 1972.
- 7.2 In accordance with the Council policy on capital receipts, the £700,000 will be pooled centrally and used in the most beneficial way to finance future capital expenditure.

8.0 Legal Implications

- 8.1 Section 123 of the Local Government Act 1972 allows a Local Authority to dispose of an interest in land on such terms as it considers appropriate subject to its obtaining the best consideration reasonably obtainable for the land interest.
- 8.2 The sites have not been offered for sale on the open market and, therefore, in order to satisfy itself that the requirement to obtain best consideration will be satisfied, independent valuation advice has been obtained.
- 8.3 If the Council is minded to deal only with Macclesfield College it needs to have rationalised why the disposal brings benefits that outweigh undertaking a market process.

9.0 Risk Management

- 9.1 The sites have not been offered for sale on the open market. Consequently there is a possible opportunity for a challenge to the Council's decision to sell one or more of the sites to Macclesfield College. In order to minimise the risks associated with the sale, independent valuation advice has been obtained which is intended to provide comfort in relation to the duty in Section 123 Local Government Act 1972.

10.0 Background and Options

- 10.1 The site edged red on the attached plan consisting of the 4 buildings listed above is sandwiched between the Park Lane Special School, Macclesfield College and Macclesfield Academy, all part of the Macclesfield Learning Zone. The Council has no future educational requirement for the land or buildings and has, as part of a controlled staged process, vacated all 4 buildings on the site as part of its on going rationalisation programme. There is no other Cheshire East Council requirement for the land or buildings. Therefore they are surplus to requirements and ear marked for generating a capital receipt for the Council as part of its capital receipts programme. The Park Lane Special School is still owned by Cheshire East and is still operational. Therefore consideration of the retained site, protecting its future land value and access arrangements has been taken into account when finalising the red line area for disposal.
- 10.2 Macclesfield College own and maintain the main access onto the public highway for the whole Learning Zone site. Cheshire East have a right of access to access the Park Lane Special School, Macclesfield Academy and the two tenanted sites leased to the Tennis Club and private Nursery adjacent to the Academy. The College did not want to support any application for redevelopment of the disposal site which did not promote, enhance or compliment the sustainability of the Learning Zone and the existing educational facilities within.
- 10.3 The Council obtained an independent valuation from The District Valuer who recommended that disposal of the 4 buildings individually on the open market could achieve a higher end value but take some time to deliver completed sales in the current market due to their size and existing use and layouts as day centres and ancillary offices of varying condition and adaptabilities. Individual disposals would result in holding cost pressure for the Council as once each building was vacated there would be a need to provide security and ongoing maintenance to protect the value/marketability of the buildings and maintain health and safety requirements. This can cost a considerable amount of money per vacant building for an unknown period of time whilst trying to market and sell them. The District Valuer recommended a market value of £700,000 on the open market for the whole site edged red for redevelopment purposes.

