

Cabinet Agenda

Date: Tuesday, 3rd May, 2016
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 body in question. 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 12th April 2016.

6. **Child Sexual Exploitation (CSE) Update** (Pages 9 - 20)

To receive a progress report following the Child Sexual Exploitation Task and Finish Group's investigation into the Council's CSE safeguarding arrangements and incorporating the findings from the inspection of children's services by Ofsted in July 2015.

7. **Communities Overview and Scrutiny Committee - Domestic Violence Task and Finish Group Final Report** (Pages 21 - 48)

To receive the report of the Domestic Violence Task and Finish Group.

8. **Notice of Motion - Ethical Investment Guidelines** (Pages 49 - 52)

To consider and respond to the motion.

9. **Notice of Motion - Potential Effects of Transatlantic Trade and Investment Partnership on Local Authorities** (Pages 53 - 60)

To consider and respond to the motion.

10. **Middlewich Eastern By-Pass** (Pages 61 - 72)

To consider a report seeking authority to conduct a public consultation exercise in Middlewich concerned with the development of a wider transport plan, enable the development of a high level funding strategy for the By-Pass, and complete the route-options comparison.

11. **Macclesfield Town Centre Regeneration - Proposed Public Realm Improvements** (Pages 73 - 88)

To consider a report outlining proposals to invest a £1m capital allocation into a programme of public realm improvements to be focused in and around the pedestrianised core of Macclesfield town centre.

12. **ELENA Technical Assistance Funding** (Pages 89 - 102)

To consider the submission of a bid to the European Investment Bank for ELENA funding.

13. **Transfer of Gables, Nantwich to Nantwich Town Council** (Pages 103 - 108)

To consider the transfer of the Gables to Nantwich Town Council.

14. **Review of Policy and Procedures - Surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA)** (Pages 109 - 126)

To review and approve an updated RIPA policy and procedures.

THERE ARE NO PART 2 ITEMS

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 12th April, 2016 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor Rachel Bailey (Chairman)
Councillor D Brown (Vice-Chairman)

Councillors A Arnold, P Bates, J Clowes, L Durham, J P Findlow, S Gardner,
P Groves and D Stockton

Members in Attendance

Councillors Rhoda Bailey, G Baxendale, S Edgar, I Faseyi, R Fletcher, D
Flude, S Gardiner, G Hayes, S Hogben, L Jeuda, R Menlove, A Moran, B
Moran, B Walmsley, M Warren, H Wells-Bradshaw, J Weston and G Williams

Officers in Attendance

Mike Suarez, Kath O'Dwyer, Peter Bates, Andrew Round, Bill Norman,
Heather Grimbaldeston, Brenda Smith, Tracy Ryan and Paul Mountford

The Chairman welcomed Andrew Round, Interim Executive Director of
Economic Growth and Prosperity, and Tracy Ryan, Director of Children's
Prevention and Support, to their first meeting of the Cabinet.

The Chairman announced that the following items were to be withdrawn from
consideration at today's meeting and would be considered at a future date:

- Item 10 – Commissioning of Children's Nurseries in Crewe
- Item 16 – Cheshire East Council Community Equipment Service Model

128 DECLARATIONS OF INTEREST

There were no declarations of interest.

129 PUBLIC SPEAKING TIME/OPEN SESSION

The Chairman welcomed Annabel Wright and her family to the meeting.
Annabel, who was aged 10 and lived on a dairy farm, had written to the
Council asking if it would consider sourcing milk from local dairy farmers in
Cheshire East. In response to the letter, the Chief Executive had invited
Annabel and her family to attend the meeting to address elected members
on the matter.

Annabel, her brother and father all addressed the meeting on the matter,
and extended an invitation to Cabinet members to visit their farm.

The Chairman responded that the Council was keenly focussed on rural issues and recognised that many local businesses were situated in rural areas. The Portfolio Holder for Children and Families added that the Council's policy was to source produce locally wherever possible. The Chairman thanked the whole family for their engagement with Members on this matter.

Sue Helliwell asked whether the Cabinet's decision on 23rd February 2016 on the de-designation of children's centres could have been called in before the Council meeting two days later. At the Chairman's request, the Director of Legal Services responded to the question. The Director advised that the Cabinet had considered the matter as part of the Council's budget-setting process and had made a recommendation to Council which was the decision-making body; and Cabinet recommendations to Council were not subject to the call-in procedure.

Maeve Kelly raised a number of matters in relation to the de-designation of children's centres which she had also raised at the meeting of the Health and Wellbeing Board on 15th March 2016. In response, the Portfolio Holder for Children and Families indicated that the officers had now replied comprehensively to the questioner on the matters she had raised at the Health and Wellbeing Board meeting.

At the conclusion of public speaking time, the Chairman thanked those who had attended the meeting to speak.

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QUESTIONS TO CABINET MEMBERS

Councillor D Flude asked how many referrals about elderly abuse the Council had received to date, how many of those people had had to be placed in a bed, and any other relevant information regarding the abuse. The Portfolio Holder for Adult Care and Integration undertook to respond in writing. She added that the Adult Safeguarding Board was actively considering solutions to address the issue.

Councillor S Hogben referred to people falling over in the swimming area of the new Crewe Lifestyle Centre as a result of the slippery floor. The Portfolio Holder for Adult Care and Integration replied that there had been two such incidents which had occurred in the changing rooms. The matter had been raised with the contractor although the flooring did comply with the necessary safety standards. However, as an extra precaution, additional safety matting had been placed throughout the changing rooms and the contractors were re-examining the flooring to ensure there were no faults.

Councillor Hogben also asked what would happen with the former Crewe Library building now that the library had moved into the Lifestyle Centre. The Chairman replied that she had already responded to some of the concerns expressed by Crewe councillors on this matter and would be discussing it further with Councillor D Newton.

Councillor G Baxendale commented that about 18 months ago Kinsey Street, Congleton had been de-designated as a residential parking area but that the signing had not yet been removed, thus deterring people from using the parking spaces. The Deputy Leader undertook to deal with the matter.

Councillor R Fletcher raised a number of questions relating to sites in Alsager, including a pavement at Goss Place; the fencing of the Swallow Drive play area; a footpath from the Coppice Estate; and a new play area opposite Goldfinch Drive. The Portfolio Holder for Housing and Planning responded on each matter and undertook to reply in writing where appropriate.

Councillor B Walmsley welcomed the Leader's recent comments about improving the infrastructure in Middlewich and progress with the link road. In this respect, she asked for a meeting with the Deputy Leader and Portfolio Holder for Highways and Infrastructure to discuss HS2 developments. The Leader responded that such a meeting had already been arranged and that the Deputy Leader would be involved. The Deputy Leader looked forward to meeting Councillor Walmsley to discuss the matter.

Councillor M Warren mentioned that residents parking schemes for Macclesfield East had been put on hold pending an assessment of the parking needs of the town centre as part of the town centre regeneration scheme. Now that the regeneration scheme was in progress and the parking evaluation had been completed, he asked when it would be possible for residents parking schemes for residential areas abutting the town centre to be considered. The Portfolio Holder for Housing and Planning undertook to look into the matter and respond in writing.

131 **MINUTES OF PREVIOUS MEETING**

RESOLVED

That the minutes of the meeting held on 8th March 2016 be approved as a correct record.

132 **JOBS REGENERATION AND ASSETS OVERVIEW AND
SCRUTINY COMMITTEE - SECTION 106 AGREEMENTS TASK AND
FINISH GROUP REPORT**

Cabinet considered the report of the Section 106 Agreements Task and Finish Group.

The Group had been established to consider how Member involvement in Section 106 agreements could be improved with a view to achieving better outcomes for communities. The Group's recommendations were set out in section 2.0 of the report.

Councillor H Wells-Bradshaw, Chairman of the Task and Finish Group, presented the Group's report. Councillor J Weston, a member of the Group, also spoke on the matter.

The Portfolio Holder for Housing and Planning reported that an appointment had now been made to the post of Section 106 Officer, which was one of the Group's recommendations.

RESOLVED

That

1. the report of the Section 106 Agreements Task and Finish Group be received;
2. the Task and Finish Group's recommendations, as set out in section 2.1 of its report, be noted; and
3. a response to the Task and Finish Group's report be submitted to the Jobs Regeneration and Assets Overview and Scrutiny Committee at its meeting on 18 July 2016.

133 JOBS REGENERATION AND ASSETS OVERVIEW AND SCRUTINY COMMITTEE - APPRENTICESHIPS TASK AND FINISH GROUP REPORT

Cabinet considered the report of the Apprenticeships Task and Finish Group.

The Group had been established to consider how the Council could become a leader and best practice example of apprenticeship provision in Cheshire East to other local organisations. The Group's recommendations were set out in section 2.0 of the report.

Councillor J Weston, Chairman of the Task and Finish Group, presented the Group's report. Councillor H Wells-Bradshaw also spoke on the matter.

Councillor L Durham, having been a member of the Task and Finish Group prior to her appointment as a Deputy Cabinet Member and subsequently as a Cabinet Member, indicated her intention to abstain and did not vote on the matter.

RESOLVED

That

1. the report of the Apprenticeships Task and Finish Group be received;

2. the Task and Finish Group's recommendations, as set out in section 2.1 of its report, be noted; and
3. a response to the Task and Finish Group's report be submitted to the Jobs Regeneration and Assets Overview and Scrutiny Committee at its meeting on 18 July 2016.

134 **VISITOR ECONOMY STRATEGY 2016 - 2020**

Cabinet considered a report on the adoption of the Visitor Economy Strategy 2016-20.

Cheshire East's visitor economy was worth over £807m a year. It was an important economic sector that contributed to jobs, growth and prosperity. The report summarised the key elements of the Strategy to take the sector forward.

RESOLVED

That Cabinet approves and adopts the Visitor Economy Strategy 2016-20 for Cheshire East as the Council's framework to deliver services and agree policy relating to the Visitor economy.

135 **MUNICIPAL PARKS STRATEGY 2030**

Cabinet considered a report on the adoption of the Municipal Parks Strategy 2030.

The strategy provided the guiding principles for the future management and development of the Council's municipal parks to ensure that they met the needs and aspirations of residents.

RESOLVED

That

1. the Municipal Parks Strategy 2030 as attached at Appendix 1 to the report be adopted; and
2. the strategy be used to guide policy and investment in the Council's parks to meet the future needs of the residents of Cheshire East.

136 **COMMISSIONING CHILDREN'S NURSERY IN CREWE**

This item was withdrawn and would be considered at a later date.

137 **RESIDENTIAL REDESIGN**

Cabinet considered a report on the redesign of residential homes for children in care.

The purpose of the report was to start the process of redesign of residential homes for children in care. It was not intended to present a detailed analysis at this stage but to provide sufficient information about the broad direction of travel and plan a timeline to make decisions.

RESOLVED

That Cabinet

1. approves the design of Children's Homes to include retaining the three existing four bed properties and adding two additional two bed homes;
2. delegates the decision of location of the two new homes to the Director of Children's Services in consultation with the Children and Families Portfolio Holder;
3. approves a wholly commissioned model of service (ie no in-house delivery); and
4. agrees the timeline for completion of the commissioning cycle to achieve the new model of provision by April 2017.

138 **REVIEW OF ARRANGEMENTS FOR THE DELIVERY OF YOUTH JUSTICE SERVICES IN CHESHIRE EAST**

Cabinet considered a review of the arrangements for the delivery of youth justice services in Cheshire East.

In order to better 'future proof' both the statutory Youth Offending Services elements of the service, and retain an appropriate focus on prevention via youth and family support provision, it was proposed that the Council join Cheshire West, Halton and Warrington to create a 'One Cheshire' YOT whilst retaining the preventative services as part of a wider Cheshire East Youth and Family Support offer.

RESOLVED

That Cabinet approves that

1. the Youth Offending Specialist Services be transferred into a One Cheshire YOT, with Cheshire East staff remaining employees of the Council and retaining their terms and conditions of employment, but working through the terms of a Memorandum of Understanding between the partner authorities;
2. the Preventative Youth Support aspects of the service be combined with the Council's remaining/existing Youth and Family Support Services into a single service within the Children and Families Directorate;

3. the implementation of the proposals be delegated to the Director of Children's Services in consultation with the Cabinet Member for Children and Families; and
4. proposals on the partnership arrangement, including ways of working and any reduction in the number of Cheshire East staff under new arrangements, form part of a formal Consultation with affected staff.

139 **POLICY FOR THE ALLOCATION OF COMMUNITY GRANTS
2016/17**

Cabinet considered the Policy for the Allocation of Community Grants 2016/17.

The Council recognised the valuable input that the voluntary, community and faith sector brought to the quality of life in the community. The Policy for the Allocation of Community Grants ensured that such organisations were assessed fairly and that grant awards were open and transparent and stood up to public scrutiny.

RESOLVED

That

1. the Policy for the Allocation of Community Grants 2016/17 be approved; and
2. authority be delegated to the Portfolio Holder for Communities and Health to make decisions on grant applications for each round of community grants within the financial year of 2016/17.

140 **COMMUNITY RIGHT TO CHALLENGE POLICY**

Cabinet considered a report on the Community Right to Challenge policy.

The Localism Act 2011 required the Council to have a process in place to consider expressions of interest received under the Community Right to Challenge. The report provided Cabinet with an overview of the Community Right to Challenge legislation and recommended a policy for dealing with submissions of expressions of interest to put the required processes in place.

RESOLVED

That

1. the Community Right to Challenge policy be approved;

2. authority be delegated to the Head of Communities to develop the required application and guidance forms, ensuring that the statutory duty under Community Right to Challenge legislation is fully met;
3. the implementation of the Community Right to Challenge policy be supported with the submission of expressions of interest between 1st and 30th September 2016;
4. it be noted that the Head of Communities will, in consultation with the Portfolio Holder and relevant Heads of Service, review expressions of interest received and refer a recommendation for acceptance or refusal to Cabinet for a final decision; and
5. Cabinet receive and consider all expressions of interest and make a final decision (acceptance or rejection).

141 **SOCIAL VALUE POLICY**

Cabinet considered a proposed Social Value Policy for Cheshire East.

The Public Services (Social Value) Act 2012 came into force on 31st January 2013. It was now a legal obligation for local authorities and other public bodies to consider the social good that could come from the procurement of services before they embarked upon it. The aim of the Act was not to alter the procurement processes but to ensure that, as part of those processes, councils gave consideration to the wider impact of the service's delivery. The proposed Social Value Policy for Cheshire East Council was attached as an Appendix to the report.

RESOLVED

That Cabinet approves the Social Value Policy for Cheshire East Council, as attached as an Appendix to the report, which will be embedded within commissioning and procurement activity from a value of £5,000 wherever proportionate and practical to do so.

142 **CHESHIRE EAST COUNCIL COMMUNITY EQUIPMENT
SERVICE MODEL - LEADING THE REGION**

This item was withdrawn and would be considered at a later date.

The meeting commenced at 2.00 pm and concluded at 3.30 pm

Councillor Rachel Bailey (Chairman)

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: May 3rd 2016
Report of: Kate Rose, Head of Safeguarding, Children and Families
Subject/Title: Child Sexual Exploitation (CSE) Update

1.0 Report Summary

- 1.1 This is a progress update following the work led by the late Cllr Hoyland in relation to the CSE Task and Finish Group investigation into the Council's CSE safeguarding arrangements and incorporates the findings in respect of CSE from the inspection of children's services by Ofsted in July 2015. As with all child protection issues those that affect children who are victims of child sexual exploitation are complex, these children often believe that they are in a loving relationship with their abuser. Whilst the achievements in this area have been steady we remain ever vigilant and clear with partners of the need to continue to improve.

2.0 Acknowledgements

- 2.1 Cheshire East Council would like to thank the Members of Children and Families Overview and Scrutiny Committee for their work in giving their time and focus in making this national issue a local priority.
- 2.2 We would also acknowledge with thanks the work of our frontline practitioners across the partnership agencies who work together to safeguard and protect the children and young people of Cheshire East who experience Child Sexual Exploitation.
- 2.3 The most important acknowledgement needs to be to our children and young people who help us reflect on the services that we provide for them so that we can ensure our services are of good quality.

3.0 Recommendations

- 3.1 That Cabinet receive the report and subsequent updated report and support the continued work of the Children and Family Scrutiny task and finish group carrying out further challenge in this area.
- 3.2 That Cabinet reaffirms its commitment to preventing child sexual exploitation across the services.

- 3.3 That the improvements and positive developments to date, as outlined in the update report be noted and welcomed.

4.0 Background

- 4.1 This report is a progress update from the report accompanying this paper based on work carried out by the task and finish group.

5.0 Update

- 5.1 This report updates against the key areas identified within the previous report:

- 5.2 Management of individual cases: Cheshire East Local Authority takes the risk of Child Sexual Exploitation (CSE) extremely seriously and considers this to be a child protection concern. We ensure the voice and experience of the child is at the centre of the decision making to protect them, and provide an independent advocate to support children subject to a CSE plan. A great deal of our work in this area is informed by the views and experience of children and young people for example: they were involved in the appointment of the commissioned service, they reviewed the CSE screening tool, they are involved in the audit of the effectiveness of our work, they have worked with us to evaluate the various tools we use for working with them, and we are currently developing a young person led evaluation process for our CSE service through the Investing in Children Membership scheme.

- 5.3 Children most at risk are made subject of a multi-agency CSE plan. We also operate a multi-agency CSE Operational group to share intelligence at a lower level to prevent harm, identify multiple victims/connections, inform targeted interventions and identify and disrupt perpetrators and locations. The effectiveness of this was recognised in the Ofsted inspection in July last year. The report stated, "*The strategic response to children who go missing or are at risk of child sexual exploitation is strong*" and "*Professionals across Cheshire are using intelligence successfully to identify and disrupt perpetrators*". We are aware that there is further work to do to improve the assessment by social workers and use that to reduce the risk to children. The significant changes in the Children's Social Care workforce have also meant that there is a need to continue to train and equip our frontline staff to improve their knowledge and skills. CSE training has been offered to all front line social workers to support them in gaining knowledge, confidence and skills in this area. The Champions group have recently produced a resource pack of tools for front-line workers where CSE is a factor, evaluated by our children and young people.

- 5.4 Profile: Not surprisingly, many of our children and young people who are most at risk of CSE come from abusive, backgrounds, which increases their vulnerability to exploitation and are often initially resistant to intervention, believing they are in a loving relationship. In Cheshire East

at any one time, we probably have approximately 14 children and young people at serious risk of CSE. These will often be children aged between 11 and 17.

- 5.5 The multi-agency CSE operational group has enabled us to build a picture of vulnerability before the risk is high. In the past 6 months we have considered 60 referrals; 49 of which were concerning young people at risk, and 11 concerning persons of interest. There were also 5 young people who transferred to Adult Services for support, as per the protocol, as their vulnerability remained high as they reached their 18 birthday. The group also considered action in respect of 3 locations that were posing a potential risk/draw to young people. The factors that are most significant for increasing the vulnerability of our children and young people are difficulties at home, including family relationships, social media and peer pressure.
- 5.6 Child sexual exploitation is not a criminal offence as such, but an umbrella term for a number of offences against children. In the last 6 months at the Operational group, 4% of the children and 36% of the persons of interest discussed have led to formal police investigation. However, the value of information sharing can not be underestimated.
- 5.7 The profile for the persons of interest in Cheshire East is that they tend to be male (91%) and aged under 21 (55%). The majority, 91%, were thought to put young people at risk through their established relationships with young girls, which dovetails with the finding that young people were most at risk from associations with 'boyfriends' or peers. 18% had had an allegation of rape made against them, and 27% were a risk through their social media relationships and online activity.
- 5.8 There were examples of persons of interest using friendship groups to 'groom' other young people. Forty five percent of the persons of interest considered showed a common theme of controlling behaviour, and 9% had their own vulnerabilities and behavioural issues, 18% displaying anger issues.
- 5.9 Strategic approach to CSE: Last year a new PAN Cheshire Strategic Plan for CSE was agreed across the 4 member Local Safeguarding Children Boards (LSCB). This has a local implementation plan that is tracked through the Cheshire East Safeguarding Children Board. The Police and Crime Commissioner held a PAN Cheshire CSE summit on 17th December 2014 to ensure that the responses across Cheshire were effective and this was revisited with the independent chairs in November 2015. In response to the letter earlier this year from Isabelle Trowler (Chief Social Worker), the CSE screening tool was reviewed and assurance provided in respect of its suitability. This is currently being revaluated with children, young people, parents and frontline practitioners as part of an annual process to promote best practice.

- 5.10 The multi-agency training, both general, through the LSCB, and bespoke/ targeted (for example to Child and Adolescent Mental Health Services and school governors) has continued in Cheshire East and is now being developed to include partnership groups across the voluntary, community and faith sector. We have also developed an e-learning module that is due to go live after an initial pilot through the CSE Champions group.
- 5.11 We have seen an increase in the number of children placed on a CSE plan and those brought to the CSE Operational group. Through this work, we have also recognised the vulnerability of our child population transitioning into adulthood and have established a pathway with adult services for those young people to continue with a plan of support and protection beyond the age of 18. Whilst this was established relatively recently it is currently the only such arrangement within PAN Cheshire and the region and is working well.
- 5.12 The recent Ofsted Inspection report stated that, *'Child sexual exploitation arrangements are coordinated and delivered well at a local and pan-Cheshire level through the CESCOB and the community strategic partnership. A range of strategic and operational forums effectively deliver the multi-agency strategy, including the pan-Cheshire and CESC child sexual exploitation and missing from home sub-groups. The sub-group structure reflects how well this area of safeguarding is prioritised within Cheshire East with a multi-agency champions group and an operational group collectively demonstrating determination to ensure young people are safeguarded'*.
- 5.13 Integrated Team approach: The Integrated Multi-agency Team for Missing from Home and Child Sexual Exploitation has made progress. The team of Missing From Home/CSE commissioned workers from Catch 22 and the police and health lead have moved to Sandbach House and remain working alongside multi-agency 'front door', ChECS. Catch 22 has been re-commissioned which has increased to meet the demands and all these workers are now in place. This has been the result of investment from the Council.
- 5.14 There is a commitment from Education Welfare to provide a worker to the team, and it is expected this will make progress in the next month. The work of the commissioned service across the 4 local authorities on CSE and Missing from Home was shortlisted and won a national children's award for its partnership working. The Ofsted report stated *"The Local Authority and its partners take seriously their duties and responsibilities to those children who go missing from home or care and have worked well together to establish clear strategies and protocols to help these children"*.
- 5.15 Taxi Drivers; the issue identified in paragraph 3.8 of the attached report in respect of taxi drivers continues to be a focus of shared activity. These are:

a lack of consistency in respect of the conditions attached to licences in different local authority areas

little evidence that intelligence is shared between authorities, especially about applicants who, for instance, may have made an unsuccessful application in one area, but subsequently secure a licence with another authority.

that where a driver who has committed a criminal offence or breached the conditions of the operating licence the police will notify the licensing authority, but this may not necessarily be the authority in which the driver mainly operates.

