

Cabinet Agenda

Date: Tuesday, 12th July, 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
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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 - 12)

To approve the minutes of the meeting held on 14th June 2016.

6. **Big Mill, Congleton, Dangerous Structure - Emergency Measures** (Pages 13 - 22)

To inform Cabinet of a decision taken by the Leader of the Council under urgency procedures on 9th June 2016 in relation to the demolition of Big Mill, Congleton.

7. **Crewe Green Roundabout Preliminary Designs** (Pages 23 - 36)

To consider the design options for this scheme and authorise a public consultation exercise.

8. **Ambition for All - Partnerships Structure and Strategy 2016-2020** (Pages 37 - 50)

To consider a proposal to refresh the Ambition for All Partnership Strategy and its proposed consultation plan.

9. **Better Care Fund (BCF) Carer Breaks 2016/17 Grant Awards** (Pages 51 - 54)

To approve the award of grants to individual organisations in respect of the Better Care Fund Carer Breaks for 2016/17.

10. **Cheshire East Council Enforcement Policy** (Pages 55 - 164)

To consider a report on the development of a revised Cheshire East Enforcement Policy.

11. **Strategic Housing: Housing Related Support Procurement** (Pages 165 - 176)

To consider a report on the procurement of a new housing-related support service.

12. **Water Procurement** (Pages 177 - 182)

To consider a report on the procurement of water services via the Public Sector Water Strategy Group framework from April 2017.

13. **Asset Transfer Framework** (Pages 183 - 212)

To consider the adoption of an Asset Transfer Framework and a Land and Property Lease/Disposal Framework.

14. **Treasury Management Annual Report 2015/16** (Pages 213 - 232)

To receive the Treasury Management Annual Report for 2015/16.

15. **2015/16 Final Outturn Review of Performance** (Pages 233 - 308)

To consider a report on the Council's financial and non-financial performance at the final outturn stage of 2015/16.

THERE ARE NO PART 2 ITEMS

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Cabinet**
held on Tuesday, 14th June, 2016 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor Rachel Bailey (Chairman)

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

Members in Attendance

Councillors C Andrew, Rhoda Bailey, G Baxendale, B Burkhill, P Butterill,
S Corcoran, S Edgar, F Fletcher, D Flude, M Grant, G Hayes, S Hogben,
J Macrae, A Moran, S Pochin, A Stott, G Wait, B Walmsley, M Warren and
G Williams

Officers in Attendance

Mike Suarez, Peter Bates, Andrew Round, Bill Norman, Steph Cordon, Jacky
Forster, Paul Griffiths, Ralph Kemp, Dominic Oakeshott, Ann Riley and Paul
Mountford

Apologies

Councillors D Brown, P Groves and L Wardlaw

The Chairman referred to the recent extreme weather conditions leading to
localised flooding in parts of the Borough and congratulated the Cheshire East
services and other agencies involved for the professional way in which they
had dealt with the matter and the multi-agency approach they had adopted.

The Chairman congratulated Cheshire East Councillor Alift Harewood on
being awarded an MBE in the Queen's Birthday Honours for services to the
community. The Chairman also congratulated the Leader of Staffordshire
County Council, Councillor Philip Atkins, on being awarded an OBE.

Finally, the Chairman referred to Shawn Reed, who worked for ANSA and who
had sadly suddenly passed away over the bank holiday weekend. Shawn's
funeral would be held on Tuesday, 21st June. All present stood for a minute's
silence as a mark of respect.

1 DECLARATIONS OF INTEREST

In relation to Item 6 on the agenda: 'Review of Available Walking Routes
to School', the Chairman, Councillor Rachel Bailey, declared a non-
pecuniary interest on the basis that her sister was Chairman of the
Governors of Brine Leas School. Councillors A Arnold, L Durham and J P
Findlow declared non-pecuniary interests in the same item as Governors
of the Fallibroome Academy.

2 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Manny Botwe, Headteacher of Tytherington School, expressed concern about the safety of his students if required to walk to school along Middlewood Way. The Chairman thanked Mr Botwe for making his comments on the matter which would be considered more fully later in the meeting.

3 QUESTIONS TO CABINET MEMBERS

Councillor A Moran asked if the Council should congratulate the people of Cheshire East for organising events to celebrate the Queen's 90th birthday. The Chairman agreed that local people had made a significant contribution to mark the event.

Councillor Moran also referred to discussions between Cheshire East, Cheshire West and Chester and Warrington Councils regarding proposals to devolve powers to a combined authority with an elected mayor. He wondered when opposition members would be briefed. The Chairman replied that the Council had been exploring the feasibility and potential benefits of such an arrangement in discussion with the other two authorities but that Warrington had now decided to put the matter on hold. The Chief Executive added that similar discussions had been taking place around the country. He was happy to attend opposition group meetings to brief them on the matter.

Councillor M Warren asked what plans the Council had to ensure that it could enforce parking policy across the Borough, given that the number of enforcement officers had fallen to 10. The Chairman replied that a report on the matter would be coming to Cabinet on 12th July. The Portfolio Holder for Communities and Health undertook to provide further information in a written response.

Councillor R Fletcher referred to a number of housing developments which had taken place on land in Alsager, the planning permissions for which had required the provision of play areas; those play areas had not yet been provided. He sought further information about what was happening with the play areas and also raised a number of other issues regarding an unsafe bridge and improvements to footways and footpaths in the area. The Portfolio Holder for Housing and Planning confirmed that he had received a list of the issues raised by Councillor Fletcher and would respond to him in writing.

Councillor S Corcoran asked why a letter from Fiona Bruce MP had not been included in the results of the public consultation on children's centres. The Chairman asked the Director of Education to look into the matter and to provide a written reply.

Councillor Corcoran also asked what progress was being made with regard to the resettling of Syrian refugees in Cheshire East. The Portfolio Holder for Communities and Health replied that there was an agreed plan to take refugees and current indications were that this would occur around about October.

Councillor S Hogben said he had raised a question about the Council's municipal parks strategy at the April Cabinet meeting and had been promised a written response which he had not yet received. The Chairman apologised and undertook to chase this up.

Councillor D Flude, having raised the matter at a previous meeting, asked if Cheshire East Council was to become a multi-academy trust. At the request of the Chairman, the Director of Education replied that a full day conference had just taken place with head teachers from across the Borough which had enabled an initial dialogue on the matter to take place. The Council had not taken a position on the matter but was willing to consider proposals from schools. The officers were considering the feedback from the conference with a view to preparing a concept paper on the matter.

4 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 3rd May 2016 be approved as a correct record.

5 REVIEW OF AVAILABLE WALKING ROUTES TO SCHOOL

Cabinet considered a report on a review of available walking routes to school.

A small number of routes had been assessed as available under the Council's current published policy but free transport was currently provided. There was therefore a need to regularise the position for all families across Cheshire East to ensure that where routes had been assessed as available to walk the Council's policy was implemented consistently. It was also proposed that other routes in the Borough be improved, which would result in further routes being classified as available with the consequence that free school transport for those improved routes would subsequently be withdrawn.

National and local policy specified that parents should be given a minimum of 12 weeks' notice in writing where a route that was previously unavailable became available and home to school transport was to be withdrawn. To ensure that schools and parents had an opportunity to comment on possible changes and to consider their future transport arrangements, it was proposed that information on the proposed changes would be made available to schools and parents in the summer term of

2016 for a period of at least 12 weeks (excluding August) with a proposal that free transport be withdrawn from the start of April 2017.

The report outlined the appeal processes available for anyone who felt dissatisfied with an assessed route or who may suffer hardship as a result of the withdrawal of free transport.

A number of members spoke on this matter and the Chairman thanked them for their contributions to the debate. The Chairman also added the views of Edward Timpson, Crewe and Nantwich MP, in his constituency role.

RESOLVED

That Cabinet

1. notes the reclassification of routes that have been re-assessed as available walking routes to school and agrees that free school transport for those routes be withdrawn from April 2017; and
2. authorises the Executive Director – People to spend £150,000 from the Local Transport Plan budget allocation for 2016/17 to improve further walking routes to school to bring them up to required standard so that free school transport for those improved routes may be subsequently withdrawn.