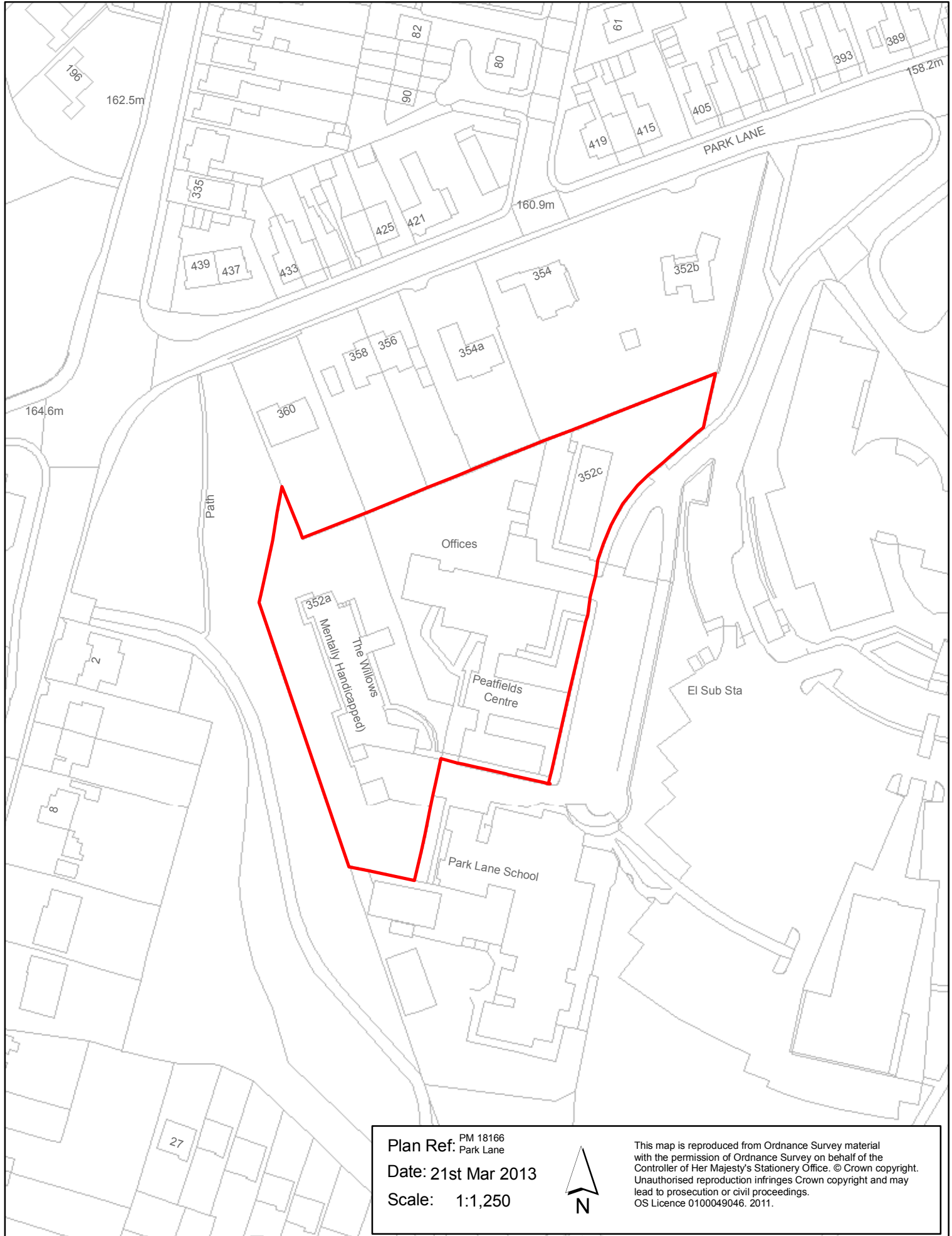
- 10.4 Macclesfield College have been leasing each building from the Council as it has become vacant and providing on site security and undertaking all maintenance and insurance of the buildings with a view to agreeing terms for acquisition once all the buildings had been vacated and leased to them. The leases are only short term, terminable arrangements but ensure that the Council has no holding costs for the buildings whilst a preferred disposal route is explored and considered and the College are currently paying £14,000 per annum exclusive in rent for the Park Lane Offices as well as paying the cost of all the utilities and rates for all the buildings. This has resulted in a zero cost holding position for the Council and has allowed the successful removal of the ICT core site equipment and servers which were located in the buildings and serving other operational buildings in the area meaning the Council could not dispose of the buildings until this was remedied. The costs of this removal will be part funded from the capital receipt element of 4% cost of disposal.
- 10.5 Macclesfield College are wanting to expand their delivery of Higher Education and its provision in areas such as construction, motor vehicle, green technologies, composites, and the performing arts. Currently the College is leasing units in Fence Avenue and Heapy Street to accommodate some of this new provision. It would make sense for the College to have all of its provision on one site so that learners can access all the facilities available to all other learners on the campus. The College vision would be to develop the available land so as to build a new conference and lecture facility that would be available to the local community and present a standard of facilities that are not currently available in Macclesfield. They would also develop accommodation for motor vehicle, construction craft, and green technologies on the site to provide first class education and training in those areas for local people and employers. Currently significant numbers of young people have to leave Macclesfield and travel long distances to access such provision. The proposed new facility would enhance the Macclesfield Learning Zone site so as to provide further opportunities for The Macclesfield Academy, Park Lane Special School, and the Primary Schools in the learning community to access new vocational and trade craft training and experiences. There will also be the possibility of developing a Studio School to provide alternative provision for learners who are having difficulty at school.
- 10.6 The College have agreed, subject to contract and cabinet approval to purchase the whole site edged red for the recommended value of £700,000. This is considered best value as confirmed by the District Valuer and the expectation is that the disposal will deliver continued educational benefits to Macclesfield and the retained Council owned properties on the Learning Zone.

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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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 29th April 2014
Report of: Head of People and Organisational Development
Subject/Title: Pensions Discretions – Changes to the Local Government Pension Scheme (LGPS 2014) (Forward Plan Ref: CE 13/14-81)
Portfolio Holder: Cllr Barry Moran, Performance

1.0 Report Summary

- 1.1 This report outlines the changes to the Local Government Pensions Scheme (LGPS) and the Local Government Pensions Discretions that must be considered by the Council and included within the Council's current Employer Discretions. Any changes made to the discretions will also be reflected in the Redundancy and Retirement and Severance Policies.

2.0 Recommendation

- 2.1 That cabinet consider the report and approve the recommendation to exercise its discretion(s) as outlined in the table in section 10.0.