The police have worked with the licensing section of the Council. The plan is for taxi and private hire drivers licensed to Cheshire East to be required to have completed safeguarding training. The aim of this engagement is to promote these drivers as potential 'eyes and ears' to prevent harm as well as minimise and manage risk. The issue of inconsistency across Local Authorities is, as indicated in the report, a national challenge but this is being taken up through the appropriate Committee and regional networks. The intelligence locally has so far identified this risk for children in Cheshire East as small and not the dominant factor in our offending profile. A Notice of Motion was heard at Cabinet in January with agreement that a letter would be written to highlight the legislative gap and risk for licensing and operation of taxis across Local Authority boundaries and requesting a change.

- 5.16 On a Pan Cheshire basis, steps have been taken to mitigate the risk for taxis operating across boundaries locally. To facilitate the better sharing of information, Cheshire Constabulary and Local Authorities within Cheshire entered into an Information Sharing Agreement. This agreement provides clarity and guidance on when and what information will be shared between signatories, including Cheshire East. Information given under the agreement has resulted in our General Licensing Sub-Committee revoking licences where drivers have been charged with sexual offences.
- 5.17 The report was correct and helpful in identifying the need for regular meetings to be set up between the LSCB Independent Chair and the Chief Executive on the Council. This provides a direct line to ensure the Chief Executive is informed of the critical areas impacting on the effective Safeguarding of children in the Local Authority. These meetings are taking place and are planned throughout the year.
- 5.18 Discussions have taken place through the Local Safeguarding Children's Board to strengthen the integrated multi-agency nature of the initial response to consultations about children. The Safeguarding Children in Education Settings (SCiES) team continue to work with the ChECS team every afternoon, and the education welfare provision is also planned to start. Health colleagues have also been considering a restructure to their provision to operate within the team and this is expected. The Domestic Abuse Hub is also situated with ChECS and

we have recently agreed a new pathway from the Hub for triage for all children,

- 5.19 **Partnership:** Child sexual exploitation is clearly not only a Council only issue and through the Local Safeguarding Children Board, we work closely with all our statutory and non statutory partners, (for example, police, schools, sexual health, probation, communities). These partner agencies are being asked to report how they are meeting their single agency requirements to ensure their front line staff are connected with the key issues in safeguarding children.
- 5.20 The Pan Cheshire CSE group continue to deliver their communication strategy in respect of CSE, focusing and targeting key front line staff on a monthly basis, and themed to ensure a concentrated focus. Over the months this has included, schools, taxi drivers and hotels, the public and private providers of children's homes, health providers and the late night economy. We have also developed a web site <http://www.knowandsee.co.uk/>. The communication strategy has been shortlisted for a national award.
- 5.21 There is also ongoing work to raise the profile within our community and faith groups, working in partnership with Community Safety. Within Cheshire East, all Children's workers received a CSE E-bulletin setting out key messages for them and many participated in National CSE Awareness Day. There is a CSE Champions group established across all the agencies to sustain momentum and inform us what front line practitioners need to be effective. The DCS and Chief Constable recently wrote a joint letter to all parents of secondary school children to advise them of CSE, the risks and support available if they had concerns.
- 5.22 The challenges of cross border exploitation have been identified for some time and the report was really useful in highlighting these. In response we have established a group with the Local Authority representatives who share a border with Cheshire East. As a result of this, I have written a protocol that has gone to the North West Regional Safeguarding Group for agreement together with a template for sharing information and providing trigger plans to keep these children safe as they move or are trafficked across our Local Authority borders. This has recently been agreed.
- 5.23 Whilst there are still areas that need to develop and progress there is a commitment to ensure we act effectively to prevent, identify and protect the children in Cheshire East.
- 5.24 The work and findings of the task and finish group was welcomed and extremely useful in providing a focus, challenge and reflection on the work we are doing to safeguard our children from child sexual exploitation. This remains an issue of national political concern and

priority, including a key strand of agency inspections including the recent Ofsted and Her Majesty's Inspectorate of Constabulary visits in Cheshire. Any further work planned by this committee would be supported.

- 5.25 The Overview and Scrutiny Task and Finish group are now progressing phase two of this work stream. The focus is on scrutinising the impact our practice makes to keep this group of children and young people safe. This is through the tracking of two cases and will be completed by September. The findings will then be reported through the Children and Families Overview and Scrutiny Committee.

6 *Access to Information*

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

Name: Kate Rose
Designation: Head of Safeguarding Children and Families
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Email: kate.rose@cheshireeast.gov.uk

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**Report of the Children and Families Overview and Scrutiny
Committee**

**Interim Review of Child Sexual Exploitation
arrangements in Cheshire East**

February 2015

CHILD SEXUAL EXPLOITATION
THE MORE YOU KNOW THE MORE YOU SEE

1.0 Report Summary

- 1.1 This is an interim report of the Child Sexual Exploitation (CSE) Task and Finish Group investigation into the Council's CSE safeguarding arrangements.

2.0 Background

- 2.1 At its meeting held on 1 December 2014, the Children and Families Overview and Scrutiny Committee (the Committee) appointed a Task and Finish Group to investigate the adequacy of the Council's arrangements to protect young people in Cheshire East from Sexual exploitation. The members of the Task and Finish group were:



Chairman: The late Councillor Phil Hoyland (Left)
Councillors: Arthur Moran, Gill Merry
(The task and Finish group has been assisted also by Councillor Jos Saunders)

- 2.2 The Task and Finish group met 7 times over the period 15 December 2014 to 31 January 15 and has interviewed 10 individuals.

- 2.3 The Task and Finish group agreed the following terms of reference:

"To seek assurances about the Council's safeguarding arrangements in relation to CSE, to advise the Cabinet and the Council's partners on any improvements that are considered appropriate to local arrangements and to raise awareness of CSE across the whole community of Cheshire East. This will be achieved through a review to be undertaken over a 2 month period beginning on 1 December 2014 and concluding on 31 January 2015 by a Task and Finish group comprising 3 Members of the Children Families and Adult Social care Overview and Scrutiny committee, supported as the need arises by other members of the Committee"

- 2.4 This interim report should be read in conjunction with the related appendix (September 2015)

3.0 Findings

- 3.1 The starting point for the investigation was the national focus given to CSE resulting from the recent cases of grooming and sexual exploitation of young people in Rochdale and Rotherham. The subsequent publication of the Jay report, which had been critical of the various agencies responsible for safeguarding in Rotherham and the report produced by Anne Coffey MP commissioned by the Greater Manchester Police and Crime Commissioner to

review the Greater Manchester response to CSE added to the evidence that some local authorities had questions to answer in respect of their procedures for dealing with CSE. In light of these and other high profile cases, Members decided to review Cheshire East's arrangements to protect against CSE, specifically to seek assurances that arrangements are fit for purpose and agile enough to address any issues relating to CSE in Cheshire East, no matter how they arise.

- 3.2 As the investigation has progressed it has become clear to the Members involved, that this is a big task. In just over 2 months, we have met 10 individuals, most of whom are involved in CSE at a strategic level. We still have many more people to speak to within the Council and possibly countless more from organisations outside of the Council. We are grateful to all those who have given their time to date and assisted us with our enquiries and in so doing, have greatly enhanced our knowledge of CSE.
- 3.3 Whilst not wishing to finalise our conclusions at this early stage, we have been heartened to discover that CSE is taken very seriously by the Council and its statutory partners.
- 3.4 We are confident from what we have heard that the procedures and policies we have in place are good. CSE takes many forms, and although there is no evidence of the large scale systematic CSE that has occurred elsewhere, there is evidence of isolated cases of CSE in the borough. We are satisfied that when cases come to light, all agencies act swiftly. Of course, we can only deal with what we know, and for this reason the Council and its partners have to remain vigilant at all times. The training programmes we have in place for schools and partner agencies in health etc. are vital in making sure that not only staff within these fields understand and recognise the signs of CSE, but take action when they have suspicions, or just as importantly, when matters are brought to their attention.
- 3.5 We were particularly pleased to hear that plans are in place to put together a dedicated multi agency team under the direction of Kate Rose the Head of Children's Safeguarding Unit to ensure that CSE is kept high on the agenda, and we will watch with keen interest how this group develops.
- 3.6 There are some minor areas of concern at the moment, and we will ensure that our early findings are reported to the appropriate responsible officers.
- 3.7 The first is outside the scope of our review and was a matter originally brought to our attention by the police. This relates to the licencing arrangements for taxi and private hire drivers.
- 3.8 We were concerned to discover that there is not only a lack of consistency in respect of the conditions attached to licences in different local authority areas but that there is very little evidence that intelligence is shared between authorities, especially about applicants who, for instance, may have made an unsuccessful application in one area, but subsequently secure a licence with another authority. We also discovered that if a driver has committed a criminal offence or breached the conditions of the operating licence the police will notify the licensing authority, but this may not necessarily be the authority in which the driver mainly operates. This is a concern, because we have strong evidence to suggest that many private hire/taxi drivers who operate within Cheshire East are licenced by other local authorities. The details of

our concerns will be passed on to the licensing officers, but we acknowledge that this is a national issue and may have to be tackled through regional networks.

- 3.9 The Task and Finish group has been impressed with the strong partnership working arrangements afforded by the co-location of key staff from ChECS, the police, and the child protection team at Dalton House Middlewich and would encourage those arrangements to continue when the staff are re-located to Sandbach in the near future.

4.0 Observations

- 4.1 Below are the Group's key observations:

- 4.2 It is clear that the chair of the Local Children's Safeguarding Board LSCB, Ian Rush has a close working relationship with the Director of Children's Services (DCS) and his team, however the independence of the LSCB chair also needs to be clear. There is no suggestion that this is currently in doubt, however we feel the formal reporting line should be direct to the Chief Executive, notwithstanding, operational matters will be dealt with by the DCS and his team.
- 4.3 We are aware that the Chief Executive recognises the importance of the LCSB attends the boards meetings and has provided an open door policy for the Independent Chair of the Local Children's Safeguarding Board. However given the nature of the LSCB's work the group were pleased to hear that the Chair of the LSCB now has direct structured access to the Chief Executive.
- 4.4 Education and health teams should have direct input in to the ChECS service and police and funding is put in place to allow the Education Welfare officer to sit with this team as a matter of priority and immediate consideration be given to making sure that cover is made for sickness and holidays.
- 4.5 That, efforts should be maintained to ensure that training and practice are followed through at grass roots level across key partnerships especially schools, surgeries and hospitals. We would seek assurances about how this information is cascaded through organisations and monitored for effectiveness on the ground, especially as many of the partner organisations now operate as commissioners and therefore rely on contractors to ensure delivery. We would ask: Is this nimble enough?
- 4.6 There is evidence of good practice and communication between agencies but in some cases this appears to have occurred because of the individuals involved rather than as a result of a formal requirement. However, we have concerns about potential weaknesses especially in respect of those agencies which operate across boundaries between Cheshire East and Greater Manchester, especially Stockport and Trafford to the north and Staffordshire authorities to the south. Contacts need to be formalised at both senior and grass route level.

Councillor Phil Hoyland
February 2015

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 3rd May 2016
Report of: Director of Legal Services
Subject/Title: Communities Overview and Scrutiny Committee –
Domestic Violence Task and Finish Group Final Report
Portfolio Holder: Councillors P Bates and J Clowes

1.0 Report Summary

- 1.1 This report introduces the Domestic Violence Task and Finish Group's (the Task Group) Report on its findings, conclusions and recommendations following its review. (Cabinet is asked to note that those recommendations marked with an asterisk* have already been implemented.)

2.0 Recommendations

- 2.1 That Cabinet receive the Task Group's Report (attached).
- 2.2 That Cabinet note the Task Group's recommendations below, which are contained in the attached report:

1. In order to facilitate longer term planning and retain skilled and experienced staff IDVAs Council funding should be mainstreamed rather than being 12 monthly.*
2. The deficit in funding for the service (£50K) should be met from the MTFs on a recurrent basis to secure the service at its current level and the Council seeks to continue to influence partners to review their funding arrangements at local or sub regional level.*
3. Domestic violence should be a priority for the Council and feature in the soon to be refreshed Community Strategy/Health and Wellbeing Strategy.
4. Due to funding only being secured for the next three years, the low risk domestic violence service be evaluated and consideration be given as to how the service will be funded from 2018.
5. The ambitions relating to the scale of interventions for perpetrators should be funded long term as part of the work on early intervention and prevention. A protocol between the various agencies should be developed to ensure an integrated approach was taken when dealing with perpetrators.

6. That the administration of MARAC be transferred to the Police, which would reduce the cost of the overall service by £20k and strengthen a sub regional approach to high risk work.*
7. That the possibility of sharing resources, such as the Polish IDVA, with other authorities be investigated.
8. That the information sharing policy be reviewed to ensure all agencies are fully informed of domestic violence cases and where necessary awareness raised, to ensure that victims receive as much help as possible and are treated with respect and dignity.
9. That MPs and the Police and Crime Commissioner be lobbied to provide funding for domestic violence, as it funds mental health and substance abuse.
10. That HMCTS be requested to improve the quality of the technology for providing remote evidence giving to such a standard that would allow the establishment of a single specialist court service.
11. In the event of IDVAs being commissioned sub regionally, every effort should be made ensure that this is not at the detriment of local service delivery.
12. That subject to Operation Encompass and Tandem Project producing the intended outcomes, the availability of resources be considered to sustain the projects.

- 2.3 That the Portfolio Holders undertake to come back to the next meeting of Cabinet with a formal response to each recommendation and that response be submitted to the Communities Overview and Scrutiny Committee.

3.0 Reasons for Recommendations

- 3.1 Domestic abuse is a serious cross cutting issue that harms children, adults, families and communities across Cheshire East. It affects all communities irrespective of demographics, environment or situation. It is often associated with mental ill health and substance abuse, all of which can have life long negative impacts on our population at great financial, economic and social cost.
- 3.2 It is likely that domestic abuse is as underreported in Cheshire East as in other parts of the country. The reasons for this range from fear, shame and barriers to accessing service through a feeling of responsibility to hold the relationship and/or family together.
- 3.4 The Council is committed to an ambitious partnership strategy to prevent harm and provide safety and recovery for those affected. This includes commissioning out provision for refuge, outreach, children's support and perpetrator work (as agreed at Cabinet in July 2015) and providing a dedicated high risk team in house - the Domestic Abuse Family Safety Unit. The high risk service provides direct support and intervention for victims and their children who have experienced Domestic abuse.

- 3.5 Our Partners have now given their definitive position, which is essentially an agreement to sustain current contributions. Whilst this is to be welcomed, it does not meet the funding gap in providing the current service which is assessed to meet needs effectively and efficiently.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

The policy implications are not known at this stage

7.0 Financial Implications

- 7.1 The financial implications are not known at this stage

8.0 Legal implications

- 8.1 The legal implications are not known at this stage.

9.0 Risk Management

Key risks are managed through the Cheshire East Domestic Abuse Partnership Board, which is accountable to the Safer Cheshire East Partnership.

10.0 Background

- 10.1 The Communities Overview and Scrutiny Committee agreed to set up the task and finish group at its meeting on 16 June 2015. The purpose was to understand how domestic violence is dealt with, investigate the under reporting of domestic violence and understand the reasons not to have a single specialist court in Cheshire East. To do this the task group agreed the following terms of reference for the review:

- To gain an understanding of why it was decided not to have a single specialist domestic violence court in Cheshire and how the court process will be improved without this in place.
- To gain an understanding of the sexual violence/abuse police incident reporting process.
- To investigate why domestic abuse reports from Cheshire East residents to the Police are the lowest in Cheshire in a context of extremely low levels of police reporting in Cheshire compared to similar forces nationally
- To review progress on sustaining funding for high risk domestic violence services (Council based)
- To review victims' journey through the system.

- 10.2 The attached report documents the Task Group's findings, conclusions and recommendations to Cabinet.

11.0 Access to Information

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

Name: Katie Small
Designation: Scrutiny Officer
Tel No: 01270 686465
Email: katie.small@cheshireeast.gov.uk

March 2016

1. Foreword



Councillor Gordon Baxendale – Chairman

- 1.1 Domestic Abuse is a serious cross cutting issue that harms children, adults, families and communities across Cheshire East. It affects all communities irrespective of demographic, environment or situation. It is often associated with mental ill health and substance misuse, all of which can have life long negative impacts on our population at great financial, social and economic cost.
- 1.2 The group would like to recognise the excellent work undertaken by the Council's Domestic Abuse Family Safety Unit which deals with high risk victims and congratulate them on winning the outstanding team of the year award and the achievement of the national quality mark 'Leading Lights' in November 2015
- 1.3 I would like to thank personally all the officers and witnesses who gave up their valuable time to enhance this very thorough report. What started out as a group of councillors who showed concern for a service that is valued by the community, soon turned into a thorough look at all the partnerships established to try and alleviate some of the damage caused by domestic violence.
- 1.4 The main issue for the service turned out to be financial security. This has been tackled and the Task and Finish group has been pleased with the early funding from sparse resources. I do hope that this report will have a lasting effect on the cabinet in future funding decisions.
- 1.5 I would like to commend this report to Cabinet and the Safer Cheshire East Partnership, and remind them that the financial and human cost of domestic violence is high and impacts on not only victims but their families, imposing increasing pressure on limited resources. I would finally like to thank Katie Small without whose expertise this report would not have been published.

2.0 Introduction

- 2.1 The Communities Overview and Scrutiny Committee had received evidence that the incidence of domestic abuse was under reported in Cheshire East compared with our neighbouring authorities, but this was likely to be reflected nationally also because of reasons associated with fear, loyalty and stigma by some sections of the community.
- 2.2 The Committee therefore decided to set up a task and finish group to investigate domestic abuse in Cheshire East to ascertain whether the under –reporting was indeed fact but also to investigate the impact of a recent decision by Her Majesty Court and Tribunals Service, not to have a single specialist court service for domestic violence.
- 2.3 The subsequent investigation revealed some interesting and startling facts about the extent of known domestic abuse in the borough and highlighted a number of issues connected with current arrangements that the Council and its partners have in place to deal with domestic abuse including funding arrangements, which has led the group to making twelve recommendations for Cabinet to consider.

3.0 What is domestic abuse? The new definition

3.1 The cross-government definition of domestic violence and abuse is:

any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to:

- psychological
- physical
- sexual
- financial
- emotional

3.2 Controlling behaviour

3.3 Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

3.4 Coercive behaviour

3.5 Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. (Home Office 2002)

3.6 Domestic Violence – *The facts*

3.7 General

- An estimated 1.4 million women and 700,000 men have suffered domestic abuse in the last year, according to figures from the Office for National Statistics (ONS).
- 2 women are killed every week in England and Wales by a current or former partner (Office of National Statistics, 2015)
- 1 in 4 women in England and Wales will experience domestic violence in their lifetimes and 8% will suffer domestic violence in any given year (Crime Survey of England and Wales, 2013/14)
- Globally, 1 in 3 women will experience violence at the hands of a male partner (State of the World's Fathers Report, MenCare, 2015)
- Domestic violence has a higher rate of repeat victimisation than any other crime (Home Office, July 2002)
- Every minute police in the UK receive a domestic assistance call – yet only 35% of domestic violence incidents are reported to the police (Stanko, 2000 & Home Office, 2002)
- The 2001/02 British Crime Survey (BCS) found that there were an estimated 635,000 incidents of domestic violence in England and Wales. 81% of the victims were women and 19% were men. Domestic violence incidents also made up nearly 22% of all violent incidents reported by participants in the BCS (Home Office, July 2002)

- On average, a woman is assaulted 35 times before her first call to the police (Jaffe, 1982)

3.8 Children

- 25% of children in the UK have been exposed to domestic abuse (Radford et al. NSPCC, 2011)
- In 90% of domestic violence incidents in family households, children were in the same or the next room (Hughes, 1992)
- 62% of children in households where domestic violence is happening are also directly harmed (SafeLives, 2015)

3.9 Cost to society

- It has been estimated that domestic abuse costs the public £23 billion per annum. This includes the cost to the criminal justice system, to the health service, to social care and to housing. It is widely accepted however that this figure is an under-estimate as there are so many costs that can not be measured.
- The Home Office estimates that each domestic abuse murder costs the country just over £1 million and totals £112 million per annum.

4.0 Jargon buster

4.1 IDVA

IDVA stands for Independent Domestic Violence Advisor. An IDVA is a specialist domestic violence professional who supports victims at the highest risk of murder or serious injury. Their job is to make the victim and their family as safe as possible. They stand alongside victims and make sure they get whatever help they need and provide vital emotional and practical support to victims. They deal with everything from support through the criminal and civil justice system to sorting out money to having the locks changed. Their job is to make sure the victim is safe – and they do whatever it takes. Examples of the work carried out by Cheshire East IDVAs in attached at appendix 1.

4.2 MARAC

MARAC stands for Multi-agency Risk Assessment Conference. Every area in England and Wales has one, and they are spreading throughout Scotland and Northern Ireland too.

MARAC meetings discuss how to help victims who are at high risk of murder or serious harm. In 2014, more than 74,052 cases, involving 93,759 children, were discussed at MARACs across the UK.

The IDVA, police, children's services, health and other relevant agencies all sit around the same table. They talk about the victim, the family and the perpetrator, and share information. The meeting is confidential.

Together they ensure any additional actions not already on a victim's action plan are agreed. Everyone present commits to take the actions they have agreed. The IDVA represents the victim and, after the meeting, makes sure they understand what was agreed.