6 CONGLETON LINK ROAD - APPROVAL TO PROCEED WITH THE COMPULSORY PURCHASE OF LAND REQUIRED TO DELIVER THE SCHEME

Cabinet considered a report recommending approval of compulsory purchase powers to acquire land to facilitate the construction of the Congleton Link Road and associated works. The report also sought authority for officers to begin the initial engagement with contractors to understand the most appropriate future delivery strategy for the scheme.

Councillor Liz Durham abstained from voting on this matter as she would be considering the planning application for the scheme as a member of the Strategic Planning Board on 15th June 2016.

RESOLVED

That Cabinet

1. Subject to a positive resolution of the Strategic Planning Board to grant planning permission for the scheme, approves the use of the powers of compulsory purchase to undertake the acquisition of land and new rights required for the construction of the Congleton Link Road and authorises:

- a) The making of an order (or orders) under under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and all other powers as appropriate for the compulsory purchase of land and rights required for the construction of Congleton Link Road as shown on drawing No: B1832001-CPO-LTR-GA-001 ("the CPO");
- b) The making of a Side Roads Order (or orders) under Sections 8, 14 and 125 of the Highways Act 1980 and all other necessary powers to improve, stop up existing highways, construct lengths of new highway and stop up and provide replacement private means of access as required to deliver the Congleton Link Road ("the SRO");
- c) The Executive Director - Place in consultation with the Director of Legal Services to make any amendments necessary to the contemplated orders arising as a result of further design work or negotiations with landowners or affected parties or for any connected reasons in order to enable delivery of the Congleton Link Road;
- d) The Executive Director - Place in consultation with the Director of Legal Services to take all appropriate actions to secure the confirmation of the contemplated orders including:
 - i. To take all necessary action to secure the making, submission to the Secretary of State for confirmation and (if confirmed) implementation, of the SRO and the CPO including the publication and service of all relevant notices and for the Director of Legal Services to secure the presentation of the Council's case at any public inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be the execution of General Vesting Declarations;
 - ii. To negotiate and enter into agreements and undertakings with the owners of any interest in the CPO and/or the SRO ("the Orders") and any objectors to the confirmation of the Orders setting out the terms for the withdrawal of objections to the Orders including where appropriate, the inclusion in and/or exclusion from the CPO of land or new rights or the amendments of the SRO and to authorise the Director of Legal Services to agree, draw up, and to sign all necessary legal documents to record such agreements and undertakings;
 - iii. In the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) to authorise the Director of Legal Services to take all necessary steps in connection with the conduct and, if appropriate, settlement of such proceedings;
 - iv. To authorise the Director of Legal Services to appoint suitable counsel to advise and represent the Council at any Public

Inquiry held in respect of the Orders and to provide legal support to the team through the process;

- v. To confirm the appointment of Geldards LLP (solicitors) as the Council's additional legal support to the delivery of the scheme acting on behalf of the Council and under the direction of the Director of Legal services;
 - e) That, in parallel with the preparation and submission for confirmation of the Orders, the Head of Assets initiate negotiations and seek to conclude terms to acquire the land and rights (or extinguish the same) required for the Congleton Link Road by voluntary agreement and to instruct the Director of Legal Services to draw up the necessary documents and to execute such documents as are necessary to complete such acquisitions; and
 - f) To authorise the Head of Assets to negotiate and approve the payment of relevant and reasonable professional fees incurred by landowners and others with compensatable interests in taking professional advice in connection with the acquisition of their interests required for the scheme and related compensation claims and also in advancing the development or implementation of the Congleton Link Road.
- 2. Approves the continuing project development of the scheme via the Council's highway contract supplier, Ringway Jacobs, up to and including the presentation of the scheme at a future public inquiry.
 - 3. Approves that formal pre-engagement discussions with Contractors be undertaken to help inform a future procurement strategy.

7 CONGLETON LINK ROAD - FUNDING STRATEGY AND APPROVAL IN PRINCIPLE TO UNDERWRITE THE COSTS OF DELIVERING THE SCHEME

Cabinet considered a report on the funding strategy for Congleton Link Road. The report outlined the anticipated cost of the scheme, identified the provisional allocation of central government funding and predicted a level of contribution from the owners of land unlocked by the link road. It also asked Cabinet to approve, in principle, the underwriting of any remaining funding gap.

Councillor Liz Durham abstained from voting on this matter as she would be considering the planning application for the scheme as a member of the Strategic Planning Board on 15th June 2016.

RESOLVED

That Cabinet

1. notes the latest total scheme cost estimate is £90.7m, c£5.6m of which (project development costs to 31st March 2016) has already been invested by the Council;
2. notes the provisional allocation of £45m of Government funding to the project;
3. notes the existing assumptions under which land owner contributions could be garnered up to the sum of circa £23.7m;
4. notes the resultant funding gap being between £16.4m and £40.1m (dependent on the level of land owner contributions received);
5. notes the estimated payback timescales and risks surrounding land owner contribution expectations;
6. approves the underwriting, in principle, of any necessary gap funding required to deliver the link road;
7. recommends to Council that the scheme budget profile be adjusted accordingly in the Council's capital programme; and
8. authorises the Executive Director - Place, in consultation with the Director of Legal Services, to negotiate and enter into agreements with key land owners with a view to increasing certainty, as far as is practicable at this stage, as to the level of land owner contributions.

8 TATTON VISION PHASES 1 & 2

Cabinet considered a report on the Tatton Vision Phases 1 and 2.

The Tatton Vision investment programme had been approved by Cabinet in February 2011 and sought to conserve the estate, improve access, develop sustainable income bases to help reduce the reliance on Council funding and support the Council's growth strategy for its visitor economy. The report outlined specific projects which would help to achieve these objectives.

RESOLVED

That Cabinet

1. approves the Tatton Dale Farm 'Field to Fork' project as specified in the Detailed Business Case (Appendix A to the report);
2. gives delegated authority to the Head of Countryside, Culture and Visitor Economy in consultation with the Portfolio Holder with responsibility for Tatton Park, to implement the 'Field to Fork project' at Tatton Dale Farm including entering into all necessary contractual arrangements (in accordance with the Constitution) including but not

limited to procurement of building contractors, external consultants, leases and volunteer support and including the terms of the grant and approved purposes contained in the Heritage Lottery Fund grant award letter of 27/11/15;

3. gives delegated authority to the Head of Countryside, Culture and Visitor Economy in consultation with the Portfolio Holder with responsibility for Tatton Park, to approve the heads of terms for the Deed of Variation in respect of the Lease of Tatton Park dated 15th February 1961 between the National Trust for Places of Historic Interest or Natural Beauty and the County Council for the Administrative County of the County Palatine of Chester and for the Director of Legal Services to agree and execute the Deed of Variation for Tatton Park in relation to the Farm Field to Fork project;
4. approves the refreshed phase 2 Tatton Vision programme and objectives;
5. notes the high level proposals contained within the Tatton Park Phase 2 plan, with its associated £3.8m budget, and give delegated authority to the Head of Countryside, Culture and Visitor Economy in consultation with the Portfolio Holder with responsibility for Tatton Park to produce detailed business cases for these (or additional or alternative) proposals, including the procurement of external consultants and other expertise as necessary;
6. gives delegated authority to the Portfolio Holder with responsibility for Tatton Park, in consultation with the Director of Legal Services and the Chief Operating Officer, to authorise the implementation of those business cases providing that they do not have an individual value greater than £1m, as allowed for in the Constitution, such projects to be endorsed and managed in accordance with the Council's project management regime;
7. accepts that detailed business cases with a value greater than £1m be returned to Cabinet for further consideration in due course in accordance with the Constitution;
8. gives delegated authority to the Director of Legal Services (in consultation with the Chief Operating Officer) to undertake all necessary and consequential action arising from the above recommendations including but not limited to entering into any necessary legal documentation and partnership arrangements; and
9. gives delegated authority to the Head of Countryside, Culture and Visitor Economy, in consultation with the Portfolio Holder with responsibility for Tatton Park, to apply for and accept external funding including but not limited to Heritage Lottery Fund and other grants, donations and bequests in support of any of the proposals mentioned above.