3.0 Wards Affected

- 3.1 None

4.0 Local Ward Members

- 4.1 N/A

5.0 Policy Implications including

- 5.1 Changes made to the Pensions Discretions Policy, as recommended in section 10, will be reflected in the Redundancy Policy and Retirement and Severance Policy.

6.0 Financial Implications

- 6.1 There would be no direct financial cost to the Council of adopting the recommendations in this report, other than in relation to the discretion to allow scheme members to have pension released on 'appropriate' grounds, which may include more cases than previously encompassed within the term 'compassionate' grounds.

7.0 Legal Implications

- 7.1 Employers are required to review, update and publish their Pensions Discretions in line with the Local Government Pension Scheme Regulations 2013 which come into force on 1st April 2014. Cheshire East Council is obliged to provide the Pension Provider, Cheshire Pension Fund a policy in relation to some of the new Pension Discretions by 1st July 2014 in order to comply with scheme rules.

8.0 Risk Management

- 8.1 This report and the recommended changes to the Council's Pensions Discretions will ensure that the Council complies with the Local Government Pension Scheme Regulations 2013.

9.0 Background and context

- 9.1 The Local Government Pension Scheme (LGPS) is changing significantly with effect from 1st April 2014. The most notable change is the move to a career average scheme (CARE.) but there are a number of additional changes to the scheme which must be considered and reflected in the Council's Pensions Discretions Policy. The existing policy will be retained (and applied where applicable) for employees with service prior to April 2014, with transitional arrangements being put in place.

10.0 Current position and recommendations

Discretion	Current Policy	Proposed Policy	Reason for proposal
Power to increase total membership of active members (augmentation of service)	Policy for Active Members. – This discretion is used to enable redundant employees to purchase additional service within the non-statutory part of their redundancy pay.	Remove augmentation of membership.	Under the new LGPS regulations, members no longer build up service in years, and in future will build up yearly pension accounts. As a result, employer's ability to grant additional years' pension service is no longer available.

Discretion	Current Policy	Proposed Policy	Reason for proposal
Power to award additional pension (of up to £5,000 per year)	This provision will not be used other than in exceptional circumstances.	Policy for Active Members- Change upper limit to £6,500.	This is recommended under the new scheme as option of augmentation has been removed.
Flexible retirement	<p>Employees aged 55 and above may apply to have their hours and/or their pay grade reduced and to seek agreement to early release to some or all of their pension.</p> <p>Requests for early release of their pension will be considered if:</p> <p>Either their substantive grade reduces by a minimum of 2 grades (e.g. grade 6 to grade 4) and/or Their contract hours reduce by a minimum of 1/5th</p>	<p>Policy for Active Members-</p> <p>Requests for early release of their pension will be considered if:</p> <p>Either their substantive grade reduces by a minimum of 2 grades (<i>or equivalent</i>) and/or Their contract hours reduce by a minimum of 1/5th</p> <p>However, regard will be given to service requirements, financial pressures and managerial responsibility in reaching a decision in each case.</p>	Although not a new requirement under the LGPS 2014 regulations, this revision is required to include employees on a spot rate salary (under the new pay structure), as a failure to amend the current policy results in categories of employees being potentially excluded from this aspect of the flexible retirement provision.

Discretion	Current Policy	Proposed Policy	Reason for proposal
Choice of early payment of pension	<p>Policy for Active Members- Early release of pension will only be approved where the Council is satisfied that such release represents value for money, or is on compassionate grounds. The Council will release benefits on compassionate grounds in full for active members.</p> <p>Policy for Deferred Members- Early release of pension to a former employee or a former employee with a Tier 3 Ill health pension that has been suspended , will only be approved where the Council is satisfied that such release is on compassionate grounds. The Council will not waive, on compassionate grounds, the actuarial reduction applied</p>	<p>Policy for Active Members- Early release of pension will only be approved where the Council is satisfied that such release represents value for money, or is on <i>appropriate</i> grounds. The Council will release benefits on <i>appropriate</i> grounds in full for active members.</p> <p>Policy for Deferred Members- Early release of pension will only be approved where the Council is satisfied that such release is on <i>appropriate</i>. The Council will not waive, on <i>appropriate</i> grounds, the actuarial reduction applied to the release of pension benefits paid</p>	<p>Under the new regulations, all scheme members have an automatic right to receive benefits from age 55 (with no cost to the employer.)</p> <p>Under the new regulations, employers retain the power to waive some or all of the reduction, but the criteria is no longer restricted to compassionate grounds for service post April 2014.</p> <p>By substituting the word 'compassionate' with 'appropriate', this option can be utilised as a more flexible management tool, for example allowing management to agree to allow an employee to exit the organisation on grounds considered to be appropriate. The cost of allowing any such request will always be considered against the benefits the exit will allow.</p>