4.3 Cheshire East Domestic Abuse Hub

Cheshire East Domestic Abuse Hub is a single point of information, advice assessment and support for anyone affected by domestic abuse – victim, perpetrator, young person, professional, concerned member of the public.

4.4 SafeLives (formerly CAADA)

Coordinated Action Against Domestic Abuse (CAADA and now SafeLives) emerged from an urgent need to find better ways to help victims of domestic abuse. SafeLives receive government support to provide professional training, consultation and innovation in tackling domestic abuse and to ensure best practice is identified and replicated nationally

4.5 Cheshire East Domestic Abuse Partnership CEDAP

Cheshire East Domestic Abuse Partnership (CEDAP) oversees the implementation of an agreed Strategy to provide a Co-ordinated Community Response involving all key partners in protection, provision, prevention through a partnership approach and is accountable to Safer Cheshire East Partnership and reports to both Adults and Children's Safeguarding Boards.

5.0 Recommendations

1. In order to facilitate longer term planning and retain skilled and experienced staff IDVAs Council funding should be mainstreamed rather than being 12 monthly *
2. The deficit in funding for the service (£50K) should be met from the MTFS on a recurrent basis to secure the service at its current level and the Council seeks to continue to influence partners to review their funding arrangements at local or sub regional level*
3. Domestic violence should be a priority for the Council and feature in the soon to be refreshed Community Strategy/Health and Wellbeing Strategy.
4. Due to funding only being secured for the next three years, the low risk domestic violence service be evaluated and consideration be given as to how the service will be funded from 2018.
5. The ambitions relating to the scale of interventions for perpetrators should be funded long term as part of the work on early intervention and prevention. A protocol between the various agencies should be developed to ensure an integrated approach was taken when dealing with perpetrators.
6. That the administration of MARAC be transferred to the Police, which would reduce the cost of the overall service by £20k and strengthen a sub regional approach to high risk work*
7. That the possibility of sharing resources, such as the Polish IDVA, with other authorities be investigated.
8. That the information sharing policy be reviewed to ensure all agencies are fully informed of domestic violence cases and where necessary awareness raised, to ensure that victims receive as much help as possible and are treated with respect and dignity.
9. That MP's and Police and Crime Commissioner be lobbied to provide funding for domestic violence, as it funds mental health and substance abuse.
- 10 That HMCTS be requested to improve the quality of the technology for providing remote evidence giving to such a standard that would allow the establishment of a single specialist court service.
- 11 In the event of IDVAs being commissioned sub regionally, every effort should be made ensure that this is not at the detriment of local service delivery.
- 12 That subject to Operation Encompass and Tandem Project producing the intended outcomes, the availability of resources be considered to sustain the projects.

***To fit in with budget setting timescales, this recommendation has already been approved.**

6.0 Background and Membership

- 6.1 On 16 June 2015, the Communities Overview and Scrutiny Committee gave consideration to a report on women's safety, which covered the work of partners in tackling the key priorities in relation to domestic and sexual violence in Cheshire East. It became clear to Members that some areas of joint working required more focus or collaboration. Therefore the Committee resolved to set up a Task and Finish Group to scrutinise in further detail how sexual and domestic violence are dealt with in Cheshire East. It was agreed that the following Councillors would sit on that Group:



Gordon Baxendale



Ellie Brooks



Mo Grant



Sarah Pochin



Mick Warren

7.0 Terms of reference

- To gain an understanding of why it was decided not to have a single specialist domestic violence court in Cheshire and how the court process will be improved without this in place.
- To gain an understanding of the sexual violence/abuse police incident reporting process.
- To investigate why domestic abuse reports from Cheshire East residents to the Police are the lowest in Cheshire in a context of extremely low levels of police reporting in Cheshire compared to similar forces nationally
- To review progress on sustaining funding for high risk domestic violence services (Council based)
- To review victims' journey through the system.

- 7.1 Members did not investigate honour based violence, forced marriages or people trafficking. During the Groups investigations, it became apparent that the original scope of the review was too broad, therefore the group decided to target the areas that would have the most impact and focus solely on domestic violence.

8.0 Methodology

8.1 Witnesses

Members met with the following people during the review:

- Judith Gibson – CE Domestic Abuse Partnership Co-ordinator
- Steph Cordon – Head of Communities and Chairman of the Safer Cheshire East Partnership
- Janet Clowes – Portfolio Holder – Adults, Health and Leisure
- Adam Ross – Detective Inspector, Cheshire Constabulary
- Kevin Bennett – Detective Inspector, Cheshire Constabulary
- Alan Lawson – Partnerships Manager

8.2 Timeline

16 June 2015	The Communities Overview and Scrutiny Committee agreed to set up a Task and Finish Group
8 July 2015	The Task and Finish group met to receive a position paper and agree the scope of the review
16 September 2015	The Task and Finish Group met with Detective Inspectors Adam Ross and Kevin Bennett from Cheshire Constabulary to understand the reporting process and statistics
9 November 2015	The Task and Finish Group met with the Portfolio Holder for Adults, Health and Leisure to discuss funding for high risk domestic violence.
25 November 2015	Members attended a Celebrate, Challenge and Change event to understand the victim's journey and how the various agencies work together and operate.
3 December 2015	Members attended domestic violence Court hearings at Crewe Law Courts
15 December 2015	The Task and Finish Group met with Judith Gibson to discuss the 10 questions to ask if you are scrutinising domestic violence (Centre for Public Scrutiny publication)
11 January 2016	The Task and Finish Group met with the Chairman of the Safer Cheshire East Partnership.
21 January 2016	The Communities Overview and Scrutiny Committee agreed to recommend to the Portfolio Holder that funding for the IDVA positions be provided by Cheshire East.
21 April 2016	The final report of the Task and Finish Group was approved by the Communities Overview and Scrutiny Committee.

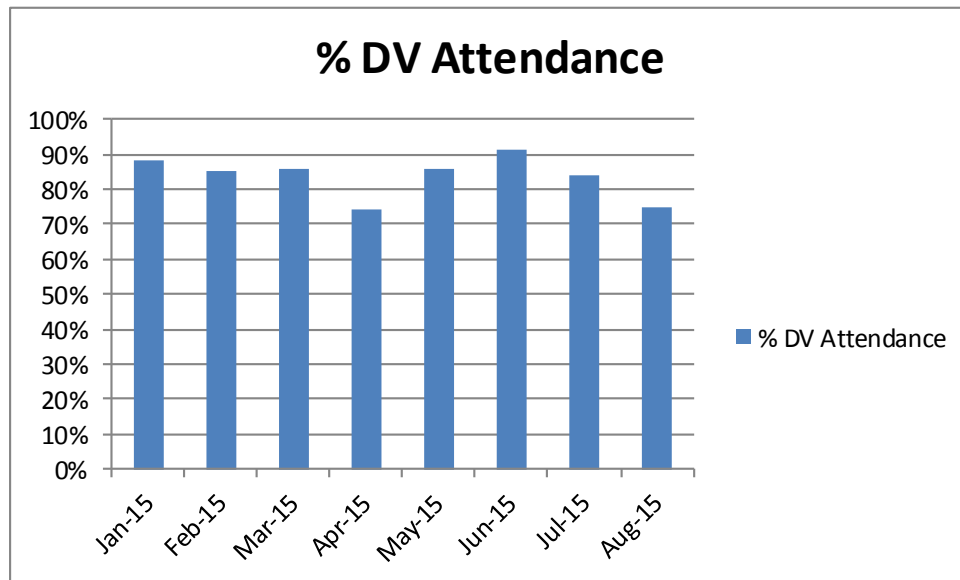
9.0 Findings

9.1 Domestic Violence in Cheshire East

- 9.2 It is likely that domestic abuse and sexual violence are as underreported in Cheshire East as in other parts of the country. The reasons for this range from fear, shame and barriers to accessing service through a feeling of responsibility to hold the relationship and/or family together.
- 9.3 The British Crime Survey estimates that only 25% of the worst incidents come to the attention of police so while we may ultimately seek a reduction in the harm caused by domestic abuse, an increase in reporting may actually reflect positively on confidence in and access to services.
- 9.4 The Council is committed to an ambitious partnership strategy to prevent harm and provide safety and recovery for those affected. This includes commissioning out provision for refuge, outreach, children's support and perpetrator work (as agreed at Cabinet in July 2015) and providing a dedicated high risk team in house - the Domestic Abuse Family Safety Unit. The high risk service provides direct support and intervention for victims and their children who have experienced Domestic abuse. IDVAs are at the front line in managing and reducing those risks. They work alongside the victims and ensure a coordinated plan of support is in place based on assessed need. They respond as need arises or reduces; for many victims they are their lifeline.
- 9.5 The following is a summary of reported domestic abuse in Cheshire East:
- In April 15 to February 16 police attended 1706 domestic abuse incidents and 1887 domestic incidents
 - This represents an almost doubling of police domestic abuse incidents reflecting improved categorisation of incidents and bringing Cheshire East into line with referral rates in neighbouring authorities
 - 574 high risk victims with 782 children were subject to Multi Agency Risk Assessment Conferencing (MARAC). These cases represent the top 10% of victims in terms of risk and remain on an upward trajectory
 - Cheshire East Domestic Abuse Hub received 1294 referrals and proactive contacting of victims to review risk and need enabled people to be referred to appropriate services including MARAC
 - Children under 4 form the largest group and are least able of all children to protect themselves and domestic abuse remains the single largest parental factor among families open to Children's Safeguarding
 - The MARAC repeat rate was 31% which is at the lower end of expected repeat rates for this high risk cohort
 - A significant proportion of victims and perpetrators known to specialist services have some form of mental health problem
 - Twice as many perpetrators as victims have problems with substance misuse
 - Demand for refuge services nationally remains high but locally we have taken significant steps towards improving the safety of people in their own homes by working with partners such as the Police to remove the source of the problem i.e. the perpetrator and increase the physical safety of victims' homes. We are thus able to use our local refuge provision for those cases where people must leave to be safe and have added refuge accommodation in Macclesfield to provision in Crewe

9.6 Single Specialist Domestic Violence Court

- 9.7 A single specialist Domestic Violence Court with satellite remote evidence giving for vulnerable witnesses is an agreed remedy to failures within the current court system, particularly slow processes, victim withdrawal and victim support.
- 9.8 From July to September 2015 attendance figures in domestic abuse cases stood at 79%. There were 421 witnesses required to attend with 338 actually attending during that month.



- 9.9 Her Majesty's Court and Tribunal Service (HMCTS) had invited responses to a consultation on having one single court. Professionals, including Police and CPS as well as specialist domestic abuse services viewed this possibility very positively. However HMCTS decided not to have a single specialist court service in Chester with increased capacity for victims to give evidence via video link. The group had written to HMCTS several times to ascertain a reason for this, however had failed to receive a response.
- 9.10 Members attended domestic violence hearings at Crewe County Courts to gain an understanding of the victim's experience. It was felt that a single court would ease the victim's journey and ensure cases were progressed in a timely and well supported manner.
- 9.11 Councillor Baxendale and Grant attended the Strategic Courts Group and spoke to a representative of HMCTS who explained that a single specialist court would not be introduced until the technology for remote evidence giving had been improved.

9.12 Funding

- 9.13 Throughout the review it became apparent that the need for secured long term funding was crucial, the Group met with Judith Gibson and Steph Cordon on several occasions, who informed the group that in order to plan the provision and ensure an effective service the Council had sought to secure long term funding for the high risk service working for the last two years through the Joint Commissioning Leadership Team (JCLT) and Health and Wellbeing Board
- 9.14 Our Partners have now given their definitive position as outlined below which is essentially an agreement to sustain current contributions. Whilst this is to be welcomed, it does not meet the funding gap that we have in providing the current service which is assessed to meet needs effectively and efficiently.
- 9.15 As a result of this shortfall, the service has been reviewed, leaving a funding gap for the next year of £46k if the Home Office grant is not received and £26k if the Home Office grant is forthcoming.
- 9.16 As detailed in the table below, the budget deficit to the Domestic Abuse Family Safety Unit is actually £100k but to manage this, the Council decided that £50k should be taken out of the Commissioned Service budget to meet the acute need. The rationale for this was that the alternative was to raise the threshold for those receiving high risk services. Those not eligible for the IDVA service would fall to the commissioned service effectively moving the provision further down the 'needs continuum'. There is however a tipping point to doing this beyond which taking too much money out of support services means that longer term support is withdrawn and changes are not sustained. therefore the 'whole family' does not receive help and repeat episodes increase. It was calculated that 50k was the optimum level. In effect this means that the Council has already increased its contribution to the high risk service by £50k through redistribution.
- 9.17 COSTS of SERVICE 2016-17:** High Risk work and shared functions of training and awareness raising, target hardening, communications, information, advice, referral and assessment work

STAFFING COSTS (potential increments included)	COST
1 IDVA manager	£48k
5 IDVAs (including 0.2 training capacity)	£175k
0.8 Business Support to IDVA service	£22k
1 Lead IDVA at the DA Hub (front door Children's Services)	£38k
1 Hub BSO	£23k
NON STAFFING COSTS	
IDVA service costs (travel, stationery, database licence etc)	£20k
Publicity, hub, white ribbon day, Board meetings	£3k
Target Hardening	£5k
TOTAL	£334

Seconded Hospital IDVA at Macc Hospital is funded separately and jointly by PCC and CCG and therefore not included in these costs

KNOWN INCOME 2016-17

Cheshire East Council	£166,637	(C&F 75k to core service, C&F 50k to Hub, Community safety 40k, Housing 5k)
East Cheshire CCG	£13,595	Also contribute £16k to hospital IDVA (not included in these costs)
South Cheshire CCG	£13,000	additional hospital funding directly paid to Leighton Hospital for hospital IDVA (as above)
Cheshire Constabulary	£9,750	
Police and Crime Commissioner	£35,000	Also contributes 16k for Macclesfield hospital services and 16k to Leighton Hospital (as above)
Cheshire East Council	£50k	Money taken from lower risk commission to prevent overload of new service with high risk cases (as set out previously)
Total	£287,982	
Home Office	£20,000	Received for last 5 years but not assured

GAP IS £334K - £287,982 = approx. £46K (£26K if Home Office money is received)

9.18 MARAC

- 9.19 MARAC is currently coordinated and administered by Cheshire East Council. Members agreed that this should be transferred to the Police saving Cheshire East Council £20,000 per annum. This approach already exists in other Local Authority areas of the force footprint who receive the same funding contributions from the Police.

9.20 Meeting with Police

- 9.21 Police reporting is known to be low when compared to similar force areas, which may indicate excellence in prevention, lack of consistency across force data recording or lack of victim confidence
The group met with DCI Kevin Beckett and DCI Adam Ross from the public protection unit to gain an understanding of the police reporting process and reasons as to why the reporting of abuse appeared to be the lowest in Cheshire.
- 9.22 It became apparent that the figures Members had initially received were out of date and that there had subsequently been an increase of 24% in domestic abuse reporting, which may be due to the roll out of a training programme for first responders and the investment of additional resources.
- 9.23 Work was also ongoing to improve the performance for solved cases in the category of domestic abuse with violence and domestic abuse. This is a priority for the Constabulary. An analyst had also been appointed to interpret data, which would allow the force to pinpoint where resources were required.

9.24 Reporting Statistics – Domestic Violence

September 2014 – September 2015

	Number Reported	Number solved	% solved
Force	6,830	2,901	42%
East	2,019	812	40%

July 2015 – September 2015

	Number Reported	Number solved	% solved
Force	1,595	765	47%
East	468	197	42%

September 2015

	Number Reported	Number solved	% solved
Force	470	252	54%
East	139	68	49%

9.25 Reporting Statistics - Domestic Violence with Injury

September 2014 – September 2015

	Number Reported	Number solved	% solved
Force	2,073	984	47%
East	566	276	48%

July 2015 – September 2015

	Number Reported	Number solved	% solved
Force	542	289	53%
East	168	79	47%

September 2015

	Number Reported	Number solved	% solved
Force	135	90	67%
East	42	25	60%

9.26 Celebrate, Challenge and Change Event

9.27 Members attended an event organised by Cheshire East Council, which gave them an insight into the victim's journey. The intention of the event was to:

- *Celebrate what works*
- *Recognise what doesn't*
- *Take responsibility for change*

9.28 The event planned and delivered jointly with service users who had much to tell about what had helped and hindered their journey to safety and recovery. They were clear that there was only value in sharing this experience if it helped bring about change. CEDAP Board was committed to that improvement and would take responsibility for agreed action. One area of concern for Members was that agencies and particularly departments within the Council could not share information; this had a significant detrimental impact on the victim and hindered the transition process to a place of safety.

9.29 10 Questions to ask if you are Scrutinising Domestic Violence – CfPS publication

9.30 The Centre for Public Scrutiny has produced a guide for councillors when scrutinising domestic violence, which was used to scrutinise the service provided by Cheshire East (questions and answers appendix 2)

9.31 From the answers received it became apparent that more work needed to be done when addressing perpetrators as Cheshire East could improve its offer and research demonstrates that, of perpetrators who complete a domestic abuse programme:

- some will stop their physical violence and significantly reduce their abusive and controlling behaviour
- the majority will stop their violence but maintain some level of abusive and controlling behaviour
- some will continue their violence

9.32 Although not all men will end their abuse, domestic abuse perpetrator programmes can reduce dangerousness.

9.33 Perpetrator Programme

9.34 Work with perpetrators of domestic violence aims to stop the violence and enhance the safety of victims of domestic violence. Last year, commissioned services responded to 86 referrals for perpetrator interventions and an additional small number received interventions via the probation system. Demand is increasing as the availability of these interventions is becoming known.

9.35 It is anticipated that the scale of need for perpetrators will be similar to the scale of need for victims. This would suggest between 530 (current MARAC cases) and 630 (Safe Live estimates) high risk perpetrators and between up to an additional 4,000 lower risk perpetrators. From 1 April 2016, there will also be:

- 2 police officers targeting perpetrators directly with a mix of challenge and support
- Provision within our commission to address the causes of harm on a one to one and group programme basis
- Training for engagement/referral workforce to have safe and productive conversations to promote accountability and change.

9.36 Work with Children

9.37 There are a number of pilot programmes that have been funded for the next year. If they are successful and produce the intended outcomes these should be commissioned on a sustainable basis. These include

- Operation Encompass – increased police capacity to enable schools to be contacted the next school day after a domestic abuse incident. This has been piloted across the Cheshire Constabulary including in Macclesfield. Schools have reported that facilitates a change in reaction to children's behaviour. This is being funded for one year (January to December 2016) as part of the Transforming Communities Programme. The cost of this is approximately £22k.
- Tandem Project – increased capacity to deliver a 10 week group work programme for parents and young people where there is child to parent violence.

9.38 Low risk domestic violence funding

9.39 The Council has recently commissioned the lower risk support for three years with the option to renew for another two years at a cost of £600,000 per annum.

9.40 The new contract will start on 1 April 2016 and includes:

- Co-delivery with the IDVA service of Cheshire East Domestic Abuse Hub (point of information and service access for all domestic abuse provision)
- Provision of an accessible support base in Crewe and Macclesfield

- Provision of refuge accommodation and housing support to victims of domestic abuse from within and outside the Borough
- Direct service provision to medium risk victims and historic victims, where appropriate, of all ages in the community (one to one and group support including recovery work) and providing support to partners of people on change programmes
- Support for those who harm others
- Direct service provision to any child or young person affected by domestic abuse including the children of adult service users and children and young people referred in their own right (one to one and group support according to need and extending to recovery)
- Participation in preventive measures such as campaigns, training and educational work
- Participation in the wider work of Cheshire East Domestic Abuse Partnership

9.41 This is wholly funded by Cheshire East Council, Local Authority funding is reducing and as a result all non-mandatory services will be reviewed. This is a non-mandatory service and therefore in the longer term is at risk if it relies solely on Local Authority funding. Consideration should be given as to how this service will be funded long term.

9.42 Domestic Abuse, Mental ill Health and Substance Abuse

9.43 Domestic abuse, mental ill-health and substance misuse have been identified as common features of families where harm to women children has occurred. While there is national funding for mental ill health and substance abuse, there is no such long term funding for domestic violence or any guidance on how contributions ought to be established. The group agreed that MP's should be lobbied to provide funding.

9.44 Localised Services

9.45 It was highlighted that a strategic Domestic Abuse Board was being set up by the Chief Constable which will consider streamlining services for efficiencies and cost savings. Members raised concern that a sub regional approach could lead to Cheshire East having fewer resources as other areas were considered to have more significant problems. It was also felt that this approach may compromise the quality of the service because IDVAs would not be locally based and linked into local provision. The group felt that this should not be at the detriment to local service delivery.

10.0 Background Documents

- In Plain Sight: effective help for children exposed to domestic abuse. CAADA's 2nd national Policy Report.
- Domestic Abuse strategy – Cheshire East
- 10 questions to ask when scrutinising domestic violence – CfPS publication
- Evaluations of Specialist Domestic Violence Courts/Fast Track Systems

CASE EXAMPLES**Hub Assessment – high risk identified and case referred to the IDVA service**

The Hub called Tracey following a live referral from the police officer who attended the incident the previous evening. Tracey explained that she had called the police because her partner, Richard, was being verbally abusive and intimidating, shouting in her face - calling her names - this was in front of both of the children. Their son, Toby, had started to mirror his father's behaviour also.

The Hub worker assessed the risk as high and agreed to refer Tracy for IDVA services while also undertaking essential safety planning. Her son's needs were also discussed and a referral made to a prevention programme to ensure Toby had every chance to address the behaviours that he had absorbed through living in an abusive household.

IDVA Client Miranda

On referral by police Miranda disclosed that she had tried to end the relationship with her abusive partner many times. As she had been unable to keep herself or her children safe, her children had been taken into care and she was extremely low. Her partner had been extremely controlling, threatening and self-harming over a long period of time and this increased when she attempted to leave. He had held her against her will and she only escaped having managed to text her sister who called the police.

A face to face meeting with the IDVA was set up where both emotional and practical support was given including identifying alternative accommodation and liaison with police over the criminal justice process. Longer term arrangements were put in place by the IDVA to allow Miranda safely to access her belongings and transfer them to a place of safety from where she could start rebuilding her life with guidance and support.

At case closure Miranda said that without the police referral to the IDVA service she would still be living in fear or worse.