9 PLAYING PITCH STRATEGY ASSESSMENT REPORT 2030

Cabinet considered the Playing Pitch Assessment Report 2030.

The Assessment Report had been prepared in line with Sport England guidelines. As the baseline supply and demand data had been collected over a period of time, it was recommended that the Strategy be updated in 2017.

RESOLVED

That Cabinet

1. endorses the draft Cheshire East Council Playing Pitch Strategy Assessment Report for consultation purposes;
2. gives the Chief Operating Officer delegated authority to finalise the Assessment Report and complete associated Actions Plans in consultation with the Portfolio holder;
3. agrees that the draft Assessment Report and Action Plans be published for public consultation;
4. agrees that the Chief Operating Officer in consultation with the Portfolio holder be given delegated authority to then finalise the Assessment Report and Action Plans, taking account of the representations received, prior to adoption by Cabinet of the completed strategy; and
5. agrees to undertake a refresh of the base data in 2017 in line with good practice as promoted by Sport England.

10 ERP REPLACEMENT PROGRAMME

Cabinet considered progress with the development of a business case for the future provision of the Council's core HR and Finance system. The report sought approval to initiate a competitive procurement exercise.

RESOLVED

That

1. the Programme Vision which has been developed in support of this programme of work be approved;
2. the positive opportunities which have been identified to date to deliver significant financial savings to this Council and Cheshire West and Chester Council through the implementation of a replacement HR and Finance system and processes be noted;

3. the request to initiate a joint procurement exercise for the purpose of refining and confirming the business case in advance of a formal decision to procure a replacement solution be approved;
4. a capital allocation of £0.387m be included in the 2016-17 capital programme for the costs to be incurred on the formal competitive procurement process and associated pre-implementation activities, to be funded from the existing approved 2016-17 capital project for an ERP replacement; and
5. authority be delegated to the Chief Operating Officer (Cheshire East Council), working alongside the Director of Professional Services (Cheshire West and Chester Council), to take appropriate decisions in relation to this programme of work and procurement exercise, ahead of the presentation of a final business case and a recommendation to Cabinet on a future procurement decision.

11 CHESHIRE EAST COUNCIL COMMUNITY EQUIPMENT SERVICE FRAMEWORK

Cabinet considered a report seeking authority for other local authorities to join the Council's Community Equipment Service Framework.

The community equipment service model, which provided fast access to high quality equipment, was vital to supporting independence. A new framework for adult equipment was about to be procured, as authorised by Cabinet of 3rd February 2015. A number of other local authorities had expressed an interest in purchasing from this innovative framework.

RESOLVED

That

1. Cabinet approves the principle that other Local Authorities and other bodies may join the Community Equipment Service Framework approved by Cabinet on 3rd February 2015;
2. authority be delegated to the Director of Adult Social Care to approve other local authorities and other bodies joining the framework subject to the total value of spend of this procurement exercise not exceeding £80 million over 4 years; and
3. the Council continue to quantify and report the efficiency benefits and value for money to the health and social care system of this framework.

12 PROCUREMENT OF STRATEGIC PARTNER TO DEVELOP MODULAR BUILD AND FUNDING FRAMEWORK AGREEMENTS FOR CHESHIRE EAST COUNCIL

Cabinet considered a report on the procurement of a strategic partner to develop modular build and funding framework agreements for Cheshire East Council.

Cheshire East Council was currently considering how to address current deliverability issues in providing both affordable and start-up homes within the Borough. As part of the process to address the lack of development, the Council was seeking to set up a framework for Modular Build and, to complement this, a possible funding framework which would capture the current funding opportunities that existed from third party sources.

RESOLVED

That

1. Cheshire East Council proceed with a suitable OJEU procurement, as detailed in Option 2 of the report, to enable the appointment of a strategic delivery partner to progress the development and delivery of a framework for Modular Build and Funding for Cheshire East Council, any of its subsidiaries and other local authorities to access;
2. once the appointment is made, approval be sought for the procurement partner to progress the development of Modular Construction and Funding frameworks for the Council and to make the Frameworks available to other contracting authorities, the procurement process to comply with the Public Contract Regulations 2015 (the Regulations);
3. Subject to this work being completed, a further report be presented which will scope out the Framework requirements for the Modular Build and Funding opportunities that will follow a separate procurement process;
4. authority be delegated to The Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets and the Portfolio Holder for Corporate Policy and Legal Services, to undertake the procurement exercise and to identify and appoint a delivery partner; and
5. authority be delegated to the Director of Legal Services to enter into the necessary legal documentation to appoint a partner and all incidental legal agreements.

13 **MANAGED PROVISION OF CONSULTANCY**

Cabinet considered a report seeking approval to award a new contract for the provision of a Vendor Neutral Managed Service to source and provide consultancy services where appropriate over the next four years. The proposed contractor, NEPRO Limited, would act as a single point interface between Cheshire East Council and the supply base which would offer many benefits, including a reduction in overall spend.

RESOLVED

That Cabinet

1. approves the award of and entering into a call off contract under the framework agreement to NEPRO Ltd for a period of 3 years with an option to extend for 12 months (maximum period of 4 years); and
2. delegates authority to the Director of Legal Services to enter into the necessary legal documentation to appoint a partner and all incidental legal agreements.

The meeting commenced at 2.00 pm and concluded at 4.28 pm

Councillor Rachel Bailey (Chairman)

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 12th July 2016
Report of: Andrew Round, Interim Executive Director, Place
Subject/Title: Big Mill, Congleton, Dangerous Structure –
Emergency Measures
Portfolio Holder: Cllr Ainsley Arnold, Portfolio Holder for Housing and
Planning

1. Report Summary

- 1.1. The purpose of this report is to update Members as to a Cabinet decision taken by the Leader of the Council under urgency procedures on 09 June 2016. The decision was to bring about the demolition of Brook Mill, Congleton because its condition posed an immediate danger to the public.
- 1.2. Big Mill, also known as Brook Mill/Brookhouse Mill/Bossons Mill in Congleton is a privately owned, Grade II listed building and part of a complex originally built for throwing and weaving silk, which dates back to 1785. It was extended in 1835 and converted for silk spinning. The 1835 Mill was for powered weaving and the listing of this building also identifies the privy shute as a particularly good example of the improvements in mill worker amenities. Big Mill was occupied until 1996 and the building is immediately adjacent to, and on one elevation adjoins, a smaller mill building (Little Mill). Little Mill has been converted to residential apartment accommodation, completed in 2011.
- 1.3. On 09 June 2016, following receipt of a Condition Survey on the building and a report received from the Council's Building Control advisors, Civicance, the decision was made to initiate emergency building control procedures so that the Council could take immediate action to demolish the building in order to address the danger to the public posed by the heavily deteriorated condition of Big Mill.
- 1.4. Although representing a regrettable loss of a building of historic significance, this action was deemed necessary to address concerns for the safety and wellbeing of those working, living and passing near the building.
- 1.5. The demolition process is now underway and is anticipated to be complete in early September 2016.

2. Recommendation

- 2.1. That Cabinet note the urgent decision taken;
- 2.2. That Cabinet note that the effect of the decision is to require funds of up to £1M to be utilised from the Council's existing approved capital programme, Investing in Heritage Buildings, to fund the expenditure. The Council will pursue recovery of its costs in this matter to the full extent possible in law.

3. Other Options Considered

- 3.1. The Decision Record of 09 June, see **Appendix A**, outlines the background to the decision and chronology of events leading up to this decision. The clear advice received on 09 June was that there was insufficient time to embark upon a process of designing structural support works, or to utilise alternative powers to require the owner to make safe the structure. The only option available to the Council was for it to exercise powers under Section 78 of the Building Control Act 1984 to make the building safe by taking immediate action to procure its demolition.

4. Reasons for Recommendation

- 4.1. The heavily deteriorated structure of Big Mill, risks harm to property and persons surrounding the building. Owing to the proximity of Big Mill to nearby residential and commercial buildings and the adjoining town centre highway network, in order to safeguard those living, working and passing near the building, demolition of the structure was considered the only option in order to remove the danger posed by the precarious condition of the structure.