	to the release of pension benefits paid early to deferred members under this discretion (unless the deferred member is protected in the '85 year rule' group) .	early.	
Contributions payable by active members	Employees are allocated to a band once a year from 1 April and subsequently only if their contract changes permanently, i.e. promotion or a down grading. Where an employee receives a mid year grade increment or a late pay award, this will be picked up when the band is reviewed in the following April.	Add in: Employees on casual contracts will be allocated an estimate banding at the beginning of their assignment. The banding will be reviewed annually, or earlier at the employees request.	Under the new regulations, Pension contribution rates are based on actual salary (including overtime). The appropriate banding for casual employees will generally be the lowest percentage rate, or may be higher based on salary received in the preceding 12 months.
Re-employed and rejoining deferred members	An employee may elect to aggregate current and previous periods of membership within 12 months of current membership commencing. Extensions to the 12 month period for aggregating current membership will not be generally	Aggregation of current and previous service will be automatic unless the member chooses not to aggregate the service. If the member does not wish to aggregate service, this decision must be made within 12 months of	Aggregation is automatic under the new regulations, unless the employee chooses to keep benefits separate. Therefore, the employer discretion is to extend the 12 month period for a member <i>not</i> to aggregate benefits.

	considered, other than in exceptional circumstances.	joining the scheme. Extensions to the 12 month period will not generally be considered, other than in exceptional circumstances.	
Applications to make absence contributions	An employee may elect, within 30 days of unpaid absence, to make up lost contributions. Extensions to the 30 day period for making up lost contributions will not generally be considered, other than in exceptional circumstances.	An employee may elect, within 30 days of unpaid absence, to make up lost contributions.	Under the new regulations, there is no discretion to extend the time limit, so reference to this must be removed to ensure compliance. The full cost of purchasing lost pension will be met by the individual who must enter into an Additional Pension Contribution Agreement directly with the Pensions provider.
Inward transfer of pension rights	An employee may elect to transfer rights from a previous pension scheme within 12 months of joining the Local Government Pension Scheme. Extension to the 12 month period to transfer pension values will not be generally considered, other than in exceptional	An employee may elect to transfer rights from a previous pension scheme within 12 months of joining the Local Government Pension Scheme. Extension to the 12 month period to transfer pension values will not be	This has now become a joint discretion requiring employer and Administering Authority agreement.

	circumstances.	generally considered, other than in exceptional circumstance, <i>and will only be agreed with approval from the Administering Authority.</i>	
Early Leavers – III Health	An employee has to have a qualifying period of three months pensionable service, and be certified by an Occupational Health Practitioner as incapable of carrying out their contractual role. To be eligible an employee must be certified by an Independent Registered Medical Practitioner (IRMP) that they are permanently incapable of undertaking their contractual job and that they have a reduced likelihood of obtaining gainful employment (whether in Local Government or otherwise) before age 65. They will then be entitled to one of three levels of benefit as determined by the Local	An employee has to have a qualifying period of <i>two years</i> pensionable service, and be certified by an Occupational Health Practitioner as incapable of carrying out their contractual role. To be eligible an employee must be certified by an Independent Registered Medical Practitioner (IRMP) that they are <i>incapable of immediately</i> undertaking their contractual job and that they have a reduced likelihood of obtaining gainful employment	Under the new regulations, an employee has to have a qualifying period of 2 years service before this provision applies. There has also been a change in the need for the IRMP to be required to state that the employee has a reduced likelihood of gaining employment before age 65, and is now required to state they are incapable immediately of undertaking work.

	Government Pensions Regulations. The employer will decide the appropriate tier according to the likelihood of the employee obtaining gainful employment as certified by the IRMP.	(whether in Local Government or otherwise). They will then be entitled to one of three levels of benefit as determined by the Local Government Pensions Regulations. The employer will decide the appropriate tier <i>after consideration of the medical information available, and</i> according to the likelihood of the employee obtaining gainful employment as certified by the IRMP.	
Early payment of pension – ill health	Requests from ex employees with deferred benefits who seek early release of their pension on the grounds of ill health will be referred to an IRMP who will certify whether or not the ex employee is permanently incapable of undertaking the duties of their former	Delete reference to age 65.	As outlined above.

	employment because of ill health and that they have a reduced likelihood of obtaining any gainful employment before age 65 or for at least three years whichever is the sooner.		
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10.1 Removal of Local Government Pension Scheme (LGPS) Membership for Councillors.

- 10.2 On Monday 10th March, the government announced that with effect from 1 April 2014 the Local Government Pension Scheme will be closing to elected members. Any councillors in the Scheme at that point may remain in membership until their term of office ends but the government have made clear that LGPS membership will end from the date of the next election following 1 April 2014, regardless of whether or not a councillor is re-elected.

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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