REPORT TO TASK AND FINISH SCRUTINY PANEL ON DOMESTIC ABUSE/SEXUAL VIOLENCE

10 questions to ask if you are scrutinising domestic violence

A guide for local authority overview and scrutiny officers and councillors – Centre for Public Scrutiny

Question 1

What sort of needs assessment underpins our action on domestic violence?

- A needs assessment was used to develop the specification for the domestic abuse commission approved by Cabinet in July 15. It is attached below
- The Centre for PS talks largely about victim needs and while this is important we aspire to addressing the needs of the whole family with services for adults and children and young people who are victims and those who harm others. This is increasingly recognised as a necessary focus for sustaining recovery and change
- **Question to others – how is the data provided by CEDAP used to inform action on domestic violence in other spheres? E.g. JSNA**

Question 2

Do we understand the impact that current services have on the lives of those affected by domestic violence?

- A wide range of data is provided quarterly and annually through a range of reporting
- The CEDAP Board has just instituted a new Quality and Finance Group to scrutinise this work in more detail and to join up data across sectors to provide a more integrated perspective e.g. criminal justice and children's data
- there is a strong focus on outcomes in the new commission
- more work is needed to establish a strong reporting framework that can be understood at headline level and provides more detail for those who need to scrutinise at a deeper level
- feedback from users of specialist services is regularly gathered and was presented in a range of ways at the recent 'Celebrate/Challenge/Change' event on Nov 25th. This will be collated and sent to respective agencies in January
- our IDVA service is benchmarked against national provision and quality standards
- we do not use the Women's Aid standards locally as they are not easily adapted to our 'whole family' response

Question 3

What is our provision for people once they are in a place of safety, and how are people supported in safety?

- Our focus is not to 'move people to a place of safety' but to use all strategies possible to remove the risk and threat from them by taking a robust approach

- MARAC is strong and effective and well chaired by the police and co-ordinated by the Domestic Abuse Family Safety Unit
- The focus in all services is on establishing safety and then supporting people to recover through a bespoke support plan
- We provide an evidence based programme, Gateway, for women who identify or are identified by Children's Services as needing support to understand what has happened to them, consider the impact on their children and gain skills in identifying abusive behaviours in new partners

Question 4

How are perpetrators, and potential perpetrators, addressed in the system at present?

- Not well enough is the short answer
- MARAC is increasingly ensuring that there are strategies in place to hold perpetrators to account
- We provide a voluntary programme which has a good referral rate but sees significant attrition at assessment and completion stages
- We need a much more flexible approach and there is now sub regional movement in that direction with police promising some capacity and some funding for community interventions from the Complex Dependency stream
- We have built provision for YP and adults who harm others into the new commission but money is stretched
- We believe a systems model involves training and supporting all frontline workers to engage those who harm better and then providing a mix of support and challenge to change
- There is also preventive work in schools led by the SCIES team and we have just piloted a Child to Parent violence programme jointly with the Youth Engagement Service

Question 5

How do we provide specialist support for children and young people affected by domestic violence, whether as victims themselves or as witnesses?

- We provide 1 to 1 and group work with these children in refuges, in the community and in schools
- This is also a requirement of the new commission
- Cheshire East Family Service are a significant resource for children and young people identified via MARAC
- We have also launched a new website for young people and those who support them to help them understand the issue and access resources
- Operation Encompass is being launched across Cheshire in January – mechanism to involve schools in support for children the night after a police incident
- There is an increase in provision for children within the new commission

Question 6

How do we understand and act on the likelihood that victims of domestic violence are more likely to be prone to substance abuse, and more likely to suffer from mental health problems?

- We provide 'Toxic Trio' training as part of the LSCB offer. It is well evaluated but not enough 'Adults' staff attend. We need to improve integrated work in this area

- The 'Complex Dependency' work at sub regional level is focused on 'One Front Door' i.e. comprehensive assessment of all family needs and more integrated service delivery.

Question 7

How are individual victims, or likely victims, risk-assessed? How do we know when additional interventions are necessary? How can this be demonstrated, and how can we be sure that risk recognises what victims' needs are?

- Practitioners across all sectors are trained to use the national Domestic Abuse Stalking and Harassment Risk Indicator Checklist (RIC) or the Young Person's equivalent (Young people in Teen Relationship Abuse)
- This results in practitioners' increased ability to recognise and address risk
- We are working on a parallel risk and needs assessment for affected children – there is no national model for this
- Our MARAC has a wide range of referring agencies demonstrating the wide implementation of risk tools

Question 8

How do we know that the MARAC in this area is working well?

- We have a strong and effective MARAC (see above) which is subject to self assessment using the national Safelives framework and is informed by SAFelives visits
- We contribute data to SafeLives nationally – we did use their Insights system but it is expensive and duplicated other forms of inputting for our IDVA team without significant advantage
- When SafeLives wanted to showcase a MARAC to Baroness Newlove, the Victims Commissioner, they chose Cheshire East

Question 9

To what extent has the use of civil orders changed the way that domestic abuse is dealt with operationally, and how it is commissioned?

- We believe that used appropriately civil orders along with Restraining Orders gained through court sanctions have a strong part to play in avoiding the need for refuge provision
- Victims tell us they do not want to move if it can be avoided so our strategy is to do all we can to keep victims safe in situ and instead address the behaviour of the perpetrator through disruption, diversion, management and criminal/civil justice mechanisms
- Safe emergency and temporary accommodation remains a requirement within the new commission

Question 10

Is there enough resilience in the domestic violence service in the area to withstand current budgetary pressures? What are the most appropriate future funding arrangements between commissioners and providers?

- There are budgetary pressures on DA provision, particularly on the high risk services. See previous report to the Health and Wellbeing Board and new risk report following November's inconclusive Joint Commissioning Leadership Team (JCLT) meeting

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Chief Operating Officer
Subject/Title:	Notice of Motion – Ethical Investment Guidelines
Portfolio Holder:	Cllr Peter Groves, Finance and Assets

1.0 Report Summary

- 1.1 The purpose of this report is to consider and respond to the following motion which had been proposed by Councillor S Corcoran and seconded by Councillor L Jeuda at the Council meeting on 25 February 2016 and referred to Cabinet for consideration:

“Council notes with alarm the recent statement from the Department for Communities and Local Government (DCLG) confirming that new guidelines will be introduced in 2016 which will curb councils’ powers to divest from or stop trading with organisations or countries they regard as unethical.

Council recognises that the focus of these new measures may be on procurement and investment policies and that they may have profound implications for councils’ ethical investment policies more generally.

Council believes that the proposed measures now being outlined by the DCLG will seriously undermine the Council’s ability to commit to ethical procurement and investments.

Council also notes that the new guidelines represent an attack on local democracy and decision-making through a restriction on councils’ powers. This is directly contrary to the government’s own stated commitment to the principle of localism, given a statutory basis by the Localism Act of 2011, which holds that local authorities are best able to do their job when they have genuine freedom to respond to what local people want, not what they are told to do by government.

Council therefore requests Cabinet takes action to oppose these new measures, including writing to the Secretary of State for Communities and Local Government to express Council’s opposition to the proposed changes.”

2.0 Recommendations

- 2.1 That for the reasons set out in this report, Cabinet do not support the motion referred to in paragraph 1.1.
- 2.2 That Cabinet will monitor the consultation process, in respect of the local government pension scheme investment regulations, which closed on 19th February 2016, and consider the government's response when it is published.

3.0 Reasons for Recommendations

- 3.1 The government has recently consulted on the revocation and replacement of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009. Opportunities to respond to the consultation closed on 19th February 2016.
- 3.2 The consultation confirmed that the Secretary of State did not think pensions and procurement policies should be used "to pursue boycotts, divestments and sanctions against foreign nations and the UK defence industry". However, the consultation did recognise that this would be appropriate in cases where the UK Government has put formal sanctions, embargoes or restrictions in place.
- 3.3 The status of the consultation is that government are analysing feedback. When the response is published it will be followed by draft regulations if appropriate. At this point it would be reasonable for the Cabinet to further consider a response to the government proposals.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications

- 6.1 N/A

7.0 Implications for Rural Communities

- 7.1 N/A

8.0 Financial Implications

- 8.1 N/A

9.0 Legal Implications

- 9.1 N/A

10.0 Risk Management

10.1 N/A

11.0 Background and Options

11.1 This report addresses the issues raised by the motion referred to in paragraph 1.1.

12.0 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:	3 rd May 2016
Report of:	Chief Operating Officer
Subject/Title:	Notice of Motion - Potential Effects of Transatlantic Trade and Investment Partnership on Local Authorities
Portfolio Holder:	Cllr Peter Groves, Finance and Assets

1.0 Report Summary

- 1.1 The purpose of this report is to consider and respond to the following motion which had been proposed by Councillor J Jackson and seconded by Councillor A Harewood at the Council meeting on 25 February 2016 and referred to Cabinet for consideration:

“This Council notes:

- 1. That the EU and USA launched negotiations in July 2013 on a Transatlantic Trade and Investment Partnership (TTIP).*
- 2. That negotiations are underway to determine which goods and services TTIP will apply to and if new rules can be agreed to protect investors, harmonise standards, reduce tariffs and open new markets throughout the EU and USA.*
- 3. That there has been no impact assessment about the potential impact on local authorities.*
- 4. That there has been no scrutiny of the negotiating texts by local government and no consultation with local government representatives*
- 5. That MPs are also unable to scrutinise the negotiating documents.*

This Council wishes to express a concern that:

- 1. TTIP could have a detrimental impact on local services, employment, suppliers and decision-making.*

2. *A thorough impact assessment of TTIP on local authorities has not been undertaken and this needs to happen before the negotiations can be concluded.*
3. *The proposed Investor State Dispute Settlement (ISDS) mechanism has been used by corporations to overturn democratic decisions by all levels of governments at significant public cost. Local decision-making must be protected from ISDS.*
4. *Sourcing supplies and employment locally is important to strengthening local economies and meeting local needs and TTIP must not impact on local authorities' ability to act in the best interests of its communities.*

This Council resolves:

1. *To write to the Secretary of State for Communities and Local Government, our local MPs and the North-West region MEPs raising our serious concerns about the potential impact of TTIP (and especially the proposed ISDS mechanism) on local authorities.*
2. *To call for an impact assessment on the potential impact of TTIP on local authorities."*

2.0 Recommendations

- 2.1 That for the reasons set out in this report, Cabinet do not support the motion referred to in paragraph 1.1.

3.0 Reasons for Recommendations

- 3.1 Information provided by the European Commission indicates that the final agreement will provide adequate protection of public services and already proposes an alternative to Investor-state Dispute Settlements. It is also clear that appropriate bodies are already involved in the process to further represent the interests of the Council.
- 3.2 The Transatlantic Trade and Investment Partnership is an agreement being negotiated by the European Union and the United States that is intended to promote trade and boost economic growth.

With TTIP, we want to help people and businesses large and small, by:

- opening up the US to EU firms
- helping cut red tape that firms face when exporting
- setting new rules to make it easier and fairer to export, import and invest overseas.

Extract from European Commission website:

<http://ec.europa.eu/trade/policy/in-focus/ttip/>

- 3.2 Negotiations started in 2013 and, in accordance with the latest statement from Ignacio Garcia Bercero (EU Chief Negotiator), are expected to conclude in 2016.
- 3.3 The effect on public services is managed through the negotiating process. The EU provide 'solid guarantees' to protect the public services of EU governments:

4 guarantees protecting public services in every EU trade deal

So all EU trade deals provide four important guarantees for public services – on monopolies, on access to the market, on subsidies and on regulation.

These ensure that EU governments remain entirely free to manage public services as they wish.

Extract from European Commission website:

<http://ec.europa.eu/trade/policy/in-focus/ttip/>

- 3.4 The European Commission has already recognised the lack of transparency of the traditional investor-to-state dispute settlement (ISDS). In response, the 12th Round in the negotiations has already proposed the replacement of the ISDS with an Investment Court System.
- 3.5 The negotiating process involves not only the European Parliament, but also business and trade unions and public interest groups. The Local Government Association is also engaged in the process and **Annex 1** is the latest briefing that provides information on their approach. The acceptance of the final text will be decided by governments and MEP's.

4.0 Wards Affected

4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications

6.1 N/A

7.0 Implications for Rural Communities

7.1 N/A

8.0 Financial Implications

8.1 N/A

9.0 Legal Implications

9.1 N/A

10.0 Risk Management

10.1 N/A

11.0 Background and Options

11.1 This report addresses the issues raised by the motion referred to in paragraph 1.1.

12.0 Access to Information

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

Name: Alex Thompson

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Trans-Atlantic Trade and Investment Partnership

Update January 2016



The full LGA briefing on TTIP, from February 2015, is available at [link 1](#) below.

The LGA continues its work with similar associations across the EU on TTIP and successfully secured in July 2015 the support of the European Parliament in calling for education, health, social and other **public services** to be clearly excluded ([link 7](#), point 2a.vii).

This comes on top of a statement issued by the negotiators in March 2015 responding to public sector concerns ([link 6](#)). The statement confirms that public authorities will continue to be able to choose whether to externalise services, and that externalised services will be able to be brought back 'in house'. It also confirms public authorities retain the right to regulate in the public interest. Finally, the EU has also confirmed that they will only sign up to common EU-US standards which have been 'levelled-up' to the higher of the two standards.

Nevertheless, the EU and US are not aiming to adopt a blanket exclusion for public services as a whole. They continue with a much more detailed approach exempting certain services either EU wide or only in specific Member States. This is partly to account for national differences in which services are publicly or privately funded. It is proposed that, for the UK, exclusions will include publicly-funded education, health and social services ([link 4](#)).¹

As regards dispute resolution, the Commission committed in late 2015 to a new 'Investment Court System' composed of a tribunal of first instance and an appeal tribunal ([link 5](#)). This is presented as a fairer and more transparent tribunal system than that originally envisaged as it better balances the rights of businesses to trade freely with public authorities' rights to regulate.

To reflect this a new 'right to regulate' clause has been proposed for inclusion in the TTIP text, recognising the role of public authorities ([link 5](#)).

The Commission has also shown **greater transparency** in recent months as it now publishes the EU's textual proposals, summaries of the negotiations and plain language fact sheets ([link 2](#)).²

So recent developments can be seen as heading in the right direction for councils: locking in the trade benefits the deal promises, whilst giving greater consideration to public sector issues, proposals for a more balanced tribunal system, and measures improving the transparency of the negotiations.

¹ The position of privately operated services in these sectors is more complicated.

² The final text of the deal agreed with the US will only be publicly available once all elements are agreed by the end of 2016.

Update

Next steps

The LGA continues to engage with decision makers in London and Brussels and examines the EU's textual proposals closely to ensure they reflect the statements made by the European Commission in relation to public services. The aim is for the deal as a whole to be agreed ahead of the US presidential elections in November 2016.

The deal will then have to receive the consent of the European Parliament and will also have to be discussed and endorsed by all 28 national parliaments in the EU, including the UK's. These parliaments will not be able to amend the deal, only accept or reject it.

The LGA is aware that a small number of councils have adopted motions in relation to TTIP. Councils' views are always welcome to the contacts below.

Government is of course is a strong supporter of the deal as it believes that the UK stands to benefit greatly – an estimated £10bn in economic growth annually (link 9, p6). This is partly because of a common language and robust existing trade links with the US.

The parties involved also emphasise that freer trade is needed between the two continents to ensure economic growth continues in the face of new competitive pressures from rapidly developing economies around the globe.

The LGA will continue to protect the position of local public services and the regulatory role of councils in ensuring the public interest. We will keep councils informed of progress.

Contact

dominic.rowles@local.gov.uk LGA (Brussels)
tina.holland@local.gov.uk LGA (London)

Links

1. LGA briefing on TTIP, February 2015
http://www.local.gov.uk/eu-policy-and-lobbying/-/journal_content/56/10180/6951436/ARTICLE
2. European Commission TTIP pages, including EU proposals:
<http://ec.europa.eu/trade/policy/in-focus/ttip/>
3. European Commission factsheets on TTIP and public services
<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1115>
http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153614.pdf
4. EU proposal for TTIP Reservation No. 20 – Health & Social Services, pg88
http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153670.pdf
5. The new Investment Court System
<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1364>
6. TTIP negotiators statement on public services, March 2015

Update

http://ec.europa.eu/news/2015/03/20150320_2_en.htm

7. European Parliament resolution on TTIP, 8 July 2015
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0252+0+DOC+XML+V0//EN>
8. CEMR (the pan-European LGA's) reaction to European Parliament TTIP vote, July 2015
<http://www.ccre.org/en/actualites/view/3085>
9. The economic impact of TTIP on the UK, Centre for Economic Policy Research, London, March 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/198115/bis-13-869-economic-impact-on-uk-of-transatlantic-trade-and-investment-partnership-between-eu-and-us.pdf

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Executive Director of Growth and Prosperity
Subject/Title:	Middlewich Eastern By-Pass
Portfolio Holder:	Cllr David Brown, Highways and Infrastructure

1. Report Summary

- 1.1 The Council has set out a clear vision and strategy for jobs-led economic growth in the draft Local Plan. Middlewich is a Key Service Centre hosting four Strategic Sites for employment and housing. The Eastern By-Pass is a Strategic Highway Scheme intended to facilitate their delivery and the success of Middlewich.
- 1.2 In February the Cabinet authorised the conduct of a Feasibility Stage for the Middlewich Eastern By-Pass leading to a Strategic Case and recommendation of a preferred route. The Council has already committed £750,000 to the development of the Scheme. The associated environmental and ecology surveys were authorised too. The planning permission for the current consented route expires on 11th July 2016 but it is still included as one of the options under consideration, an issue which is addressed in this Report. The Feasibility Stage is progressing well and is running on time.
- 1.3 Discussions with a range of stakeholders in Middlewich have identified the extent of wider concerns with the town's transport networks, which will need to be considered alongside the development of the By-Pass.
- 1.4 A number of route options have been identified which will be refined, finalised and subject to the Portfolio Holder's approval. The alternative routes will be subjected to public engagement seeking comments on the various designs.

2. Recommendations

Cabinet is recommended that:

1. Authority be delegated to the Interim Executive Director of Economic Growth and Prosperity in consultation with the Highways Portfolio Holder, to conduct a public consultation in Middlewich. It will be concerned with the development of a wider transport plan covering public transport, walking, cycling, local junctions and safety plus full engagement over the By-Pass seeking comments on the route options and aspects of the designs.
2. Authority be delegated to the Interim Executive Director of Economic Growth and Prosperity in consultation with the Highways Portfolio Holder to enter into

negotiations with key stakeholders and developers to enable the development of a high level funding strategy for the By-Pass.

3. Authority be delegated to the Interim Executive Director of Economic Growth and Prosperity in consultation with Highways Portfolio Holder, to complete the route-options comparison, reflecting the public engagement, developer negotiations and the Strategic Case.
4. Authority be delegated to the Interim Executive Director of Economic Growth and Prosperity, in consultation with the Highways Portfolio Holder, to submit a revision to the discharge of the planning conditions thus extending the validity period of the planning permission for the original By-Pass route by three years.
5. Note that the Middlewich Eastern By-Pass Project has a capital approval of £750,000 within the 2016/17 Medium Term Financial Strategy and that spending will remain within the budgetary framework.

3. Reason for recommendations

- 3.1 The By-Pass must not developed in isolation to the rest of the Town's transport needs, which was a theme identified in the Local Plan process and in discussions with stakeholders. To ensure the By-Pass forms an integral part of the Town's future transport plan and any complementary measures are identified it is considered that a wider public consultation should be undertaken to enable the plan to be developed and be an important part of the process to implement the By-Pass. Arrangements for this consultation will take account of any relevant stakeholder activity planned through the Partnership Programme.
- 3.2 A high-level funding strategy is to be devised which is CIL-compliant. Negotiations will be conducted with the developers of the Local Plan Strategic Sites of CS 56 Midpoint 18; CS 54 Brooks Lane; CS 20 Glebe Farm and CS 55 Warmingham Lane as all contributing to the cost of the By-Pass. There are further opportunities for development that will be realised by some of the route options. Contributions from these various developments are required in order to identify the scale of any funding gap for each route-option. The results will be used in the selection of a preferred route.
- 3.3 Until completion of the preferred route assessments, it is prudent to retain the current consented route, without prejudice, as an option. This approach preserves the means to deliver this alignment, should it be confirmed as preferred option. The way to achieve this is through a Section 73 submission to the Local Planning Authority which will extend the current consent for a further 3 years.
- 3.4 The outcomes of the Feasibility Stage have confirmed the scope and complexity of the Project and the number of potential route alignments. Environmental surveys have been required to assess baseline conditions and prevailing site constraints and two more protected wildlife species than expected have been identified. As such, the approval for further work is

necessary to inform a future decision on a preferred route option and to progress the Scheme.

4. Wards Affected

Middlewich and Brereton Rural

5. Local Ward Members

- 5.1 Cllr Simon McGrory
- 5.2 Cllr Michael Parsons
- 5.3 Cllr Bernice Walmsley
- 5.4 Cllr John Wray

6. Policy Implications

- 6.1 The Scheme supports the Local Plan Policy CO2 and is included in the associated Infrastructure Delivery Plan
- 6.2 It relates directly to the Council's Three Year Plan; Outcomes 2 and 6
- 6.3 The Eastern By-Pass aligns strongly to both the Economic Development Strategy and the Vision and Strategy for Economic Growth. East Cheshire Engine of the North
- 6.4 It is included in the Local Transport Plan 2015 Policy B2 – Enabling Development.

7. Financial implications

- 7.1 The Middlewich Eastern By-Pass will be delivered through a blend of scheme-funding including third-party developer contributions secured by the Council. The viability and affordability of any By-Pass scheme will be examined through consultation and financial-advisory work proposed as part of this feasibility stage. In addition an up-to-date cost estimate for the proposed solution will be prepared as part of the feasibility assessment.
- 7.2 The 2016/17 budget includes a specific capital allocation of £750,000 for the Middlewich Eastern By-Pass. Spending on the initial design stages of this Project will be managed within overall capital approvals in the Medium Term Financial Strategy and spending or changes to this allocation will be reported in accordance with the budgetary framework.

8. Legal implications

- 8.1 The outputs of this Feasibility Stage will be prepared to ensure that the relevant requirements of the statutory planning process are met.