5. Risk Management

- 5.1. The most significant risk to the Council is financial. The works to be undertaken on the site are currently being undertaken at the Council's expense and there is a risk that the Council will not recover these costs. As noted at **Appendix A** however, the Council will take all necessary steps to seek to reclaim those funds spent in undertaking these works, and has provided the owner of the building with an estimated budget cost and relevant documentation as to the need for action and the method of demolition.
- 5.2. There is a risk that the Council could receive claims from third parties affected by the works undertaken at Big Mill. The Council has been and will continue to liaise closely with those residents and businesses affected by the works throughout the process, and the method of the works has been designed to minimise the disruption to the local community. It is also not known at this point what is required in terms of the party wall for Little Mill, until the dismantling works take place on Big Mill in order to establish the condition and structure of the party wall. The Council will have a more

informed understanding of the implications of the demolition works for the party wall as the works to dismantle the section of building adjacent to Little Mill progress. Residents of Little Mill will be kept informed throughout the programme of works.

- 5.3. Historic England are mandated to seek to protect listed buildings, and would ordinarily oppose the demolition of the same. However, the Council has been engaging with Historic England over recent years and in particular throughout developments over recent weeks. Historic England has confirmed to the Council that it is satisfied with the engineering assessment of the rapidly deteriorating condition of the building and, that on the basis of the same, they accept that the only option would be for urgent works to be undertaken. They recognise that a solution involving the erection of structural support to the building is fraught with complications including matters of land ownership, limited curtilage and the proximity of a neighbouring business. Historic England say they are content to leave judgement with the Council as to whether or not these issues can be resolved as a matter of urgency to mitigate the imminent danger posed by the building. Latterly, and being aware that in the Council's judgement the only viable option was demolition, Historic England issued a statement on 14 June expressing their extreme disappointment that a significant part of Brooks Mill, a Grade II listed former silk mill, has deteriorated to the extent that it needs to be demolished. They added:-

“Now, in the interests of public safety, we accept that the council has to use emergency powers to address serious structural problems affecting the 7-story end block of the mill.”

6. Wards Affected and Local Ward Members

- 6.1. The site sits within the Congleton West Ward, local Members include: Councillors Paul Bates, Gordon Baxendale, George Hayes.

7. Access to Information/Bibliography

Appendix A: Decision Record – Big Mill

8. Contact Information

Contact details for this report are as follows:

Name: Andrew Round

Designation: Interim Executive Director, Place

Tel. No.: 01270 685308

Email: Andrew.Round@cheshireeast.gov.uk

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RECORD OF A DECISION TAKEN UNDER URGENCY PROVISIONS

EMERGENCY WORKS AT BIG MILL, CONGLETON

MATTER DECIDED

- 1) That the Council take immediate action to remove the danger to the public caused by the condition of Big Mill (otherwise known as Brooks Mill/Bossons Mill) Stonehouse Green in Congleton, Cheshire ("the Land"), and thereafter to take such steps as are necessary to remedy and adverse affect caused to the amenity of the area by the resultant condition of the Land utilising powers under Section 78 of the Building Act 1984 (dangerous buildings – emergency measures), Part VIII of the Town and Country Planning Act 1990 and all other enabling powers in statute and at common law.
- 2) For the avoidance of doubt, the actions hereby authorised embrace the full suite of measures that may be considered necessary to achieve the purposes set out above and any measures that are incidental or ancillary to the same or which are intended to facilitate or expedite achieving the same including but not limited to:-
 - a) Activating emergency planning processes and procedures for the protection of the public
 - b) The service of notices
 - c) The closure of highways
 - d) Entering into contracts or agreements
 - e) Entering (and authorising others to enter) on to land to undertake, facilitate or expedite surveys or works
 - f) Undertaking (or procuring the undertaking) of such works considered necessary or prudent to achieve the above purposes to include but not limited to:-
 - i) The protection of adjoining or adjacent buildings, structures and land
 - ii) The partial or full demolition of buildings or structures on the Land and the disposal of any resultant spoil

iii) Putting the Land in a condition such that it does not adversely impact upon the amenity of the area

- 3) That all steps be taken to recover all of the costs incurred in taking action to achieve the above purposes from the owner of the Land and/or any other appropriate person.

DECISION DATE

9 June 2016

DECISION TAKERS

Councillor Rachel Bailey – Leader of the Council

in consultation with

Mike Suarez – Chief Executive

Peter Bates - Chief Operating Officer (and Section 151 Officer)

Bill Norman – Director of Legal Services

AUTHORITY

Cheshire East Council Constitution dated 5 February 2016

Part 4 (Procedure Rules), paragraph 53.1 and Appendix 4 (Urgent Decisions – Executive Matters).

Authorising the urgent exercise of powers set out in Part 3 of the Constitution (Officer Scheme of Delegation) and in particular, paragraphs 1.10, 1.12, 1.29, 1.30, 2.10, 2.11, 3.19, 3.32, 3.33, 3.43, 3.52, 3.74, 3.75, 5.4, 5.6, 5.8, 9.7

KEY DECISION

No

THE DECISION

As set out in numbered paragraphs 1 – 3 above.

REASONS FOR THE DECISION

- 4) Big Mill is a Grade II listed building in a prominent location in Congleton Town Centre. It has been vacant for over 10 years. Given its heritage status, conservation area setting and prominent gateway location within the town centre, Big Mill is a key asset both for the town and within the regeneration programme

for Congleton. It is adjacent to a similar property which has already been converted for residential.

- 5) A building condition survey was commissioned by Cheshire East Council and undertaken on 13 March 2015, funded by Historic England and carried out by Buttress Conservation Architects. This survey revealed extensive deterioration of the condition of the building which required urgent works in order to address those issues which were estimated to cost approximately £450,000.
- 6) After the receipt of the final condition survey report, it was shared with the building's owner on 29 April 2015. A meeting was held with a representative of the owner on 14 May 2015 and a written response received from them on 20 May 2015 that stated the owner did not have the funds available to complete these works and disputing the costs included in the report.
- 7) After a follow up assessment of the urgent works by Historic England and dialogue and an exchange of correspondence with the owner, the Council served an Urgent Works Notice on the owner of the Mill on 29 October 2015, under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990. No action was taken by the owner to carry out these urgent works pursuant to that notice.
- 8) However, as a result of continued deterioration in the building's condition over this period, and in order to ensure the building did not partially collapse, emergency works under Section 78 of the Building Act 1984 were considered necessary and a notice served on the building owner on 14 October 2015, requiring the owner to undertake the works within seven days of the notice being served. No action was undertaken by the owner and works to stabilise two brick piers were subsequently undertaken by contractors working for the Council. The recovery of these emergency works costs, totalling £25,000, is being pursued by the Council against the owner.
- 9) The engineer supervising the emergency works noted further significant deterioration in the building since the original inspection on 13 March 2015 and, as a consequence, the proposed methodology for achieving the urgent works had to be modified and re-priced. The revised methodology resulted in an increased costs estimate for the urgent works to £760,000. Consequently, the Council, with Historic England, began to evaluate the options to undertake those urgent works in default and to secure the relevant approvals. Any such works would have been reliant upon grant funding receipts from Historic England which in itself required proposals to bring the building back into beneficial use, as opposed to merely undertaking works to prolong the structural integrity of the building in the short to medium-term.
- 10) In May 2016, as an integral part of working up proposals for the long term future of the building, a further updated condition survey was commissioned from

Buttress Conservation Architects. Regrettably, that survey (received on 1 June 2016) revealed that the state of the building is such that:-

- a) 'continuing deterioration **will** result in **uncontrolled collapse**'
 - b) 'the **timing** of such collapse is **indeterminate**'
 - c) that this '**could readily occur** in the **near future**'
- 11) The report concluded that the building is in danger of collapse and that the collapse could occur without warning, particularly during a period of prolonged rain and/or high winds.
- 12) Between 1 June and 9 June a series of discussions took place to ascertain from the Council's structural engineering and building control advisors as to whether there was sufficient time to:-
- a) to design and install a package of structural support works
 - b) embark upon the process set out in Section 77 of the Building Act 1984 to apply for an order from a magistrates' court to require the owner to execute those works or to demolish the building
- 13) The clear advice received on 9 June was that there was insufficient time to embark upon that process and that the only option now available to the Council was for it to exercise powers under Section 78 of the Building Control Act 1984 to make the building safe by taking immediate action to procure its demolition.
- 14) Whilst there is provision to recover costs incurred in undertaking this action (currently understood to be in the region of £600,000, but with the potential for that to increase to a sum not expected to exceed £1 million) there is always a risk that some or all of these costs will remain unrecovered. Much will depend on the financial status of the owner, or other identifiable persons against whom costs can be recovered, and the level of any residual value in the Land. However, in the circumstances, it is considered that there is little alternative other than to take this action in the interests of the safety of those living, working and passing within the vicinity of the building.

Background documents

Appendix A: Structural Report 1 June 2016

Appendix B: Building Control Report 9 June 2016

Signed by the Decision Taking
Officer



Councillor Rachel Bailey

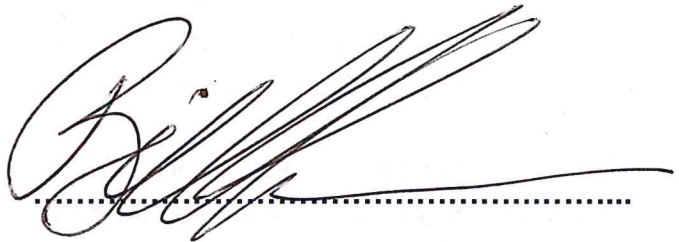
Leader of the Council

Having consulted and taken advice
from:



Mike Suarez

Chief Executive



Bill Norman

Director of Legal Services



Peter Bates

Chief Operating Officer and S151
Officer

NOTES

(1) Please record here the relevant paragraph of the Officer Scheme of Delegation within the Constitution under which the officer is acting and/or confirm that the officer is acting under a sub-delegation from another officer. If acting pursuant to a sub-delegation please ensure that a copy of the sub-delegation is appended to the decision form. If an officer is unsure about his/her powers to take the decision, he/she should seek advice from the relevant officer in Legal Services.

(2) The Constitution provides that certain decisions may be taken by an officer with the approval of another officer. For example, the decision to institute legal proceedings may be taken by CMT members with the approval of the Head of Legal Services. In such cases the form should be signed by the approving officer in addition to the decision-maker.

(3) The Constitution provides that certain decisions may be taken by an officer in consultation with the relevant Cabinet Member. In such cases the form should be signed by the Cabinet Member prior to the decision-maker in order to evidence the consultation with that Cabinet Member.

(4) Where the decision is a "Key Decision" a copy of this record must be sent to the Borough Solicitor and the Director of Finance and Business Services as soon as it has been signed to enable the decision to be published by the Borough Solicitor within two working days of it being made. The call-in period of a further five clear working days will then operate. This period cannot start until the decision is published. A decision here must not be implemented until the call-in period has elapsed (normally five clear working days in all) and no notice has been served. If a call-in notice is served you will be advised of the process and no action must be taken on the decision which is technically suspended.

(5) For Key Decisions, any relevant supporting papers, or document references (background documents), should be described (with details of where they can be accessed – e.g. file number) to this document and where they were a material consideration leading to the decision.

DEFINITION – "KEY DECISION"

A decision which is likely to (a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	12 th July 2016
Report of:	Executive Director of Growth and Prosperity
Subject/Title:	Crewe Green Roundabout Preliminary Designs
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. Crewe Green is a Strategic Site in the Local Plan which delivers a high-quality residential development at Crewe Green. It is a key gateway into Crewe and supports the delivery of the very necessary improvements to Crewe Green Roundabout.
- 1.2 The scheme improves a key congestion 'Pinch Point' on the main distributor network accessing Crewe and options have been developed to manage the growing traffic flows.
- 1.3 The Scheme is required to deliver strategic development at Crewe Green required by the draft Local Plan and improves access to strategic employment sites at Basford, M6 J16/J17 and Crewe Town Centre. A further objective is delivering network resilience in the era prior to the arrival of the HS2 Hub. The Scheme supports the delivery of 6,000 high-value jobs at Basford; 3500 sq m of retail space; and 150 homes at Crewe Green itself on the adjacent Strategic Site.

2. Recommendations

Cabinet is recommended to:

- 2.1 Receive the four design options that have been produced as suitable traffic solutions
- 2.2 Authorise the Interim Executive Director – Place in consultation with the Highways Portfolio Holder, to conduct a public consultation on the four design options.
- 2.3 Agree that the results of the consultation be reported back to Cabinet for a decision on the preferred option and further authorisations once complete.

3. Reason for recommendations

- 3.1 Following extensive consideration, four viable design solutions have been prepared which are at Appendix 1. They all provide sufficient capacity to

solve the current queuing and delays. All four options involve the removal of the existing traffic signals.

- 3.2 A consultation is required to engage residents; stakeholders and users to receive their contributions and engage their support in order to arrive at a preferred solution. .

4. Wards Affected

Crewe East and Haslington

5. Local Ward Members

Cllr David Newton - Crewe East

Cllr Suzanne Brookfield – Crewe East

Cllr Clair Chapman – Crewe East

Cllr John Hammond - Haslington

Cllr David Marren – Haslington

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 Scheme 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 preliminary estimate of the cost of a solution is £5,000,000 which is included in the Council's budget for 2016/17; 2017/18 and 2018/19.
- 7.2 Crewe Green Roundabout will be delivered through a blend of a Local Growth Fund Grant of £3,300,000 and third-party developer contributions secured by the Council.

8. Legal implications

- 8.1 The design of the scheme, the funding of the final scheme and planning issues will be considered in future reports to Cabinet and Planning Board.. Land acquisition, costs of land acquisition will be the subject of a future report. In addition both internal and external procurement rules will need to be considered and State Aid issues addressed. All of these points will need

separate legal consideration at the material time, on the points they raise, and in light of the powers under the Constitution - and any delegated powers applicable

9. Risk Management

- 9.1 The governance arrangements and risk register are in place. Mitigation measures; monitoring and effective control will be exercised.
- 9.2 The 3rd party funding from S106 agreements is not yet all secured, so there remains a risk that this may not be achieved. Mitigation of this risk is underway via close working with the planning team and negotiations with developers to ensure that sufficient contributions will be secured which, along with the LGF funding, will fully fund the scheme