- 8.2 Engagement of key stakeholders, residents and members of the public is a statutory obligation of the local authority during the planning and delivery of major highways projects. The proposed approach to consultation and engagement will ensure that the Council takes appropriate measures to discharge its obligations to stakeholders before confirming a preferred route option. That route will, of course, be subsequently subject to the normal, formal consultation process.
- 8.3 The route of the scheme, alternative schemes, funding of the scheme, land acquisition, costs of land acquisition, potential consideration of the need for use of Compulsory Purchase Powers, and consideration of procurement and State Aid issues have all yet to be considered. None of which are addressed in this Report. All of these points will need separate legal consideration at the material time, on the points they raise, in light of the powers under the Constitution. In addition funding to be provided by the Capital contribution from the Council will have to be identified and form part of a capital bid and be a Key decision.

9. Risk Management

- 9.1 The scheme development is following the established processes laid down nationally and by the Council. This approach is an intrinsic risk-mitigation measure. The other major delivery risk would be the lack of funding and it is addressed by authorising the preparation of a high-level funding strategy.

10. Background

- 10.1 The plan of the original route is at Appendix One.
- 10.2 The Strategic Case is at Appendix Two.
- 10.3 The Strategic Case has been provided so that it can be demonstrated that the needs of the By-Pass have all been covered by providing an overall aim, for it to fulfil, all the objectives required and to define their relative importance. By using the Strategic Case to evaluate the route options, the relative merits of each of them can be assessed objectively.
- 10.4 It is recommended that a wider public consultation exercise on Transport Strategy for the town is undertaken. The aim of the consultation will be to identify the most significant concerns of residents and businesses to inform future schemes in the town, including to the road, bus and sustainable transport networks. Solutions that can be implemented in the short term will be sought.
- 10.5 The number of alternative route options has resulted from consideration of the site constraints and the need to meet the strategic objectives of the By-Pass. The routes all have to lie within the boundaries of Cheshire East and have to connect the A54 and the A533. A major constraint, for example, is an industrial-pressure gas main routed through the area which has a safety zone either side of its route. The safety zone has strict rules about what can be built within it.

- 10.6 As well as the work already concluded in producing the Strategic Case, the extra information from the public engagement and negotiation will be required to complete the selection of the preferred route. It will also inform the Statement of Community Involvement required for planning and funding approvals. An example of the type of issue to be addressed will be whether or not to connect Cledford Lane to the By-Pass. A further issue for public comment will be whether or not to adopt a phased approach to implementation if there were a junction with Cledford Lane.

11. Access to Information

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

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- Initial Works
- Interim Improvement
- Final Works

27-11-06 - ISSUED TO CLIENT FOR COMMENT

REV	DATE	NOTE	ITEM	AC
			BY	CHECKED

Client: Pochin Developments Ltd

Contract: Midpoint 16

Drawing: 27-11-06

Scale: 1:2500 @ A0

Unit: EDH

Check: AE

Overall Masterplan

AEW

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1. The Strategic Case for the Bypass

The Cheshire East Council primary objective in developing the Middlewich Eastern Bypass is stated simply as:

‘To deliver a highway scheme which functions as a proper bypass to deliver the traffic solution for Middlewich’

Implicit within the primary objective are considerations relating to:

- The quality of the bypass alignment and route standard
- Alleviation of traffic congestion on the local highway network
- Alleviation of road safety concerns on the local highway network
- Impacts on non-peak journeys in terms of distance travelled and time taken

A 3 stage assessment of options will be undertaken based upon Strategic Objective, Subsidiary Objectives, and affordability:

1. Fulfilling the requirements of the primary objective will be the first filter in the assessment of options and options which meet the objective will be assessed further against the other key requirements.
2. Ranking of suitable options will be undertaken against a series of key requirements that have been identified for the bypass to satisfy (see below).
3. Cost: Affordability of the bypass, considering issues relating to cost, increased development opportunity and land values, and potential contributions to the cost of the scheme will influence further funding requirements (LEP / DfT etc) and is fundamental to the deliverability of the scheme.

2. Key Requirements to be fulfilled by the Bypass

In addition to functioning as a bypass, the scheme will need to deliver positive outcomes with respect to 10 key requirements that have been identified through internal consultations within Cheshire East Council. The options will be assessed and ranked comparatively against these requirements.

The requirements are listed below with additional narrative to give context:

Fulfilling delivery of the Local Plan

The bypass needs to be capable of enabling the delivery of the Local Plan with particular emphasis on the creation of employment through development of Midpoint 18 and other strategic sites, and housing commitments to support growth of the area.

Delivery of further development opportunities

It is desirable for the bypass to be capable of delivering or enabling development opportunities beyond those contained in the local plan thereby providing longer term benefits to Middlewich. Key stakeholder inputs from Pochin / DB Symmetry / MPIL will be included in the ranking of options against this requirement.

Facilitation of High Growth City objectives associated with HS2 (Northern Gateway)

High Growth City objectives associated with HS2 include the Northern Gateway which requires improved highway access to Crewe from M6 J18 to the north. The bypass options will be assessed and ranked based upon their potential to be a key component of the Northern Gateway.

Facilitation of an east to west bypass (future strategic highway development)

Whilst an east – west route is not current Council Policy, a more direct route from M6 J18 to Winsford Middlewich Road in the future may be desirable or even essential. The bypass route should preferably facilitate, and in any event not hinder the future development of a strategic east-west link providing improved linkage between M6 J18 and Winsford. Future-proofing opportunities associated with the options will be considered.

Connectivity with Cledford Lane

Cledford Lane provides access to a number of properties to the east and west of the bypass, and whilst minor and non-strategic in nature, the potential for connectivity in each direction between the bypass and Cledford Lane will be assessed.

Delivery of a new railway station site for Middlewich

A new railway station for Middlewich anticipated either within Midpoint 18 or in the Brooks Lane regeneration area will require highway access and the bypass shall be capable of delivering a suitable standard of access taking into consideration demands for park and ride and linkage for other modes of transport.

Facilitating further rail opportunities

Further rail opportunities associated with the chord line running from Sandbach to Northwich on the boundary of the Midpoint 18 site, associated with HS2 facilities (freight services relocation from Crewe), rail based manufacturing, and multi-modal facilities development will be considered by virtue of the ability of the bypass to support any or all opportunities. The potential for effective highway linkage to the bypass is an essential enabler for rail based development opportunities.

Speed of delivery

Speed of delivery of the scheme will be of fundamental importance in relieving traffic congestion, alleviating road safety concerns and generating the benefits for Middlewich and Cheshire East associated with the Local Plan. Options will be ranked based upon the scale and complexity of works required and anticipated time for implementation.

Environmental impacts

Environmental impacts may vary significantly between the route options and will form a consideration in the overall evaluation of options.

Cumulative impacts from habitats & species (including a nationally-significant population of lesser silver diving beetles) may potentially rule out some options. Those options which do not appear to be at risk of such cumulative impact will be assessed by species / habitat based upon: Population; Level of Protection (statutory); and Impact of the scheme on the resource.

Environmental ranking will be provisional at this stage (consistent with scoping) as ecology surveys are incomplete and EIA works will be undertaken in the next phase.

Cost and effectiveness of environmental mitigation

Closely linked to environmental impacts are the mitigation works required and their cost effectiveness. Key determinants to be considered include:

- Number of watercourse crossings and adjacencies of the options to the watercourses

- Number of ponds impacted and degree of severance of species communities by the options
- Hedgerow impacts based upon measurement of hedgerows lost and potential significance

3. Weighting of Requirements

The following priorities and weighting factors have been determined for the above requirements:

Item	Requirement	Priority	Weighting
1	Fulfilling the delivery of the Local Plan	1	9
2	Delivery of further development opportunities	4	6
3	Facilitation of high growth city HS2 objectives (Northern Gateway)	2	8
4	Facilitation of an east-west by-pass (strategic future proofing)	4	6
5	Connectivity with Cledford Lane	8	2
6	Delivery of a new railway station site	4	6
7	Facilitating rail opportunities	4	6
8	Speed of delivery	5	5
9	Environmental impacts	7	3
10	Cost effectiveness of environmental mitigations.	7	3

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Interim Executive Director of Economic Growth and Prosperity
Subject/Title:	Macclesfield Town Centre Regeneration – Proposed Public Realm Improvements
Portfolio Holder:	Cllr Stockton, Regeneration Cllr Brown, Highways and Infrastructure

1. Report Summary

- 1.1. In 2015, the Council reaffirmed its commitment to the regeneration of Macclesfield Town Centre resolving to both sell a town centre car park for a regenerative leisure-led development and to allocate £1m capital funding for additional complementary regenerative projects.
- 1.2. In February 2016, the decision was made to sell Churchill Way Car Park to Ask Real Estate to develop a cinema, restaurants and an area of high quality public realm.
- 1.3. The Macclesfield Regeneration Team are now looking to push ahead with securing complementary works in the core of the town centre with the £1M capital fund allocated for this purpose.
- 1.4. This report outlines proposals to invest the £1m capital allocation into a programme of public realm improvements to be focused around Castle Street, Exchange Street and upper Mill Street, in/around the pedestrianised core of the town centre. Support is also sought for the brief to seek a package of enhancements with a clear emphasis on creative interventions which will highlight and reinforce Macclesfield's unique identity not just as an historic 'silk town', but one with a strong creative and entrepreneurial spirit - augmenting the identity of Macclesfield as Cheshire's Creative Edge.

2. Recommendation

- 2.1 Cabinet is recommended to:
 - 2.1.1 Approve the use of £1M from the Regeneration and Development capital allocation to fund transformational Public Realm enhancements in the Macclesfield town centre

- 2.1.2 Approve the area identified in **Appendix A** as the main focus for that investment.
- 2.1.3 Endorse the concept of seeking to ensure the brief for the enhancements stresses the desire for a package of works which have a strong creative element, to emphasise Macclesfield's distinct identity as not just a silk town but one with a strong creative and entrepreneurial edge as identified in the Macclesfield Heritage and Culture Strategy.
- 2.1.4 Authorise the Executive Director of Economic Growth and Prosperity to commission design work to identify options for designs to enhance the public realm in the area identified.
- 2.1.5 Agree that following appropriate stakeholder consultation, the Portfolio Holder for Regeneration and Assets, in consultation with the Executive Director of Economic Growth and Prosperity and the Chief Operating Officer be authorised to approve the exact package of public realm enhancements.
- 2.1.6 Authorise the Executive Director of Economic Growth and Prosperity to take all steps he considers necessary to implement the package of public realm enhancements approved by the Portfolio Holder.
- 2.1.7 Authorise the Director of Legal Services (in consultation with the Executive Director) to approve and execute all legal documentation he considers necessary to secure the implementation of the approved package of enhancements.

3. Other Options Considered

- 3.1. A number of alternative options for allocation of this funding were considered by officers to try and ensure the best option is being pursued to meet the objective of town centre regeneration. A summary of that options appraisal is set out in **Appendix B**.
- 3.2 This process suggested that focusing the £1M on public real improvements in the core area of the town centre would be the best approach to facilitate town centre regeneration. This conclusion draws on evidence which suggests that investment in the public realm can have a positive economic effect in addition to the obvious environmental benefits. Specifically evidence is available¹ which suggests such investment can:
 - Stimulate the local economy and generate above average private sector returns;
 - Have a positive impact on perceptions of the area, especially non-local ones;

¹ Quality of Place and Regional Economic Performance: Draft Evaluation of the Existing Evidence and Investment Checklist, 2004, Frontier Economics Ltd

- This positive impact may retain workers in, and attract workers to, a wider area which has easy access to employment centres.

3.3 Through consideration of the emerging Cheshire East Local Plan, the Macclesfield Town Centre Vision, the Macclesfield Heritage and Culture Strategy and discussions with the Macclesfield Town Centre Vision Stakeholder Panel, a number of key issues objectives for any public realm enhancement project were identified including:

- Enhancements should be visible and impactful as well as inclusive and beneficial for the whole community;
- Macclesfield's unique sense of place, distinctiveness and identity should be embraced and enhanced, setting it apart from other destinations as globalisation makes unique experiences ever more valuable;
- Macclesfield's history and traditions including its story as a creative centre should be nurtured and highlighted;
- Weak urban fabric should be tackled to enhance the quality of the environment in the traditional retail core;
- The pedestrian experience in the town centre should be enhanced;
- Opportunities for people to dwell, interact and forge stronger community ties should be pursued;
- The money should be spent in a way which complements and reinforces former and ongoing wider efforts to regenerate the town centre;
- The money should be spent in a way which enables opportunities for match funding from other investors to be pursued.

3.4 With such objectives in mind, it is recommended that the £1M be invested in a public realm enhancement scheme which is focused on the core pedestrian area identified in **Appendix A** and that the detailed design, subject to endorsement through further public consultation, should specifically champion an approach which seeks to emphasise the creative arts to highlight Macclesfield's creative identity and help reinforce an appealing and distinct sense of place.

4. Reasons for Recommendation

- 4.1. Focusing enhancements into/around the Castle St, Exchange St and upper Mill St areas will ensure enhancements benefit the whole community as this is the area identified as the Prime Shopping Area in the Local Plan.
- 4.2. Focusing enhancements in/around this area will help enhance an already highly visible, but tired, part of the town centre which will be also very

prominent to visitors to the cinema development proposed on Churchill Way;

- 4.3. Focusing spending in/around this area will build upon former investment by the Council in Market Place and Chestergate, and will complement and link planned developments by others including the significant extension of the Grosvenor Centre into the locally listed Old Post Office on Castle Street (an investment by Eskmuir), and the forthcoming Ask cinema led development proposed on Churchill Way, stitching together a number of elements into a visibly coordinated and connected whole and strengthening linkages between these significant new developments and the core of the town centre to maximise benefits of increased footfall for existing businesses.
- 4.4. Focusing spending in/around this area opens potential opportunities to pursue match funding.
- 4.5. As the funding available is not sufficient to cover the cost of wholesale replacement of surfacing across the area, repairing the existing paving where necessary and focusing the majority of the money on visible bespoke and unique street furniture, creative lighting solutions, green infrastructure, and public art will ensure a highly visible impactful investment.
- 4.6. Placing a strong emphasis on seeking visual improvements aimed at reinforcing Macclesfield's unique identity as an historic town with a strong creative and entrepreneurial past and present, will help strengthen the town's sense of place to enhance both community pride and the towns attractiveness as a place to visit and invest in.
- 4.7. This focus for the £1M capital fund has been endorsed by the Macclesfield Town Centre Stakeholder Panel. Undertaking further stakeholder consultation at design stage will further test whether the intent to champion an approach which emphasises the creative arts to reinforce a distinct sense of place is welcomed by stakeholders and will ensure the details of the scheme reflect stakeholders preferences.

5. Background/Chronology

- 5.1 As far back at 2007, a Public Realm Strategy was drawn up for Macclesfield Town Centre identifying a number of aesthetic and practical weaknesses in the public realm including: a lack of quality external spaces where people can meet and relax; a visually fragmented street scene; a lack of greenery within public spaces; poor quality and limited provision of street furniture; a confused palette of surface materials; vehicular and pedestrian conflicts; inadequate, poor quality lighting; and inadequate information and wayfinding signage. Issues were identified across the breadth of the wider town centre and an ambitious strategy of enhancements were suggested which would take many millions of pounds to action. Although some detailed suggestions of the strategy have

become outdated, (as it assumed implementation of the original Wilson Bowden scheme being considered at that time), the key issues it identified still largely remain unaddressed.

- 5.2 In 2015, following the demise of the Silk Street Scheme, the Council reaffirmed its commitment to Macclesfield Town Centre by not only resolving to sell a town centre car park for a regenerative leisure-led development but also by allocating £1m capital funding for additional complementary regenerative projects.
- 5.3 That £1M of funding was confirmed in the Regeneration & Development Budget in the 2016/19 Medium Term Financial Strategy agreed by Council in Feb 2016.
- 5.4 On 5th February 2016, it was confirmed that Churchill Way Car Park in Macclesfield Town Centre will be sold to Ask Real Estate Ltd, to enable Ask to develop their proposal for a cinema led regenerative development.
- 5.5 Contracts for the sale of Churchill Way Car Park to Ask are being progressed and whilst the proposed development is still to proceed through the normal planning process, it is now clear where the new cinema scheme is to be located. Fixing this site has allowed officers to consider the best way to invest the £1M of capital funds to complement that land sale having regard to the aspirations of stakeholders and the strengths and weaknesses of the various options for investment.
- 5.6 Various options have been considered by officers having regard to the objectives and aspirations for the town centre set out in a number of strategic policy and framework documents and following discussions over a number of months with the Macclesfield Town Centre Vision Stakeholder Panel regarding the issues facing the town centre as set out in **Appendix B**.
- 5.7 The preferred option, as set out in the recommendation section of this report, is to utilise the £1M to pursue public realm enhancements focused around the area identified in the attached Plan at **Appendix A**, which also includes some images of these spaces to give an indication of the current appearance and standard. These areas sit not just within the town centre boundary but are within or immediately adjoin the identified Prime Shopping Area.
- 5.8 Environmental enhancements and improvements to these areas would not only benefit shoppers and other visitors to the town centre, but would also benefit workers who are employed within the immediate area, businesses located in proximity to these areas, and would help to attract potential new investors.
- 5.9 Investment in our town centres, and specifically in creating High Quality Places, is identified as a key priority for the Council's Economic Growth and Prosperity Service.

6. Wards Affected and Local Ward Members

6.1 Macclesfield Central: Cllr Beverley Dooley; Cllr Janet Jackson

7.0 Implications of Recommendations

7.1 Policy Implications

7.1.1 *Outcome 1: Our local communities are strong and supportive*

Enhancing the pedestrianised core of Macclesfield Town Centre will help attract people and business to the centre, providing opportunities for the various communities in and around Macclesfield to come together and share common experiences.

7.1.2 *Outcome 2: Cheshire East has a strong and resilient economy*

Improvements to the central pedestrianised core of Macclesfield will help attract inward investment in adjacent retail and business properties.

7.1.3 *Outcome 4: Cheshire East is a green and sustainable place*

Enhancing the pedestrianised area of the town centre will encourage people to walk through the centre of the town rather than simply drive to their retail or leisure destination. Opportunities for increasing green infrastructure within the area identified will be explored at the design stage, as this has been identified as a key aspiration of local stakeholders and is identified as a key objective in policy SL4 of the emerging Local Plan.

7.1.4 *Outcome 5: People live well and for longer*

A more appealing and stimulating public realm that encourages social interaction should enhance quality of life.

7.2 Legal Implications

7.2.1 It will be necessary to undertake a compliant procurement process for the intended work.

7.2.2 Dependant on the outcome of stakeholder consultation, it is possible that as part of this project an amendment to the existing Traffic/Parking/Highway Regulation Orders governing the use of the area is recognised as being beneficial. If this is the case the appropriate separate legal process will be required to be undertaken.

7.2.3 Relevant consideration will have to be given for each transaction to the level of authority required under the Constitution and the Council's statutory powers to contract as and when decisions fall to be made.

7.3 Financial Implications

- 7.3.1 The Regeneration and Development is a programme of works with each project arising being individually assessed and approved via the Gateway process. The programme has been reported in the 2016/17 Capital Programme and has been approved at Full Council on 25th February 2016.
- 7.3.2 A budget of £1m is allowed for within the 2016/19 capital programme within the Regeneration and Development capital allocation under Economic Growth and Prosperity.
- 7.3.3 The funding for this project will come from capital resources. This project has no linked source of funding so the Council will rely on available capital receipts or borrowing to pay for this scheme. If borrowing is required then repayments , either principle or interest, will be paid from un-ring-fenced grant or Council Tax payments as part of the Capital Financing Requirement contained within the revenue budget. Receipts may be achieved through the sale of council assets. The financing costs for this scheme are forecast as a potential charge to revenue of C.£67,000 per annum over a 15 year period.
- 7.3.4 Opportunities will be explored for supplementing this spend with external grant funding, and indeed, contributions from adjacent major landowners will be sought to further enhance the quality and extent of works which can be undertaken.
- 7.3.5 Dependant on the detail of the final design there is potential for some revenue costs to arise from this project for example should it be necessary to amend traffic / parking /highway orders, or for example associated with maintenance of new surfacing or public art installations. On the other hand there may be scope for revenue savings through for example introduction of low energy lighting solutions to replace existing lighting. At this stage, when designs have not been fixed such revenue implications cannot be quantified, but are unlikely to be substantial. On going maintenance costs will be considered as an integral part of detailed design development.

7.4 Equality Implications

- 7.4.1 Consideration will be given to those people with particular mobility and disability issues in the design of the proposed scheme.

7.5 Rural Communities Implications

- 7.5.1 No specific implications have been identified.

7.6 Human Resources Implications

- 7.6.1 No specific implications have been identified.

7.7 Public Health Implications

7.7.1 No specific implications have been identified.

8. Risk Management

8.1 Scheme fails to meet public expectations

8.1.1 One of the most significant constraints/risks to the proposal for public realm improvements is created by the limitation of funding. Although £1M is clearly a considerable sum, enhancements to certain elements of public realm are extremely costly. The desire to create a high quality of finish in the core of the town centre will inevitably curtail the quantum of enhancements even within the limited area defined. The budget is of insufficient size to for example provide suitable replacement high quality paving throughout the area defined. The challenge is to prioritise this investment in delivering enhancements which will have a considerable visible impact and to engage carefully with stakeholders to ensure proposals reflect local perception of place whilst managing expectations regarding what is deliverable with this level of investment.

8.1.2 In order to mitigate the risk of value for money/ensure high impact of the investment, it is proposed that the route to delivery of the programme of works be undertaken as a two stage process:

- To first procure detailed designs for the area from a team of appropriately qualified professionals with experience of delivering public realm projects which incorporate and place a strong emphasis on creative elements, and who are willing to work alongside a lead artist and stakeholders to ensure opportunities for creative, individual artworks which reinforce a strong sense of place are incorporated as integral elements of the design. It is intended that further consultation will be undertaken with stakeholders in conjunction with the Council's Research and Consultation Team to inform those designs.
- To then procure delivery of the final costed design once approved, ensuring opportunity for inclusion of a wide variety of creative elements to be delivered by a range of artists with appropriately demonstrated track records, and community groups supported by more experienced public artists, assuming this approach is endorsed following further stakeholder consultation.