10. Background

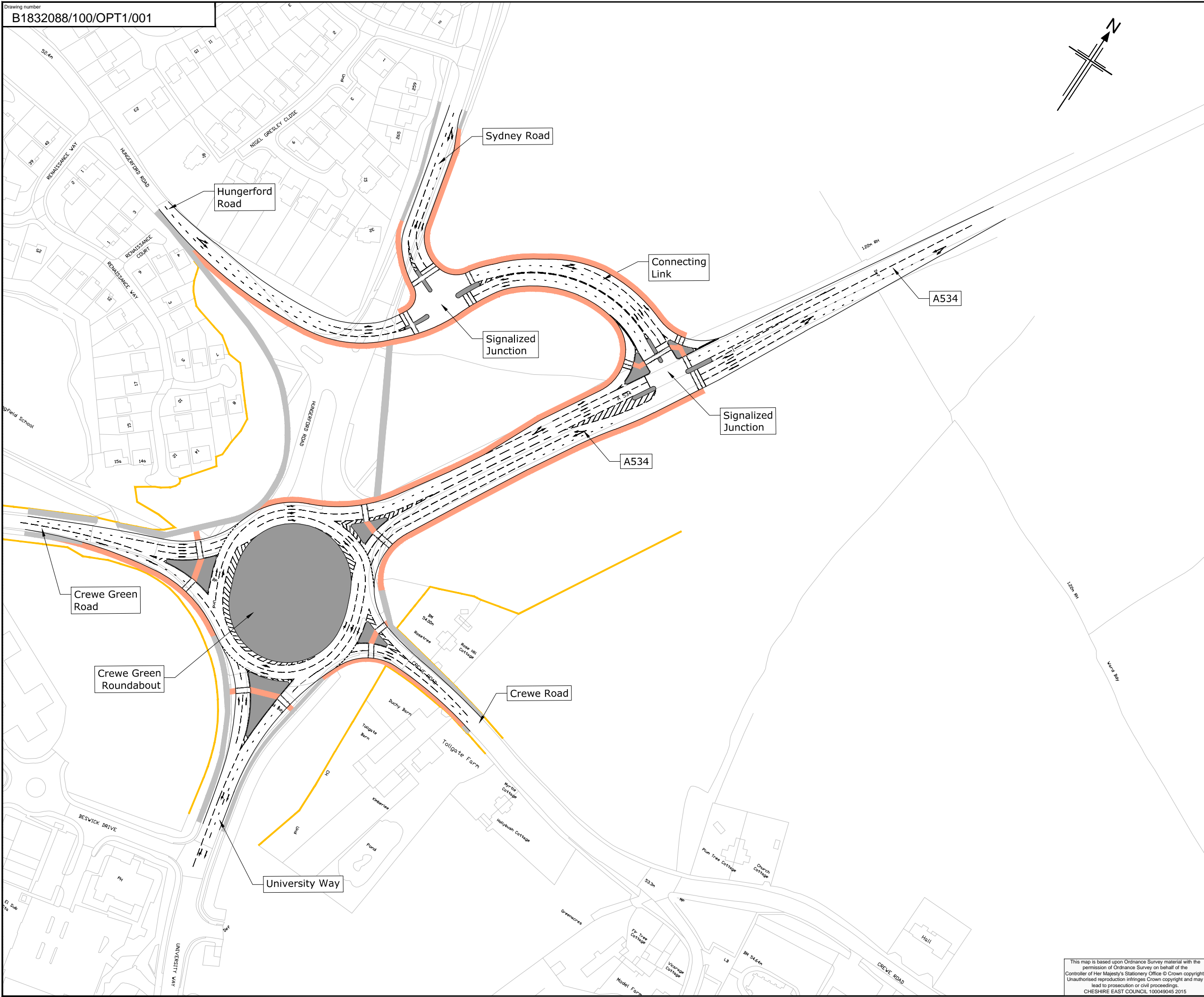
- 10.1 A plan of the locality is at Appendix 2.
- 10.2 The land required by the Scheme will be taken from the development land for the Strategic Site cited in the draft Local Plan. The landowner is the Duchy of Lancaster and access is required to the development site on the Duchy land.
- 10.3 Immediately to the north of Crewe Green Roundabout is the Sydney Road Railway Bridge which is due to be replaced as a Major Scheme. It has been assessed that the traffic impact of concurrent construction works at Crewe Green Roundabout and Sydney Road Bridge would be unacceptably high. The bridgeworks require temporary closure and possession of the railway West Coast Main Line which the bridge crosses. These essential possessions have been secured starting in October 2018. Therefore, the practical solution to the problem is to complete the works on site at Crewe Green Roundabout before October 2018. Otherwise the relief of the Crewe Green pinch point will be delayed by a further twelve months.
- 10.4 The Scheme will be funded by £3,300,000 Local Growth Fund Grant and £1,700,000 CIL-compliant developer contributions.

11. Access to Information

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

Name: Chris Hindle
Designation: Head of Strategic Infrastructure
Tel No: 01270 686335
Email: chris.hindle@cheshireeast.gov.uk

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Notes:

1. All dimensions in meter unless noted otherwise.

KEY:

- Suspected Highway Boundary
- Proposed Island
- Existing Footway
- Proposed Footway

0 20 40 60 80 100 m
SCALE 1 : 1000

0	07/06/2016	FIRST ISSUE	AKS	RG	AG	PH
Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Appr'd

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Tel: +44 (0)161 235 6000 Fax: +44 (0)161 235 6001
www.jacobs.com

Client

Cheshire East Council

Project

Crewe Green Roundabout

Drawing title

**OPTION 1
4-ARM ROUNDABOUT WITH
TWO REMOTE SIGNALIZED
JUNCTIONS**

Drawing status

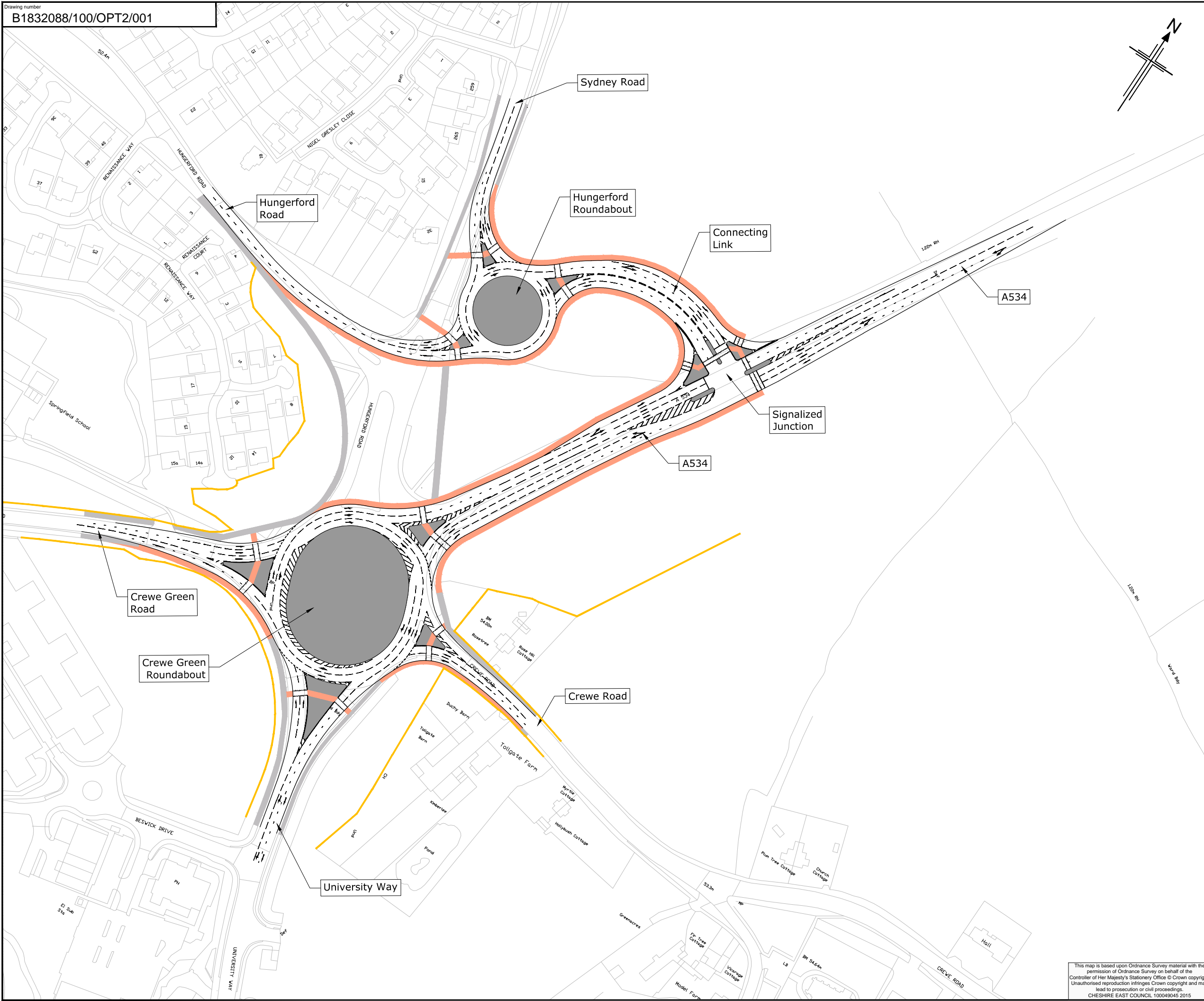
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Notes:

1. All dimensions in meter unless noted otherwise.

KEY:

- Suspected Highway Boundary
- Proposed Island
- Existing Footway
- Proposed Footway

0 20 40 60 80 100 m

SCALE 1 : 1000

0	07/06/2016	FIRST ISSUE	AKS	RG	AG	PH
Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Appr'd

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Client

Cheshire East Council

Project

Crewe Green Roundabout

Drawing title

**OPTION 2
4-ARM ROUNDABOUT WITH ONE
REMOTE SIGNALIZED JUNCTION &
ONE NONSIGNALIZED ROUNDABOUT**

Drawing status

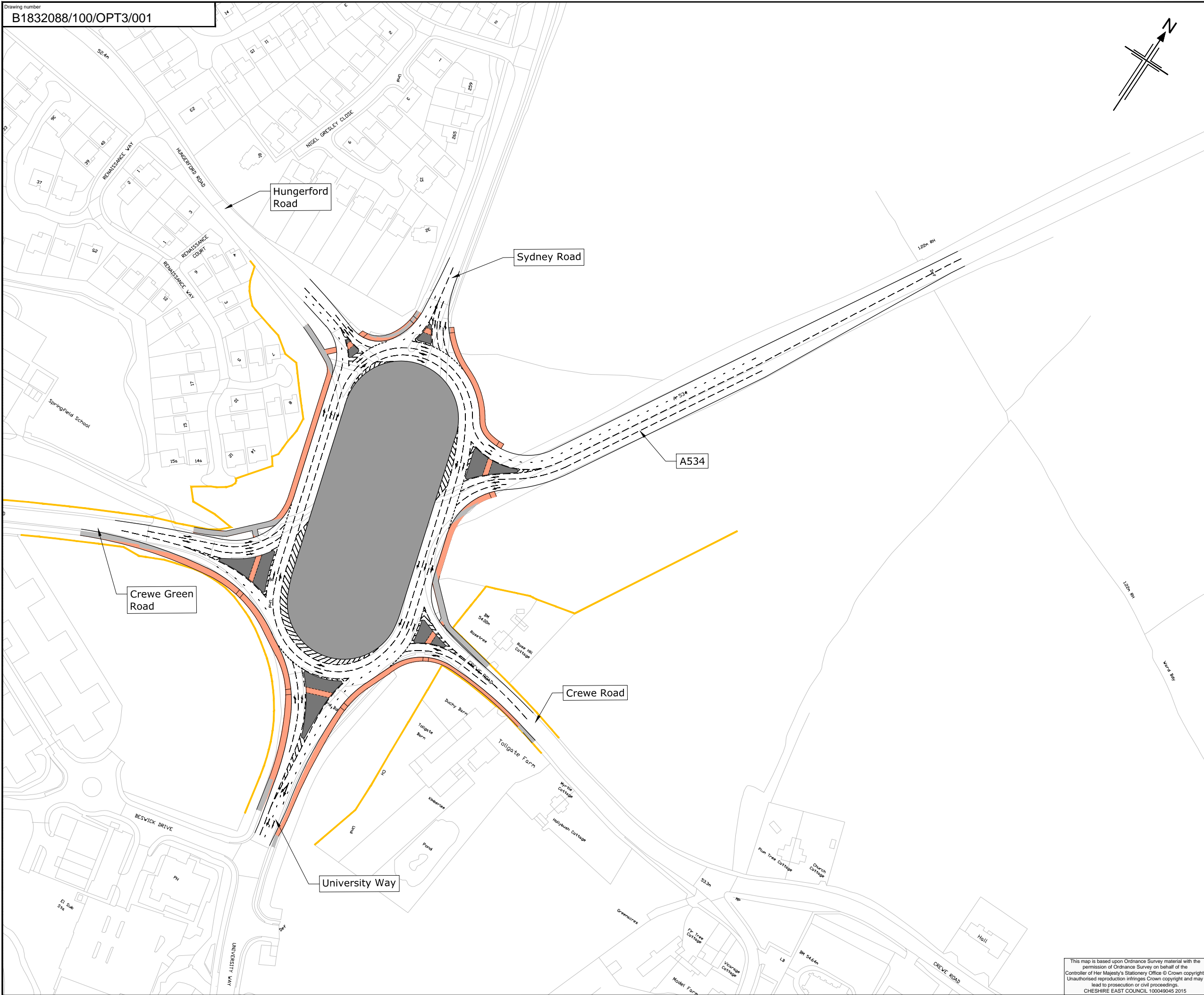
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Notes:

1. All dimensions in meter unless noted otherwise.

KEY:

- Suspected Highway Boundary
- Proposed Island / NMU Crossing
- Existing Footway
- Proposed Footway

DRAFT

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SCALE 1 : 1000

0	07/06/2016	FIRST ISSUE	AKS	RG	AG	PH
Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Appr'd

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Client

Cheshire East Council

Project

Crewe Green Roundabout

Drawing title

**OPTION 3
6-ARM GYRATORY**

Drawing status

PRELIMINARY

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Client no.		
Drawing number	B1832088/100/OPT3/001	Rev 0

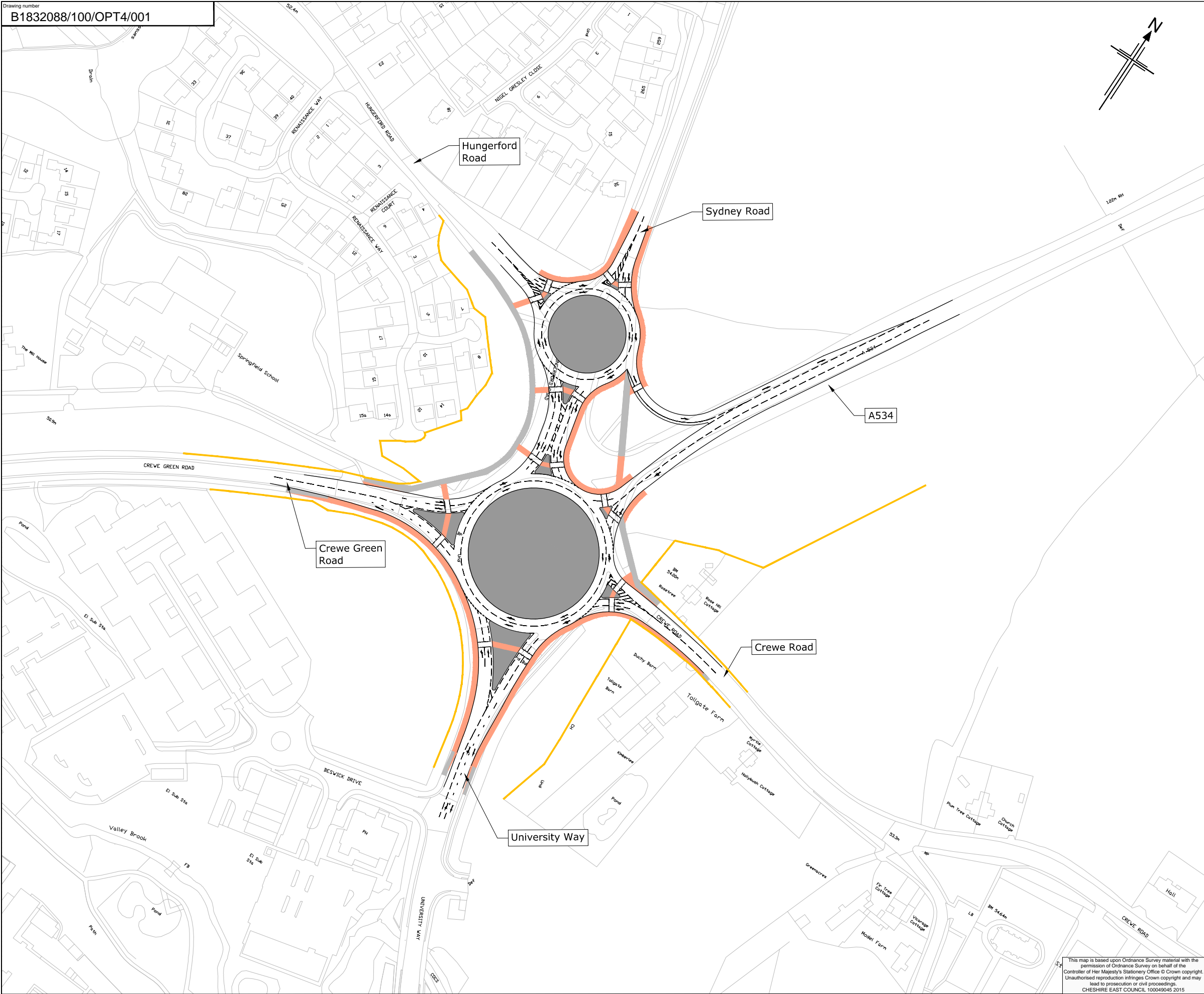
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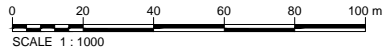
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Notes:
1. All dimensions in meter unless noted otherwise.