- 8.1.3 It is important to ensure communications surrounding the scheme do not raise unrealistic expectations regarding what can be achieved with £1M. This will be managed through project officers working closely with the communications team.

8.2 Unforeseen costs

- 8.2.1 Ground conditions or other unforeseen issues could result in additional works being required eroding the budget available for feature elements. To minimise risks associated with this, at design stage designers will be asked to liaise closely with utility providers etc to establish as clearly as possible any likely costs associated with underground services. The design team will also be requested to build in a sum for contingencies.
- 8.2.2 The Council must also be considerate of how the investment is to be maintained in future years – a risk is that any public realm investment made now may not be sustainable in future maintenance regimes. To mitigate this, it is proposed that maintenance services are engaged as a key stakeholder for the project, to be closely involved in assessing and informing any preferred improvement options. It is also proposed to work closely with Macclesfield Town Council given their likely role in maintaining street furniture, planters etc.
- 8.2.3 Running in parallel to this report is a High Level Business Case to be discussed at TEG and EMB in April 2016, outlining the approach to the above proposals for technical and monitoring endorsement.

9. Contact Information

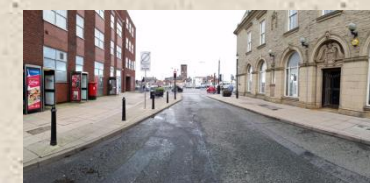
Contact details for this report are as follows:

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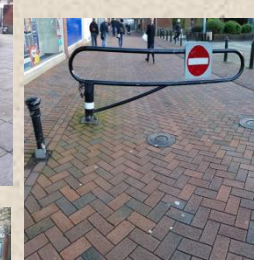
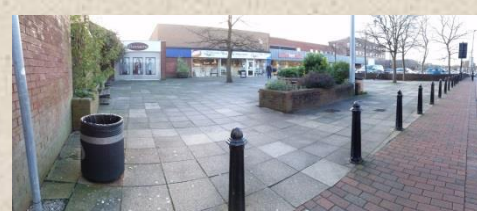
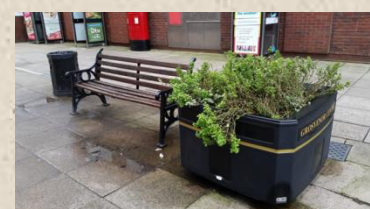
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Castle Street:

- Coloured resurfacing would greatly enhance the street
- Mismatched street furniture (e.g. bollards)
- Maintenance issues
- 'Temporary' tarmac repairs
- Patchwork of paving
- Signage to be removed/replaced if poor quality
- Mix of signage
- Lanterns to replace 'mix' of heads on lampposts
- Decluttering of street furniture
- Market Traders making street look poor (vans left in road, stock on road etc.)
- Maintenance issues (e.g. repairs to paving)
- Good quality, restored bollards at top of Castle Street – although different bollards at the bottom
- Signage to be reviewed
- Poor quality surface
- Poor quality markings
- 'No Entry' faded
- New markings on roadway entrance would enhance the area
- Railings on either side of entrance to paint
- Planters at top of Castle Street
- Poor quality repairs (e.g. paving and lighting)
- Painting of street furniture



Castle Street



Market Place



Mill Street



Market Place:

- Central Historic Quarter
- High quality materials
- Bespoke street furniture
- Recently refurbished street furniture, although seats adjacent to NatWest need painting due to skateboarding
- Possibility of cherry lights in trees
- Possibility of LED uplights onto Town Hall pillars
- BT Phone boxes recently restored
- High quality cobbles/setts
- 'No Entry' sign on barrier ugly
- Possible 'gateway to Mill Street' on entry
- Noticeable difference of quality between Market Place and Mill Street cobbles/setts

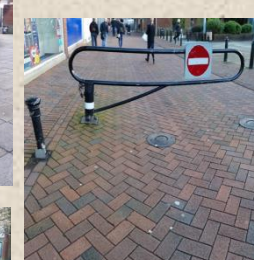
Exchange Street:

- Very poor quality public realm
- Deprived impression
- General feeling of neglect
- Mix of street furniture
- Old, dated bins
- Poor bollards mixed with good bollards – that need restoring/painting
- Poor landscaping
- Poor quality paving
- Poor 'modern' street furniture
- To completely renovate this busy area with new paving, landscaping, street furniture and lighting

Exchange Street Car Park

- Poor landscaping
- Poor 'modern' street furniture
- Good bollards but need restoring/painting
- Poor quality paving
- Deprived impression
- To completely renovate this busy area with new surfacing, lining, paving, landscaping, street furniture and lighting

Exchange Street



Mill Street:

- To continue Market Place quality down Mill Street would be too expensive
- Maintenance issues – drainage/damaged grids
- Possible 'feature' could be made of Back Wall Gate entrance/area
- Street furniture recently painted
- More bespoke furniture could improve area
- Layout of street furniture poor – to review
- Maintenance issues
- Significant lighting improvements would greatly enhance all of Mill Street
- Maintenance issues – giving poor image of the town
- Dead trees in pits to be replaced
- Temporary tarmac in tree pits to be replaced with new trees

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Appendix B

£1m Capital Investment Programme – Regeneration of Macclesfield Town Centre

OPTIONS APPRAISAL

With a £1M capital budget allocated for works to support the regeneration of Macclesfield Town Centre, it is necessary to consider the alternative ways that money may be spent to try and ensure the best option is being pursued to meet the stated objective of town centre regeneration.

Option 1

Acquisition of ‘problem’ sites and vacant properties for redevelopment

Stakeholders have suggested the Council should consider purchasing ‘problem’ sites/buildings to repurpose to facilitate town centre regeneration. Typical sites referenced are Craven House, Sutton Castings and vacant premises on Mill Street.

Although on this option has the potential to enhance the town centre landscape through utilising currently underused buildings, many of the sites referenced are available for sale but have not been attractive to private developers at the price sought from the current owners. It is unlikely therefore that the Council could purchase these sites and redevelop as a viable proposition. Some are simply far too costly for the budget available, Craven House, for example, has been advertised for sale for in excess of £2M. To pursue a purchase of smaller sites via CPO would add significant legal costs and substantial time delays and would have only localised benefits.

For these reasons it is recommended this option is not pursued.

Option 2

Public Realm Investment

The benefits of this option would be highly visible and high impact investment. Although funding limitations may restrict the quantum of high quality improvements, the benefits of this would be for all town centre users rather than specific groups as with some other options. Many stakeholders have indicated improvements to the public realm in the core of the town centre would be welcomed.

A quality environment could help to boost footfall and encourage complementary investment from local businesses and organisations. Research shows the value of identifying the particular distinctive features of town centres and investment in the public realm can help to highlight and build on local distinctiveness.

Focusing enhancements on public art and creative visible enhancements would help reinforce Macclesfield’s identity as a creative town reinforcing a distinct sense of place and making the town a more attractive proposition for inward investment.

Focusing enhancements on the core of the town centre and the linkages between the proposed cinema development and the core offers the potential to create a real sense of momentum in town centre regeneration.

It is recognised that events can be extremely effective in enhancing town centre vitality and viability and that there could be scope to use capital funds to support events through for example providing power points in a public space as part of public realm enhancements.

It is therefore recommended this option is pursued.

Option 3

Invest in CEC owned building assets

Council own assets such as the Butter Market and Old Police Station attached to Macclesfield Town Hall lie underutilised and in the case of the later, are in a poor state of repair. £1M could be used to refurbish and bring such property back into a use which could generate footfall in the town centre, adding to town centre vitality and viability.

There is a risk that investing the money in this way, before first tackling some of the most visible deficiencies in the public realm, could provoke criticism from local stakeholders.

It is therefore recommended that this option is not pursued with the £1M budget identified but that a business case is explored in the future, liaising with HLF to see if a case could be made to bring in grant funding to enable this option to be pursued at a future stage.

Option 4

Invest in Car Park Improvements

Stakeholders frequently point out the deficiencies with town centre car parks in Macclesfield and suggest investment is overdue.

Enhancements to car parks largely benefit those who use cars and not the whole community and hence it is considered preferable that such improvements should be funded through reinvestment of income from car parking charges rather than from this allocation. There may, however, be benefits to investing in highly visible enhancements geared at changing the image and perception of place rather than practical enhancements for car park users.

It is recommended that aesthetic enhancements undertaken as part of a wider public realm scheme should be considered for central car parks.

Option 5

Roll out Shop Improvement Grants

The Council has already plans in place to set up a shop front improvement grant scheme in 2016 for the Lower Mill Street area, funded separately. The Council could be criticised for concentrating too much investment in property owners and local

businesses rather than investing in improvements which will benefit all town centre users equally.

For these reasons it is recommended this option is not pursued.

Option 6

Highway Improvements

The £1M has been made available to support town centre regeneration. There is scope to invest in the highway network around the town centre to facilitate the movement of vehicles, reduce congestion and make a more pedestrian friendly environment. Discussions with stakeholders do not, however, tend to highlight these issues as those most negatively affecting town centre vitality.

It is possible however that highway improvements could be rolled up into a wider public realm improvement project.

Option 7

Town Centre Wifi

This has the potential to improve connectivity in the town centre with a view to aiding local businesses who wish to take advantage of online access. However, there is debate over whether this is necessary. Certainly this has not been highlighted by engagement with stakeholders as a priority for action.

For these reasons it is recommended this option is not pursued.

Option 8

Wow Factor

This is as yet undefined, but would be a high impact, very visual investment into a landmark piece of work to promote and distinguish Macclesfield town centre, acting as an attraction in the town and with the potential to change perceptions of the town centre; there would, however, potentially be questions over whether this is a worthwhile investment, as it is potentially quite subjective. There is however, potential to incorporate a 'wow factor', on a smaller scale, into a wider public realm improvement scheme.

For these reasons it is recommended this option is not pursued in isolation but taken forward as an aspiration in a wider public realm enhancement project.

Option 9

Public Art

Investment in public art would enhance and promote that aspect of Macclesfield's unique identity, highlighted by the Heritage and Culture Strategy, as a 'creative' town.

The disadvantages are that art can be very subjective and potentially provoke criticism as a waste of resources at a time when services are facing cut backs. There

is the potential, however, to incorporate an element of public art into a wider public realm improvement programme of works and taking into account the economic benefits of reinforcing a distinctive sense of place it is recommended that an element of funding is used for public art as part of a wider package of public realm enhancements.

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Andrew Round, Interim Executive Director for Economic Growth and Prosperity
Subject/Title:	ELENA Technical Assistance Funding
Portfolio Holder:	Cllr Don Stockton, Regeneration

1. Report Summary

- 1.1 The Council's Energy Framework sets out a clear commitment to explore opportunities for renewable and energy efficiency projects in the Borough in order to improve energy security, reduce fuel poverty, and grow the low carbon economy.
- 1.2 Despite this commitment and ambition, obtaining the technical expertise and creating the organisational capacity to implement large energy efficiency and renewable projects has often been cited as a barrier by local government organisations and is an EU wide problem. In order to address the issue a funding stream known as "European Local Energy Assistance" or ELENA was launched by the European Commission at the end of 2009 with a stated purpose to "maximise investment in sustainable energy". The Fund was established with a target to realise €1 billion of energy efficiency and renewable energy projects.
- 1.3 ELENA covers up to 90% of the technical support costs needed to prepare, implement and finance an investment programme of energy efficiency and renewable energy projects over a three year period. This typically includes feasibility and market studies, programme structuring, energy audits and tendering procedure preparation. The stated assistance areas are as follows:
- 1.4 The eligible programme areas cover a wide variety of initiatives, including:
 - Local energy facilities that support energy efficiency and renewable energy
 - Energy efficiency and renewable energy in public and private buildings
 - Efficient urban transport
- 1.5 Following endorsement by the Cheshire East Energy Limited Shadow Board (CEEL Board) in May 2015, an outline application was developed to obtain technical assistance funding to the value of 1,739,585 EUR to deliver against the following key programme areas:
 - Priority A: Energy Efficiency
 - Roll-out of 26,000 LED street lighting units across the highway network
 - Priority B: Renewable Energy

- Delivery of district heating
- Delivery of dry Anaerobic Digestion project to generate renewable electricity and biogas for use in a local heat network, private wire, CHP or conversion to biofuel for vehicle use.
- Priority C: Energy Management
 - Development of a full ESCO to oversee the long term delivery of energy projects in Cheshire East

1.6 It is estimated that the technical assistance will unlock investments in these programme areas that will total over 66M EUR, and will result in a significant CO2 reduction for the Borough of c.9979t per annum, in addition to an increase in annual renewable energy production of c.50,000 MWh. The level of investment anticipated will result in a leverage factor of 38, which is well above the required minimum to receive ELENA funding.

2. Recommendation

Cabinet is recommended to:

- 2.1 Recommend that Council approve the submission of the bid to the European Investment Bank, who administer the ELENA funding on behalf of the European Commission, and delegate authority to the S151 Officer to sign the necessary declaration form on behalf of the Council
- 2.2 Recommend that Council approve a Supplementary Revenue Estimate of 1,739,585 EUR (£1.4m at current exchange rates), fully funded by, and subject to receipt of ELENA funding by the Council.
- 2.3 Delegate authority to the S151 Officer, in consultation for the Portfolio Holder for Finance, to take the necessary steps for the Council to enter into a grant agreement with the European Investment Bank in order to receive the ELENA funding
- 2.4 Approve that the Council contributes the 10% match funding required through the use of existing staff resourcing

3. Other Options Considered

- 3.1 The following options have been considered as alternatives to that recommendation:

Option	Reason for Discounting
1. The Council does not accept the ELENA technical assistance funding and seeks to use its own funding to deliver the	The level of funding required to deliver the required technical work is not available within the Council's existing budget and would have to be identified from existing commitments. This is likely to impact on the Council's ability to deliver its existing budget commitments.

technical work required to deliver the energy programme	
2. The Council does not accept the ELENA technical assistance funding and chooses not to use its own funding as an alternative	The identified technical work is essential to deliver the projects within the energy programme. Without undertaking the technical work, the projects are highly unlikely to be delivered, and the Council would be unable to meet its ambitions as set out in the Energy Framework.
3. The Council does not accept the ELENA technical assistance funding and seeks to secure funding from other sources to deliver the technical work required to deliver the energy programme.	Alternative funding sources have been appraised and the Council has already benefitted from three rounds of Heat Network Delivery Unit (HNDU) funding to progress its district heating priorities (ELENA Priority B – Renewable Energy) as far as possible under the remit of this funding stream. Alternative funding sources to undertake the necessary technical work are not currently available.

4. Reasons for Recommendation

- 4.1 As set out in the Council's Energy Framework, the Council is fully committed to pursuing opportunities for renewable and low carbon energy in the Borough for the benefit of residents and businesses. ELENA funding provides a targeted resource for the Council to access essential external funding to undertake technical development work on complex renewable and low carbon schemes. This reduces the reliance on the Council's own resources whilst enabling projects to progress in order to meet the ambitions set out in the Energy Framework.

5. Background/Chronology

Context

- 5.1 Obtaining the technical expertise and creating the organisational capacity to implement large energy efficiency and renewable projects has often been cited as a barrier by local government organisations and is an EU wide problem. In order to address the issue a funding stream known as "European Local Energy Assistance" or ELENA was made available at the end of 2009 with a stated purpose to "maximise investment in sustainable energy". The Fund was established with a target to realise €1 billion of energy efficiency and renewable energy projects.
- 5.2 ELENA covers up to 90% of the technical support costs needed to prepare, implement and finance an investment programme of energy efficiency and renewable energy projects over a three year period. This could include feasibility and market studies, programme structuring, energy audits and tendering procedure preparation. The stated assistance areas are as follows:
- Additional personnel
 - Technical studies
 - Preparation of calls for tender
 - Financial structuring

- 5.3 The eligible programme areas cover a wide variety of initiatives, including:
- Local energy facilities that support energy efficiency and renewable energy
 - Energy efficiency and renewable energy in public and private buildings
 - Efficient urban transport
- 5.4 A pre-requisite of obtaining funding is that the programme must secure a 'leverage factor' of 25:1. The leverage factor is crucial as it requires that the programme should result in spend or investment of 25 times the value of the grant. For example a 500k grant would be expected to generate investment to a value of 12.5m EUR attributable to the project. The source of this investment may be provided by parties other than the applicant and would include for instance the cost of new plant, facilities or equipment – regardless of ownership.
- 5.5 To date there have been 36 schemes approved across the EU that cover a wide variety of projects, often delivering several 'streams' within each. These schemes range from energy efficiency measures, renewable energy installation (small and larger scale), district heating projects, low carbon transport, efficient street lighting and contracts for energy services and other energy related areas. The investment grants applied for range from €650,000 to over €3,200,000 and the average value is around €1,870,000. There have been 5 applications from UK local government, 3 from London (€2.9M, €2.9M, €3M) and the others from Bristol (€2.6M) and Birmingham (€1.5M).
- 5.6 The grant itself is provided in stages with 40% released at the start, then 30% after validation of interim report, and the remaining 30% after validation of final report.
- 5.7 Applications for ELENA funding are processed in two stages by the ELENA Team based at the European Investment Bank. Following the submission of an informal "preliminary" application, feedback from the ELENA team is received and used to develop a more detailed final bid. Following submission of a final bid, the bid is reviewed by the European Investment Bank and a recommendation is then submitted to the European Commission for final approval. This process typically takes between 9 and 14 months depending on the level of work required to satisfy the feedback received between the preliminary and final stages.

The Council's Bid Submission

- 5.8 Following endorsement by the Cheshire East Energy Limited Shadow Board (CEEL Board) in May 2015, an outline application was developed to obtain technical assistance funding to the value of 1,739,585 EUR to deliver against the following key programme areas:
- Priority A: Energy Efficiency
 - Roll-out of 26,000 LED street lighting units across the highway network
 - Priority B: Renewable Energy
 - Delivery of district heating

- Delivery of dry Anaerobic Digestion project to generate renewable electricity and biogas for use in a local heat network, private wire, CHP or conversion to biofuel for vehicle use.
- Priority C: Energy Management
 - Development of a full ESCO (Energy Supply Company) to oversee the long term delivery of energy projects in Cheshire East

5.9 It is estimated that the technical assistance will unlock investments in these programme areas that will total over 66M EUR, and will result in a significant CO2 reduction for the Borough of c.9979t per annum, in addition to an increase in annual renewable energy production of c.60,000 MWh. The level of investment anticipated will result in a leverage factor of 38, which is well above the required minimum to receive ELENA funding.

5.10 Given that ELENA is only able to meet 90% of project costs, the Council will be required to provide 10% match funding as a condition of the funding award. The Council will use the cost of existing internal staff resources which will be required to manage the day to day implementation of the programme, provide secretariat support the steering and working groups, and manage the procurement of external consultants. This is quantified as being equivalent to 191,681 EUR over 3 years.

Priority	Project Area	Description	Est leveraged invest.	Output from the Technical Assistance
Priority A: Energy Efficiency	Roll-out of 26,000 LED street lighting units across the highway network	The Council is responsible for almost 38,000 street lights across its highway network, with street lighting accounting for 14% of the Council's total CO ₂ emissions. In 2015/16 the Council invested in the conversion of approximately 12,200 units on its key traffic routes to LED units. Once completed, this investment will deliver a 30% saving in energy/carbon usage across the street lighting asset in Cheshire East. The remaining 26,000 units are mainly sited in residential areas of the network and generally consume much less energy than those on the main traffic routes. Therefore, the potential energy, carbon and financial savings are much lower. Technical advice is required to establish accurate details and mapping of the outstanding units, exploration of potential conversion technologies, and compilation of a full business case which sets out financial, carbon and energy savings which could be achieved, in order for the Council to identify funding for the programme. The technical advice will culminate in the production of a detailed project specification which will be delivered through the Council's Highway Services Contract with our integrated service provider, Ringway Jacobs. The Highway Services Contract is an OJEU compliant contract which allows for the delivery of street lighting schemes.	9.45M EUR	<ul style="list-style-type: none"> - Mapping study of outstanding units requiring conversion - Full business case setting out technology options, and the financial and carbon savings which could be achieved - Detailed project specification for delivery of conversions via the Council's Highway Services Contract
Priority B: Renewable	Delivery of District Heating Systems	<p>The Council has made a strong commitment to explore opportunities for deep geothermal energy, and the Council's Energy Framework set out a commitment to increase opportunities for decentralised energy networks in the Borough. In order to deliver on these commitments, the Council will shortly be announcing a long term joint venture partner who will work with the Council to deliver district heating networks in Cheshire East. The Council has already undertaken some primary investigations into the potential for incorporating deep geothermal technologies as part of plans to deliver a number of district heating networks in major towns across the Borough. Work has been undertaken to:</p> <ul style="list-style-type: none"> • Review the DECC National Heat Map and future development proposals to identify clusters of existing and future heat demand • Identify and characterise opportunities for heat supply 	33.3M EUR	<ul style="list-style-type: none"> - Full 5 case business case for each scheme - Detailed project specification for delivery of the projects via the Council's district heating joint venture partnership.

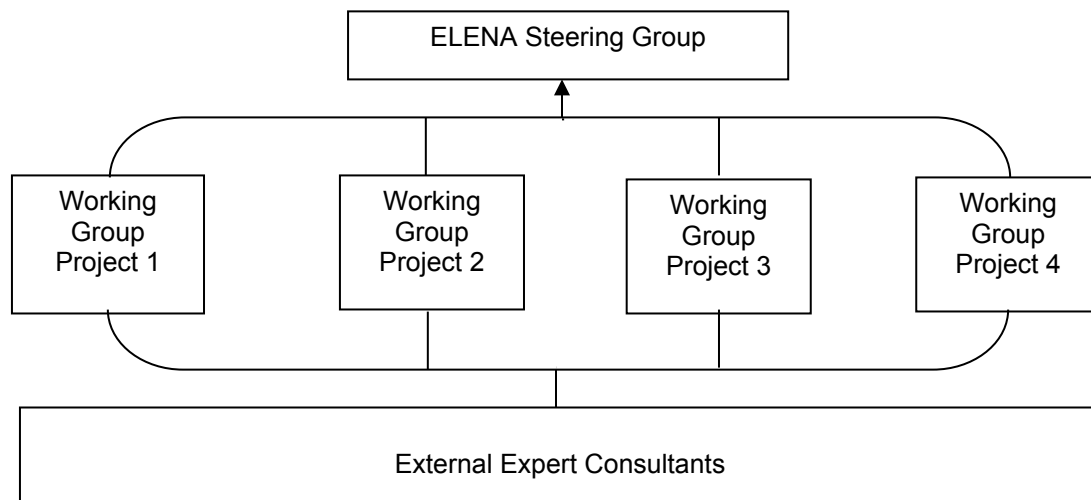
		<ul style="list-style-type: none"> Identify high level network routings, including identification of potential constraints and barriers Carry out economic assessments and modelling to identify project costs and returns <p>Work to date suggests that there is a good opportunity for deep geothermal energy to be incorporated as part of a wider renewable energy mix for new district heating systems. Initial feasibility work undertaken on behalf of the Council by AECOM and BRE has identified up to 3 potential networks in the towns of Crewe and Macclesfield. Whilst the Council has undertaken initial masterplanning and mapping of the heat network opportunities, technical advice is required for detailed network design and to develop the full business cases for the networks, including work to:</p> <ul style="list-style-type: none"> Provide a full financial and economic appraisal of the identified networks, including a review of the capital costs of installation, and ongoing costs of operation and maintenance Provide a full benefits map, including both social and environmental benefits as well as income generation Develop a detailed technical specification for each scheme including the creation of detailed engineering drawings on pipe routing and pipe sizes. Develop a detailed technical specification for the energy centre for each scheme 		
Priority B: Renewable	Delivery of dry Anaerobic Digestion project to generate renewable electricity and biogas for use in a local heat network,	The creation of a dry anaerobic digestion operation in Cheshire East is a major opportunity for the Council to deal more sustainably and innovatively with green and household waste. This is of particular importance in the context of rising landfill gate fees and increasing EU landfill reduction targets and requirements. This fully aligns with the Council's Waste Strategy which seeks to reduce waste sent to landfill to zero and create value from its waste stream through energy generation. The opportunity to initiate food waste collection from households using a co-mingled collection of food and garden waste has led the Council to investigate the use of dry Anaerobic Digestion following a detailed review and analysis of available technologies. To date the Council has commissioned two studies to determine methods to treat organic waste streams and the potential outputs	22.4M EUR	<ul style="list-style-type: none"> Full engineering solution and business case for AD to deliver the Council's objectives Technical specification to integrate the scheme with the proposed Crewe Town Centre district heating scheme

	private wire, CHP or conversion to biofuel for vehicle use	<p>from the use of Dry AD based on a range of tonnage and compositional scenarios. It is now in a position to develop a tender to seek market solutions to treat co-mingled waste.</p> <p>Technical expert advice and support is required to identify a suitable, feasible and efficient engineering solution which will maximise the carbon savings and efficacy specifically for the Cheshire East feedstock mix. Technical expert advice is also required to develop the full business case for exporting resulting electricity and/or biogas via private wire to nearby users, and integrating the scheme into the district heating proposals for Crewe Town Centre. The opportunity to develop biofuels and convert some of its vehicle fleet from the AD process is also an opportunity the Council wishes to investigate.</p> <p>Technical advice will be used to:</p> <ul style="list-style-type: none"> • Develop a full engineering solution in line with the Council's objectives, supported by a full business case demonstrating financial and technical feasibility of the proposed solution. • Develop the technical specification for integrating the scheme into the district heating proposals for Crewe Town Centre, supported by a full business case. • Review opportunities to develop biofuels and provide a report on the technical and economic feasibility of doing so. 		- Technical and economic feasibility report into opportunities for biofuels
Pri ty C: Ener	Developme nt of a full ESCO to oversee the long term delivery of energy project in Cheshire East	Given the large number of activities and opportunities identified by the Cheshire East Energy Framework, a mechanism is required to deliver this programme holistically and raise finance for delivery. The Council is committed to creating a full ESCO, owned by the Council, to assist in making more cost-efficient use of its assets, enable greater security of supply to local businesses and communities, and help promote inward investment into Cheshire East. The purpose of the ESCO would be to fill the gaps in current provision, drive the implementation of the Council's Energy Framework, and act as a strategic investment vehicle to develop a range of varied renewable energy projects and energy services. This would include the design and technical development of the Council's District Heating projects and subsequent legal structures ensuring they are developed in a coherent way to maximise their future success. Specialist planning	1.4M EUR	-

		<p>consultants will also be appointed into the project team to produce Local Development Orders that shall fast track the planning requirements for the delivery of the district heating schemes.</p> <p>The ESCO would also enable a 'joined up' approach that could enable projects to be 'bundled' so that all projects can benefit from an overarching package of services, particularly important to some projects with clear social benefits that are only financially marginal.</p> <p>Specialist advice is required to undertake feasibility and market studies, review procurement and legal procedures, review and determine proposed company activities, provide specialist financial advice, develop a detailed business case for the ESCO, and compile a full risk register. Particular advice is required on how best to integrate the proposed ESCO with existing commercial structures created through the FairerPower partnership.</p>		
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Governance

- 5.11 The ELENA programme will be overseen by an ELENA Steering Group comprised of senior officers and the lead member for energy. The Skills and Growth Company will be the delivery agent for the ELENA grant award and will project manage the grant on behalf of the Council. The Steering Group will delegate oversight of each individual project to a supporting work group comprised of relevant officers. Each working group will appoint external technical experts to carry out the technical assistance, with such experts appointed in line with the Council's Contract and Procurement Regulations and with input from the ELENA Steering Group as appropriate.



- 5.12 The decision to progress with projects will be made in line with the Council's Constitution, with projects progressing through TEG and EMB as required. Should a project require a key decision (defined as one which is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority) then Cabinet approval will be sought.

6. Wards Affected and Local Ward Members

- 6.1 As the ELENA funding will benefit a wide range of energy projects across the Borough, all wards are affected.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. The receipt of ELENA funding is fully aligned to the following corporate priorities and policies:

- The Council's Three Year Plan
 - Outcome 2: *Cheshire East has a strong and resilient economy*
 - Priority 1: *Local Economic Development*
 - Change Project 1.3 (*Investment to support business growth*).
- Ambition for All: Sustainable Communities Strategy 2010-2025: Priority 2 Create conditions for business growth
 - Harness emerging growth opportunities;
 - Create a climate attractive to business investment.

7.2. Legal Implications

7.2.1 The terms and conditions of the funding are not yet available. Once received, they need to be carefully scrutinised and legal advice sought, to ensure that the proposed arrangements for managements, administration and use of the funds accord with EU requirements.

7.2.2 It is noted that the technical advice is to be procured in accordance with the Council's Contract Procedure Rules. The technical advice obtained from this funding will form the basis of further work which it is proposed will be procured via existing contracts/ASDVs/joint ventures. This raises potential procurement and State Aid issues. Legal advice needs to be sought upon any firm proposals to extend the scope of existing contracts, directly award contracts to ASDVs and/or to directly transfer technical advice to a joint venture partnerships so that contracts are procured compliantly and within the grant terms and conditions and any state aid issues are properly managed.

7.2.3 Amongst the identified risks (8.1) it is noted that the Council would need to repay funding should external factors impact on delivery of projects. Any external factors should as far as possible be identified and carefully monitored.

7.3. Financial Implications

7.3.1 As noted in 7.2.1 the terms and conditions of the grant funding are not yet available and it is therefore not possible to comment on how onerous the reporting, record keeping, audit provisions and grant repayment terms are likely to be. Once the grant conditions are known, there are two particular areas that the Council will want to examine to ensure it is not exposed to an unacceptable level of financial risk:

- The extent of any liability the Council might have to carry in respect of currency conversion changes. Both the grant and the assessment of leveraged investment are made in Euros and the value in pounds sterling could change significantly over the lifetime of the project. The Council would need to understand the extent of the risk it would carry with regard to currency conversion changes and whether gains and losses would be retained or repaid by the Council.

- The full extent of the requirements of the Council to verify the delivery of the 25:1 leveraged funding. There is a risk that the Council would have to repay a proportion of the grant to the extent that the leverage target of 43M Euro is not met and we would therefore need a high level of surety that the reporting requirements attached to the grant were reasonable and achievable.

7.3.2 Recommendation 2.2 asks for a Supplementary Revenue Estimate of £1,739,585 Euro (approx. £1.4m) fully funded by the ELENA grant. However, it is possible that a small element of the expenditure on the three key programme areas identified could qualify as capital expenditure. This will be assessed as the project develops with expenditure and associated funding be reclassified as appropriate.

7.4. Equality Implications

7.4.1. The recommendations do not have any direct equality implications.

7.5. Rural Community Implications

7.5.1 The recommendations do not have any unique implications for rural communities.

7.6. Human Resources Implications

7.6.1. The recommendations do not have any direct human resources implications.

7.7. Public Health Implications

7.7.1. The recommendations do not have any direct public health implications.

8. Risk Management

8.1. The following risks have been identified:

Risk	Mitigation
The key risk lies in meeting the 25:1 leverage factor as it is possible (although the Council is not aware of any cases where this has occurred) that if the required leverage factor is not met, a proportion of the funding would need to be returned (proportionally to meet the 25:1).	In order to mitigate this, the bid includes a suite of projects so that there is sufficient surplus to enable the factor to be reached even if one project element was unable to proceed. In addition, previous project proposals

	approved by the EIB demonstrate that it is not necessary to achieve the 25:1 leverage factor in every line of activity, only that the funding overall meets the minimum leverage requirements.
There is no flexibility in the re-allocation of ELENA funds once granted resulting in a risk that the Council would have to re-pay funding if external factors impacted on the delivery of certain projects and activities.	Given that the funds largely cover the aggregate cost of staff teams that will cover multiple areas, should there be a change of CEC priorities or external factors impacting the delivery of certain functions or activities, then the focus and time of staff could switch to match new proportions of delivery.
ELENA funding is awarded in Euros so there is a risk that fluctuation in exchange rate could reduce the level of funding the Council receives.	The Council will regularly review exchange rates and amend the project programme should funding levels change significantly.
Should the EU referendum in June result in the UK's exit from the European Union, there is a risk that ELENA funding could be withdrawn.	The ELENA Steering Group will regularly review any guidance relating to the impact of a potential EU exit and will discuss with the European Investment Bank/ European Commission at the earliest opportunity should the risk arise.

9. Access to Information/Bibliography

9.1. Further information can be found at the following sources:

- <http://www.eib.org/products/advising/elena/index.htm>

10. Contact Information

Contact details for this report are as follows:-

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Steph Cordon, Head of Communities
Subject/Title:	Transfer of Gables, Nantwich to Nantwich Town Council
Portfolio Holder:	Cllr Paul Bates, Communities and Health

1. Report Summary

- 1.1. Cheshire East Council (CEC) is committed to delivering services tailored to its individual communities. Cabinet approved a list of assets to transfer to town and parish councils in September 2011 although the Gables in Nantwich was included it required further work and discussion to take place in order to progress the transfer, subsequently this was put on hold.
- 1.2. During the last year CEC has been in negotiations with Nantwich Town Council (NTC) around transferring the freehold of the Gables which will include all tenants currently situated in there.
- 1.3. The Town Council has ambitious plans to extend the Civic Hall which they took ownership of under the initial round of transfers.
- 1.4. CEC is working closely with the Town Council to establish a vibrant community hub in Nantwich and as such the Town Council have asked that the normal clawback provision is amended and won't be enacted if the Town Council dispose of the Gables and reinvest the capital receipt into the capital expenditure plans to extend the Civic Hall.

2. Recommendation

- 2.1. Give delegated authority to the Interim Executive Director of Economic Growth and Prosperity, in consultation with the Portfolio Holder for Regeneration and Assets, the Portfolio Holder for Communities, Head of Assets and the Director of Legal Services, to finalise and agree terms for the transfer, and once agreed, for the Director of Legal Services to execute all necessary documentation to give effect of the transfer.
- 2.2. CEC approve the transfer of the freehold of the Gables to Nantwich Town Council to include a small part of the car park to the rear as well as land adjacent to the car parking meter to the side of the building.
- 2.3. CEC grant a licence for the Town Council to access the library in order to access the community group room in the new extension. This would involve shared use of the entrance and lift area, but no other areas.

- 2.4. CEC approve an amendment to the standard overage provisions usually contained within localism transfers. The amendment will provide that the clawback will only be payable if the receipt received from such disposal of the Gables is not wholly reinvested into the capital expenditure for the proposed extension to Nantwich Civic Hall.
- 2.5. Approve the transfer of 'the land' (being a small amount of the car park to the rear of the Civic Hall).

3. Other Options Considered

- 3.1. CEC retain ownership and control of the Gables and the car park

4. Reasons for Recommendation

- 4.1. The Gables is a community building which caters for the different aspects of the community within Nantwich and plays host to a very popular luncheon club and until recently was part occupied by the Citizens Advice Bureau.
- 4.2. In Nantwich a network of Community Hubs and other sites, including children's centres with a focal point at the Civic Hall, will ensure that assets are sustainable and that they work together to provide the right services, in the right places, at the right times.
- 4.3. The primary use is consistent with those assets that were originally identified as part of the 2011 Cabinet report and which have subsequently transferred to Town and Parish Councils.
- 4.4. In order for the development to take place at the Civic Hall there is a need to transfer a small part of the car park to the rear of the building and also a small amount of land next to the parking meter which is powered from within the Civic Hall. It is a yellow lined hatched area reserved for deliveries to the Civic Hall and is not laid out as car parking spaces or used for car parking. There will therefore be no loss of income to CEC if this land is transferred and this will provide adequate space for the necessary rear exit from the Civic Hall and tidy up both Council's boundaries
- 4.5. The Town Council would take on full accountability for all aspects of the transfer including all running costs and existing bookings, in turn, the Town Council would receive any income associated with the rent of the Gables. The Town Council has asked for both the Gables and the small car park at the rear of the building, although a general assumption was made that no car parking would transfer, a provision was made within the original 2011 report to transfer car parks that were an integral part of the running of the facility and in this case the associated use and transfer of the car park is deemed as essential.

5. Background/Chronology

- 5.1. It is important to remember that Nantwich were one of the leading Town Councils during the initial transfer process and were among the first to take responsibility for the direct running of assets.
- 5.2. Cheshire East Council is committed to delivering services tailored to its individual communities and has a borough wide ambition to create a network of hubs that service the local needs of residents by the people who understand their communities best.
- 5.3. In some cases this means moving more to local ownership (which is in line with the original transfer policy) so that the asset can be better utilised or as in Nantwich's case, be sold as part of a local review and the proceeds be reinvested for the good of the community.
- 5.4. In Nantwich, a network of Community Hubs with a focal point at the Civic Hall, will ensure that assets are sustainable and that they work together to provide the right services, in the right places, at the right times.
- 5.5. The Town Council have identified a series of improvements to the Civic Hall, part of which will provide a community hub for Nantwich, these in turn will secure the future of the Civic Hall as a community building by:
 - maximising letting income to reduce operating costs
 - providing accommodation for community groups such as Citizens Advice Bureau and Luncheon Club
 - providing an up to date venue for groups and activities arising from the Community Hub concept
 - enabling staging of more shows and concerts
 - enabling the building to be operated in part or in combination with the library
- 5.6. In order for the proposed development of the Civic Hall a small amount of the existing car park to the rear of the building will be required as well as a small part of the hatched area to the side, this does not affect the current number of parking spaces but may require the car parking order to be amended.
- 5.7. The Town Council has put forward a proposal and outline feasibility plans developed by Bower Edleston Architects Ltd, together with cost estimates for the initial scheme.

6. Wards Affected and Local Ward Members

- 6.1. Nantwich North and West

- 6.1.1. Cllr P Butterill

6.1.2. Cllr A Moran

7. Implications of Recommendation

7.1. Policy Implications

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

7.1.2. This is in line with the original transfer policy that was approved by Cabinet on the 5th September 2011, other than as to the terms of overage on disposal of assets, and as set out earlier in this report.

7.2.1 Legal Implications

7.2.1.1 Local authorities are able to dispose of land and buildings at less than the best consideration reasonably obtainable under the General Disposal Consent (England) 2003, where the 'undervalue' is less than £2million. The transfer is a disposal. The Consent requires the local authority to be of the view that the disposal is likely to help to secure the promotion or improvement of the economic, social or environmental well-being of its area or residents in its area.

7.2.1.2 There is no requirement that local authorities undertake a tendering process within the General Disposal Consent. However, there is the general requirement for authorities to follow "normal and prudent commercial practices". Where a local authority has undertaken a valuation of the asset to understand the level of the `undervalue` and has established a robust business case for transfer, there would be no further requirement to 'market test' a transfer proposal to meet the General Consent criteria.

7.2.1.3 The Council has a fiduciary duty at all times to the taxpayers and must fulfil this duty in a way which is accountable to local people.

7.2.1.4 If the Council is minded to transfer the asset to Nantwich Town Council it needs to have rationalised why the disposal brings benefits that outweigh undertaking a market process and establish it is for community purposes not likely to distort State Aid.

7.2.1.5 All disposals must comply with the European Commission’s State Aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State Aid rules, failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the occupier receives less than

approximately £156,531.00 (as at 15th March 2016) (200,000 Euros) in state aid over a 3 year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).

State aid rules can (among other things) apply to the following:

- grants
- loans
- tax breaks
- the use or sale of a state asset for free or at less than market price.

The rules can apply to funding given to charities, public authorities and other non-profit making bodies where they are involved in commercial activities. It is the activity that needs to be considered.

- 7.2.1.6 The proposed disposal of the public open space within the land concerned has been advertised under the provisions of the Local Government Act 1972. No objections or representations were received as a result of the advertising process.

7.3. Financial Implications

- 7.3.1. If the Gables is transferred to Nantwich Town Council for nil consideration then the Council will forego a capital receipt. The current net book value of the asset is £47,500 on an existing use valuation basis. However if valued on a market value. i.e. the price paid on the open market, this could be considerably higher and is anticipated to be somewhere in the region of £240,000 - £280,000, and the associated car park £25,000 - £30,000.

- 7.3.2. There is a Revenue budget for The Gables which includes £3k held by Facilities Management for repairs and maintenance and £8k in Assets for premises costs. There is no budget for the Community Centre and no staffing budget implications as it is assumed to have transferred by the start of 2016-17.

7.4. Equality Implications

None

7.5. Rural Community Implications

- 7.5.1. None

7.6. Human Resources Implications

- 7.6.1. There is a member of staff employed at The Gables who has a TUPE right, the individual concerned has been consulted on the proposed transfer.

7.7. Public Health Implications

7.7.1. None

7.8. Other Implications (Please Specify)

7.8.1. None

8. Risk Management

8.1. There is a risk that this will set a precedent for future transfers, however each and every case is considered on its own merit and where there is any change to policy already set out in the 5th September 2011 report this will be reported back to Cabinet for a decision.

9. Access to Information/Bibliography

9.1. Cabinet report 5th September 2011.

10. Contact Information

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Cheshire East Council

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Director of Legal Services
Subject/Title:	Review of Policy and Procedures – Surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA)
Portfolio Holder:	Councillor Paul Findlow, Corporate Policy and Legal

1. Report Summary

1.1. The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to consolidate and update a range of law enforcement investigative powers to ensure these powers were fit for purpose, as well as being compliant with the UK's obligations under the European Convention on Human Rights. A number of codes of practice have also been issued under this Act. The Protection of Freedoms Act 2012 introduced additional safeguards in respect of certain surveillance undertaken by local authorities.

1.2. Cheshire East Council occasionally needs to use directed surveillance in order to carry out its enforcement functions effectively, e.g. planning enforcement, licensing enforcement, trading standards, environmental health and community safety investigations. RIPA provides a regulatory framework to enable public authorities to obtain information through the use of certain covert investigatory techniques.

1.3. In December 2014, the OSC updated RIPA procedures and guidance. These changes have been incorporated into the Council's own policy and procedures, together with recommendations following the last RIPA inspection. The updated policy and procedure is attached at Appendix 1. Training materials have been updated accordingly and a new programme of training implemented.

2. Recommendation

2.1 It is recommended that Cabinet review and approve the updated RIPA Policy and Procedures.

3. Reasons for Recommendation

3.1 Using RIPA powers can conflict with an individual's human rights and so it is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. By following the authorisation procedures set out in RIPA legislation, and contained within the Council's

own Policy, officers can demonstrate that any surveillance is necessary for a purpose permitted by the Human Rights Act 1998 and that it is a proportionate measure to take, given all the circumstances.

4. Other Options Considered

None.

5. Background

5.1 It is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. In particular, it is essential that covert surveillance is only used when it is necessary and proportionate to do so. Therefore, this must be properly authorised and recorded, the tests of necessity and proportionality must be satisfied, and the potential for collateral intrusion must be considered and minimised. Authorisations must be granted by a Magistrate before any activity takes place.

5.2 The RIPA Policy and Procedures were last updated in December 2012. The Policy and Procedures attached at Appendix 1 were updated in December 2015 and require Cabinet approval.

The main changes are as follows:

- Addition of Paragraph 5.3 to cover the use of social networking sites and the internet
- Paragraph 5.7 – the role of the Authorising Officer has been more clearly defined
- Paragraph 6.6 – the Cancellation procedure has been changed to emphasise the responsibility of the Authorising Officer
- Paragraph 6.8 has been added to include details of a separate central register of Applications for Communications Data. These were previously included in the central register for Applications for Directed Surveillance, but, as they are inspected separately by a different Commisisoner, they are now two separate registers.
- Amendments to reflect changes to job titles identified and minor typographical corrections within the Policy and Procedures.

6. Wards Affected and Local Ward Members

All wards

7. Policy Implications

None.

8. Legal Implications

8.1 Given the possible infringement of people's human rights when using these powers, it is important that the Council complies fully with the law and its own policy and that it reflects on its use of these powers to ensure it is proportionate at all times.

9. Financial Implications

9.1 Failure to comply with the legislation can lead to the Officer of the Surveillance Commissioner withdrawing the Council's ability to conduct directed surveillance for a period of time. This would have a detrimental impact on the Council's ability to conduct investigations. Fines may also be imposed if the Council were found to be breaching Human Rights legislation.

10 Human Resources implications

None.

11. Equality Implications

None.

12. Rural Community Implications

None.

13. Public Health Implications

None

14. Risk Management

14.1 The impact on the Council of not complying with the legislation would be significant, as identified above in 8.1 and 9.1.

15. Background Papers

15.1 <https://osc.independent.gov.uk/wp-content/uploads/2015/06/OSC-Annual-Report-2014-15-web-accessible-version.pdf>

15.2 OSC Procedures & Guidance Document - 2014

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SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

POLICY AND PROCEDURES

December 2015

1.0 INTRODUCTION

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a regulatory framework to enable public authorities to obtain information through the use of certain covert investigatory techniques.

The Protection of Freedoms Act 2012, which came into force on 1st November 2012, requires that applications to use covert surveillance techniques must have prior judicial approval. In addition, restrictions limiting the use of surveillance to the investigation of offences which attract a custodial sentence of six months or more have been introduced for certain types of surveillance activity.

2.0 BACKGROUND

An individual has rights, freedoms and expectations, which are guaranteed by the European Convention and the Human Rights Act 1998. Respect for these rights is fundamental to the operation of government within the UK. Using RIPA powers can conflict with and cause the suspension of an individual's human rights, and so it is imperative that, when investigating wrongdoing, certain conditions are met in each case, in order that successful prosecutions can be made.

In particular, RIPA requires that covert techniques are only used when it is necessary and proportionate to do so. Compliance with RIPA will significantly reduce the likelihood of any surveillance carried out by the Council being unlawful, and therefore subject to legal challenge.

Surveillance by a public authority is likely to constitute an infringement of and suspension of an individual's rights and freedoms which are protected by the Human Rights Act 1998. However, by following the authorisation procedures set out by RIPA, officers of the Council are ensuring that they can demonstrate that the surveillance is necessary for a purpose permitted by the Human Rights Act 1998 and that it is a proportionate measure to take, given all the circumstances.

Cheshire East Council will, on occasion, need to use covert surveillance in order to carry out its enforcement functions effectively. Examples of enforcement activities which may require the use of RIPA include benefit fraud, planning enforcement, licensing enforcement, trading standards, environmental health and community safety investigations. RIPA powers can be used where it is demonstrated that viable alternatives to obtaining evidence to mount a prosecution have been considered, but are not appropriate. A local authority may only use covert surveillance for the purpose of the prevention or detection of serious crime.

3.0 USE OF COVERT SURVEILLANCE IN LOCAL AUTHORITIES

Local authorities are not authorised to carry out any form of intrusive surveillance. **Intrusive surveillance** is defined in Section 26 (3) of RIPA as:

- covert surveillance, which is carried out in relation to anything taking place on any residential premises or in any private vehicle; and involves the presence of an individual on the premises or in the vehicle, or is
- carried out by means of a surveillance device (e.g. a listening or tracking device in a person's home or in his/her private vehicle).

Local authorities are restricted to three techniques they are permitted to undertake within covert surveillance, i.e.

- using 'directed' surveillance
- deploying a Covert Human Intelligence Source (CHIS)
- acquiring communications data.

Before using any of these three techniques, the local authority is required to obtain the authorisation of a very senior officer of the Council and, additionally, ensure that approval has been granted by a Justice of the Peace/Magistrate.

3.1 Types of surveillance available to Local Authorities

'Directed Surveillance' is essentially covert surveillance in places open to the public. It is defined as

- Covert
- Likely to obtain private information
- Carried out in a publicly accessible place
- Pre-planned against a specific individual or group
- Conducted otherwise than as an immediate response to events

It includes surveillance by person or device to:

- Observe someone's movements
- Eavesdrop on conversations
- Photograph or film people or events
- Track vehicles

A further restriction has been placed on the use of directed surveillance to prevent local authorities using this for low-level cases. The Protection of Freedoms Act 2012 introduced a crime threshold, whereby local authorities will only be able to use this power when investigating offences which attract a custodial sentence of six months or more or an offence relating to the sale of alcohol or tobacco products to minors.

3.2 A 'Covert Human Intelligence Source' (CHIS) can be either an undercover officer or a member of the public acting as an informant. The CHIS is someone who

- establishes and maintains a relationship for a covert purpose
- covertly uses the relationship to obtain information or to provide access to information from another person
- covertly discloses the information derived from the relationship to the Council

Where the CHIS is under 18, special risk assessments need to be carried out for each case.

3.3 Access to communications Data

Under RIPA legislation, the Council is limited to accessing only service user and subscriber data, i.e. the 'who', 'when' and 'where' of a communication – not the actual content.

4.0 APPLYING THE RIPA PRINCIPLES

4.1 The tests of necessity and proportionality

Use of covert surveillance should only be authorised if the Authorising Officer is satisfied that the action is both **NECESSARY** (in a democratic society) for the prevention or detection of serious crime and **PROPORTIONATE**. The Human Rights Act defines a measure or action as proportionate if it:

- impairs as little as possible the rights and freedoms (of the individual concerned and of innocent third parties), and
- is carefully designed to meet the objectives in question, is not arbitrary, unfair or based on irrational considerations.

4.2 Collateral intrusion

In the case of both directed covert surveillance and the use of a covert human intelligence source, the Authorising Officer must also take into account the risk of intrusion into the privacy of persons other than those who are directly the subject of the investigation or operation. This is termed "collateral intrusion". Officers carrying out the surveillance should inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. Consideration should be given to whether the authorisation should be amended and re-authorised or whether a new authorisation is required.

5.0 PROCEDURES FOR IMPLEMENTING COVERT SURVEILLANCE

5.1 General

All covert surveillance must be properly authorised and recorded, the tests of necessity and proportionality must be satisfied, and the potential for collateral intrusion must be considered and minimised. Authorisations must be granted by a Magistrate before any activity takes place.

Any officer intending to undertake covert surveillance or use a covert human intelligence source must only do so if other means of obtaining it have been considered but are not viable.

Embarking upon covert surveillance or the use of a covert human intelligence source without authorisation, or conducting covert surveillance outside the scope of the authorisation, will not only mean that the “protective umbrella” of RIPA is unavailable, but may result in disciplinary action being taken against the officer/officers involved. It may result in the criminal investigation being compromised as the evidence will be considered to have been obtained unlawfully.

All relevant Council contracts issued to contractors/subcontractors must include a term that this policy and associated procedures are to be observed when operating on behalf of the Council.

Directed surveillance may only be carried out on residential premises if a member of the public has requested help or made a complaint to the Council, and if written permission to conduct the surveillance has been obtained from the householder or tenant from whose premises the surveillance will be carried out.

5.2 Closed Circuit Television (CCTV)

CCTV systems are not normally within the scope of RIPA. However, if they are used for a specific operation or investigation, or if automatic facial recognition by means of CCTV is used, authorisation for the use of directed surveillance must be obtained by the investigating officer either from the Police or the Council depending on who is leading the investigation.

5.3 Social Networking Sites (SNS) and other Internet sites

The fact that digital investigation is easy to conduct does not reduce the need for authorisation when necessary and consideration must be given to whether authorisation under RIPA should be obtained.

Care must be taken to understand how the SNS being used works and Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

It is the responsibility of individuals to set privacy settings to protect against unsolicited access to their private information. Unprotected data may be deemed published and no longer under the control of the author but there is a reasonable

expectation of privacy if access controls are applied. Where privacy settings are available and not applied the data may be considered 'open source' and an authorisation is not usually required. However, repeat viewing of "open source" sites may be deemed directed surveillance and this should be borne in mind.

If it is necessary and proportionate for the Council to covertly breach access controls, an authorisation for directed surveillance will be required. Consideration may need to be given to authorisation of a CHIS if the Council wishes to establish a relationship with an individual through a SNS or website, i.e. if the activity is more than mere reading of the site's content.

An officer of the Council must not set up a false identity for covert purposes without authorisation.

5.4 Officers able to make authorisations

Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources Order 2010 (2010/521), the role of Authorising Officer for local authorities is restricted to the Chief Executive and Executive Directors. For applications for directed surveillance and the acquisition of communications data, the Authorising Officers for the Council are, similarly, the Chief Executive and members of the Management Group Board. The Director of Legal Services is not an Authorising Officer, as this post assumes responsibility as the Monitoring Officer, to ensure that the Council complies with the requirements of RIPA legislation.

In cases which require the use of a CHIS, or cover confidential information, e.g. it is subject to legal privilege or confidential personal information, which is particularly sensitive, the Authorising Officer is the Chief Executive or, in his or her absence, an Executive Director or the Chief Operating Officer. Authorising Officers should not be responsible for authorising investigations or operations in which they have had or are likely to have any direct involvement. When such authorisation is required, this should be sought from an alternative Authorising Officer, as appropriate.

5.5 Authorisation for access to communications data

The legislation requires that a Home Office accredited person, a Single Point of Contact (SPOC), facilitates the acquisition of the communications data requested. The SPOC can be either an officer of the council or a member of an external organisation. Local authorities are permitted to use the services of the National Anti Fraud Network (NAFN) to scrutinise applications and provide advice, to ensure the Authority acts in an informed and lawful manner. By doing this, the Authority avoids the requirement of appointing an individual officer who has received Home Office accreditation. The accredited officers at NAFN scrutinise applications independently and, following final approval from the Justice of the Peace/Magistrate, acquire the communications data on behalf of the Council. The use of NAFN is to be reviewed on an annual basis.

5.6 The role of the Investigating Officer

It is the responsibility of the Investigating Officer to present the facts of the application, i.e.

- the crime to be investigated and the offence/sentence it attracts
- the reasons why it is proposed to conduct the investigation covertly
- what covert tactics are requested and why
- on whom the covert surveillance will be focused and who else may be affected by it
- how it is intended to conduct the surveillance
- the Who, What, When, Why & How

5.7 The role of the Authorising Officer

It is the role of the Authorising Officer to:

- demonstrate his/her satisfaction that use of covert surveillance is necessary for the crime being investigated by setting out in their own words why they are satisfied the activity is necessary
- demonstrate how he/she has reached the conclusion that the activity is proportionate to what it seeks to achieve and the reasons why the methods are not disproportionate
- ensure the application states explicitly what is being authorised, against which subjects, property or location. It is his/her responsibility to ensure those who conduct the surveillance are clear on what has been authorised.

In order to give proper consideration to the potential for collateral intrusion, the Authorising Officer must fully understand the capabilities and sensitivity levels of equipment intended to be used and where and how it is to be deployed. He/she may require a Privacy Impact Assessment to be prepared. Particular care should be taken when data or information is obtained from open or unevaluated sources such as the internet or social networking sites. (See paragraph 5.3)

5.8 The role of the Justice of the Peace/Magistrate

Under the Protection of Freedoms Act 2012, authorisations/applications will not come into effect unless and until approval by a Justice of the Peace has been obtained. Applications to a Justice of the Peace for an order, approving the granting or renewal of a RIPA application, will include the signed detailed authorisation form, along with a Judicial Application for Approval form, to be completed by the local authority, and an order which the Justice of the Peace will complete in order to record his/her decision.

The role of the Justice of the Peace is to examine the RIPA form, consider the justification for use of the technique, and cross-examine an attending Local Authority representative, if it is necessary to clarify particular points, and finally, record his/her decision.

The form and supporting papers must by themselves make the case. It is not sufficient for the Justice of the Peace to rely on oral evidence, where this is not

reflected or supported. The Council's Investigating Officer will be required to attend as the local authority representative to answer any queries the JP may have.

5.9 Outcomes

The order which the Justice of the Peace will complete, reflecting his/her decision, will identify one of the three following potential outcomes:

- Approval granted.
- Approval refused - the Council may not use the covert technique but may re-apply if significant new information comes to light or if technical errors in the initial application have been addressed.
- Refuse and Quash – the council may not use the covert technique. This decision might be used where the JP is of the opinion the application is fundamentally flawed.

5.10 The role of the Director of Legal Services/Monitoring Officer

The Director of Legal Services/Monitoring Officer is designated as being responsible for the integrity of the process as follows:

- ensuring compliance with all relevant legislation and with the Codes of Practice
- engagement with the Inspectors from the Office of the Surveillance Commissioner when they conduct their inspections and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner
- monitoring authorisations and conducting a quarterly review of applications, authorisations, refusals, reviews, renewals and cancellations.

5.11 The role of Elected Members

It is considered good practice for Elected Members to undertake a formal scrutiny role in relation to RIPA, and review the Council's use of it on an annual basis. However, they should not be involved in making decisions on specific authorisations.

The Monitoring Officer should ensure that an Annual Report regarding the Council's use of RIPA is submitted to the Council's Audit & Governance Committee. The report should include details of the overall number and type of authorisations granted and the outcome of the case, where known. In addition, the report should provide a breakdown of the same information by service or groups of services, as appropriate.

The report should also include the results of the most recent inspection conducted by a representative of the Office of Surveillance Commissioners, where applicable.

6.0 PROCEDURES FOR GAINING APPROVAL

6.1 General

At departmental level, the application for authorisation must be in writing (electronically typed) and on the appropriate form, which must be completed in full. Officers should ensure that they use the current form available directly from the Home Office website (<https://www.gov.uk/government/collections/ripa-forms--2>).

Before applications are authorised they must be forwarded to the Compliance and Customer Relations Team to be checked by an approved 'Review Panel', currently made up of Compliance & Customer Relations Manager, Senior Compliance & Customer Relations Officer and Community Safety Delivery Manager (RIPA Trainer), and recorded in the **Central Record of Authorisations**. A unique reference number will be allocated at this stage. Officers requesting authorisation for directed surveillance should complete a risk assessment, which should be submitted with the authorisation request.

Officers requesting authorisation to use a covert human intelligence source ("CHIS") must always complete a risk assessment and submit it with the authorisation request

6.2 Document retention

All relevant documentation, including a copy of the authorisation, a record of the period over which surveillance has taken place, any risk assessment, notebooks, surveillance logs and other ancillary documentation should be retained at departmental level for a period of six years from the date of commencement of the surveillance, at which point they should be securely destroyed.

6.3 Duration of authorisations

Authorisation of directed surveillance will cease to have effect (unless renewed) either on specific cancellation (within the period of three months) or at the end of a period of three months (directed surveillance) or twelve months ("CHIS"), beginning with the day on which the authorisation was granted by the Justice of Peace/Magistrate.

6.4 Reviews

Regular monthly reviews of authorisations should be undertaken by the Authorising Officer to assess the need for surveillance to continue. The Council has chosen to instigate more frequent fortnightly reviews. All reviews should be completed using the appropriate form. It is important to note that reviews cannot broaden the scope of the original authorisation, but can reduce it for minor changes.

6.5 Renewals

If, at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, he/she may renew it in writing. All applications for the Renewal of an Authorisation for Directed Surveillance should be on the appropriate form, which must be completed in full.

6.6 Cancellations and handling of surveillance material

It is a statutory requirement that authorisations are cancelled as soon as they are no longer required. The Authorising Officer (or Investigating Officer in the first place) who granted (or last renewed) the authorisation must cancel it, if he is satisfied that the activity no longer meets the criteria for which it was authorised, or that it has fulfilled its objective.

If the Authorising Officer is no longer available, this duty will fall to the person who has taken over the role of the Authorising Officer. On cancellation of an authorisation, the Authorising Officer must be satisfied that the product of any surveillance is properly retained and stored or destroyed. If the surveillance product is of no evidential or intelligence value, it should be destroyed without delay, in accordance with Data Protection requirements. If the surveillance product is of potential evidential or intelligence value, it should be retained on the legal file, in accordance with established disclosure requirements, commensurate with any subsequent review.

When cancelling an authorisation, the Authorising Officer should:

- record date and times that surveillance took place and date the order to cease activity was made
- record reason for cancellation
- ensure surveillance equipment is removed and returned
- provide direction for management of product
- record value of surveillance, i.e. whether objectives of activity were met

6.7 Cessation of activity

As soon as the decision is taken that the authorised activity should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject, or to cease using the covert human intelligence source. Documentation detailing the date and time when any cancellation instruction was given by the Authorising Officer should be retained for a period of six years, at which point it should be securely destroyed.

6.8 Central Record of Authorisations

The Compliance and Customer Relations Team is responsible for ensuring that a Central Record of Authorisations is maintained. This must be updated whenever an authorisation is granted, reviewed, renewed or cancelled. The record should be made available to the relevant Commissioner or an Inspector from the Office of Surveillance Commissioners, upon request. These records should be securely retained for a period of three years from the ending of the authorisation, at which point they must be securely destroyed. It is necessary that the original hand signed (wet signature) authorisation is maintained within the Central Record of Authorisations, to provide a valid audit trail for court purposes. The Compliance and Customer Relations Team also retain copies of other RIPA forms such as those from the DWP where CEBC staff are involved in surveillance but are not the lead officers. The Monitoring Officer should review and sign this Record on a quarterly basis.

With regard to **‘directed’ surveillance** the Central Record of Authorisations will contain a copy of the authorisation, together with the following information:

- the type of authorisation
- the date the authorisation was given
- the name of the Authorising Officer
- the departmental reference number of the investigation or operation
- the title of the investigation or operation, including a brief description and names of subjects, if known
- date of approval from Magistrates Court, name of Magistrate and outcome
- whether the urgency or oral provisions were used, and if so why
- in the case of a self authorisation by the Authorising Officer, a statement in writing that he/she expressly authorised the action (only in exceptional circumstances)
- if the authorisation is renewed, the date of renewal and who authorised it, including the name and grade of the Authorising Officer
- whether the investigation or operation is likely to result in obtaining confidential information
- the date of cancellation of the authorisation
- where collateral intrusion may be an issue, a copy of the Privacy Impact Assessment

With regard to a **covert human intelligence source (“CHIS”)**, the Central Record of Authorisations must contain the following additional information:

- a copy of the authorisation, together with any supplementary documentation and notification of the approval given by the Authorising Officer
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested
- the reason why the person renewing an authorisation considered it necessary to do so
- any urgent authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent
- the risk assessment made in relation to the source (“CHIS”)
- a record of the results of any reviews of the authorisation
- the reasons, if any, for not renewing an authorisation
- the reasons for cancelling an authorisation - cancellations are to be completed on the appropriate form
- the date and time when any instruction was given by the Authorising Officer to cease using a “CHIS”
- where collateral intrusion may be an issue, a copy of the Privacy Impact Assessment

With regard to **Applications for Communications Data**, a separate Central Record of Authorisations will be maintained which will contain:

- a copy of the authorisation together with the following information:
- applicant’s name and job title
- the operation name, including a brief description of the nature of the operation and names of subject(s) if known

- the name and job title of Designated Officer
- name of the accredited SPOC
- date the authorisation was given by the Designated Officer
- date of approval from the Magistrate's Court, name of Magistrate and outcome

6.9 Additional requirements for authorisation of covert human intelligence sources only

6.9.1 Covert human intelligence sources may only be authorised if the following additional arrangements are in place:

- There is an employee of the Council with day to day responsibility for dealing with the source and, for the source's security and welfare, there is a Senior Officer who has general oversight of the use made of the source.
- An officer who is responsible for maintaining a record of the use made of the source; these records will contain any matters specified by the Secretary of State – The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725) set out these matters.
- Records disclosing the identity of the source and the information provided by him/her will not be made available to others except on a need to know basis

6.9.2 Vulnerable individuals (i.e. a person who is in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care or protect himself against significant harm or exploitation) may be authorised to act as a CHIS only in the most exceptional circumstances.

6.9.3 Authorisations for juvenile sources (under 18) should only be granted if the provisions contained in The Regulation of Investigatory Powers (Juveniles) Order 2000 (SI 2000/2793) are satisfied. Any authorisation should be granted by the Chief Executive or (in his/her absence) an Executive Director or the Chief Operating Officer. The duration of an authorisation for the use or conduct of juvenile sources is one month.

6.9.4 If a juvenile source (under 18) is to be used, the Authorising Officer is responsible for obtaining the written consent of the parent or guardian or the person caring for the juvenile, unless to do so would compromise the juvenile's welfare or safety. The Authorising Officer is also responsible for ensuring that an appropriate adult is present at any meeting. An appropriate adult is a parent or guardian, a person who has assumed responsibility for the wellbeing of the CHIS or, in their absence, a person who is responsible for the wellbeing of the CHIS and who is over 18, who is neither a member of, nor employed by, the Council.

6.9.5 On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his/her parent or any person who has parental responsibility for him/her. The processing of information obtained as a result of surveillance should be restricted to specified employees. Only relevant senior managers should have access to the information collected to enable appropriate action to be taken. They must respect the confidentiality of all

information and only disclose the information to other appropriate senior managers where further action is required.

6.9.6 When a CHIS is used, a “Handler” (who can be an Officer of the Council), and who must have received appropriate training, should be designated as having the day to day responsibility for dealing with the CHIS. This responsibility should also extend to the security, safety and welfare of the CHIS. In addition, a “Controller” should be designated to have the general oversight of the use made of the CHIS. These requirements also apply in cases in which the CHIS is an officer of the Council. The officer requesting authorisation for the use of a CHIS must also complete a risk assessment and submit it to the Authorising Officer, together with the authorisation request.

6.10 Test purchases of sales to juveniles

When a young person carries out test purchases at a series of shops/off licences, it is necessary to obtain an authorisation for ‘directed’ surveillance; it is not necessary to prepare authorisations for each premise to be visited, providing each is identified at the outset but, in all cases, it is necessary to prepare a risk assessment in relation to the young person and to have an adult on hand to observe the test purchase.

7.0 Training

Regular training sessions for Authorising Officers and Investigating Officers will be arranged internally. No officer who has not attended a training session will be permitted to instigate or authorise any application for the use of RIPA powers.

The Council currently has five trained authorising officers –
Chief Executive
Chief Operating Officer
Director of Adults Social Care
Director of Children’s Social Care
Director of Public Health

8.0 Review of policy

This Policy and Procedures should be reviewed annually, or sooner if necessary (e.g. in the event of legislation being amended or revoked).

For further guidance please see the relevant Home Office guidance available from The Home Office website <https://www.gov.uk/government/organisations/home-office> or contact Compliance and Customer Relations.

<https://osc.independent.gov.uk/wp-content/uploads/2015/06/OSC-Annual-Report-2014-15-web-accessible-version.pdf>



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