KEY:
Suspected Highway Boundary
Proposed Island
Maintain / Utilise Existing Footway
Proposed Footway

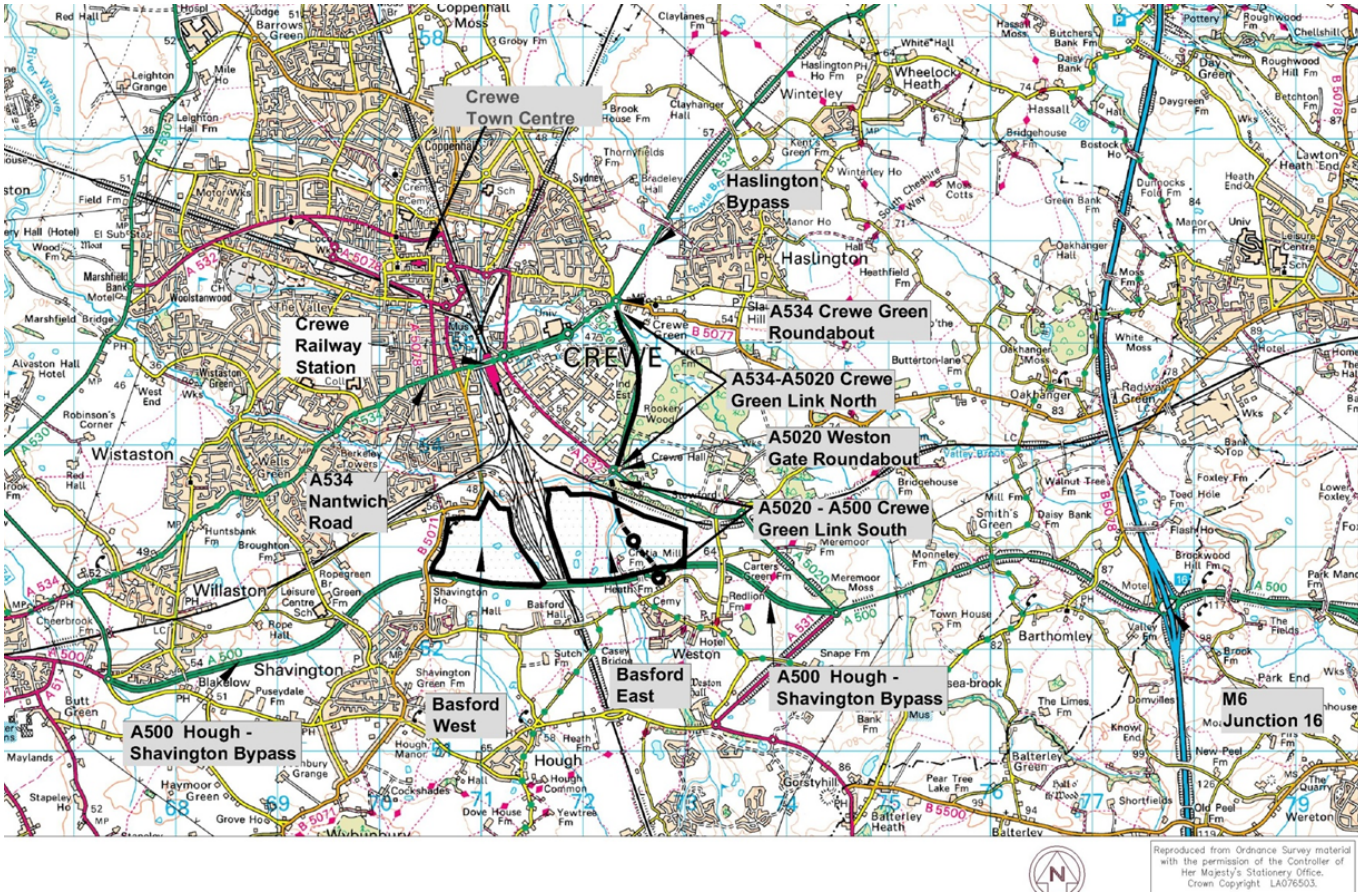
DRAFT



0	07/06/2016	DRAFT	RK	JS	AG	PH
Rev	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Appr'd
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Client <div></div>						
Project Crewe Green Roundabout						
Drawing title OPTION 4 DUMBBELL ROUNDABOUT						
Drawing status PRELIMINARY						
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Client no.						
Drawing number	B1832088/100/OPT4/001					Rev 0
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CREWE GREEN ROUNDABOUT LOCALITY PLAN – APPENDIX 2



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Cheshire East Council

Cabinet

Date of Meeting: 12th July 2016

Report of: Steph Cordon – Head of Communities

Subject/Title: Ambition for All - Partnerships Structure and Strategy 2016-2020

Portfolio Holder: Cllr Paul Bates, Communities and Health

1. Report Summary

- 1.1. Working effectively with our partners has never been more important, as money becomes tighter and our population grows and lives for longer. If we are to realise our ambitions we need to focus on total public service transformation to reduce demand on services and support economic prosperity.
- 1.2. The current Ambition for All - Sustainable Community Strategy 2010-2025 needs reviewing and refreshing to ensure it continues to be fit for purpose and drives change to address identified priorities. The aim is to build on the excellent work undertaken for the development of the original strategy which involved and engaged both partners and the local community.
- 1.3. The refreshed version will take us into 2020. The strategy will be expected to “go live” from April 2017 and will span 3 years.
- 1.4. To drive forward the revised strategy and monitor delivery, the overarching partnership governance framework has been reviewed and a new structure proposed.
- 1.5. We are proposing a strengthened joined up partnership structure, that promotes and supports open and honest conversations based on what we can do together to make an impact.
- 1.6. The overarching vision for the strategy will aspire to a better future for Cheshire East where all organisations work together as one system.

2. Recommendations

- 2.1. To agree to the refresh of Ambition for All – Partnership Strategy and its proposed consultation plan.

- 2.2. To agree to the implementation of a revised partnership structure for Cheshire East.
- 2.3. To agree to the outlined approach to the funding of town partnerships for 2016/17.

3. Reasons for Recommendations

- 3.1. To provide an update on the current position to enable Cabinet to make informed decisions on the way forward.

4. Other Options Considered

- 4.1. There is an option to continue working as currently and not review partnership structures and arrangements, however there is considerable agreement that current arrangements are not effective, certainly in ownership and delivery of Ambition for All.

5. Background

- 5.1. Increasingly, partners and communities look to us to be the local leaders of the Cheshire East footprint, but we can't do it on our own and successful leadership is about collaboration and relationships with others.
- 5.2. The success of a revised Ambition for All - Partnership Strategy depends on how well public services can work together and how successful we are at encouraging people living in Cheshire East to be involved.
- 5.3. Initial consideration for the structure and content of the strategy includes:

- Where are we now and where do we want to get to?
- Currently this is articulated as: ***All our people fulfil their potential; People live independent, active and healthy lives: People are involved in local decisions.***

It is suggested that this could be: All our people – regardless of age, gender or ethnicity realise and fulfil their potential; People are able and supported to live independent, active and healthy lives: People are involved in local decisions.

- What has the Sustainable Community Strategy delivered so far, how can we evidence our success?
- Who are our communities and who are our key partners?
- What do our communities need and want?
- Mapping of shared objectives and priorities

- How can we work together to deliver shared objectives (governance and accountability, pooled budgets)
 - How do we monitor progress and evidence what success looks like
 - Agreed priorities for year 1 of the refreshed strategy to be delivered by a partnership action plan.
- 5.4. A strengthened partnership structure is being proposed, that promotes and supports open and honest conversations based on what we can do together to make an impact. This is illustrated in Appendices 1 and 2.
- 5.5. There are some great examples of partnerships working well, but our challenges are joining up at both a neighbourhood level and total Cheshire East footprint.
- 5.6. The main changes being proposed are:
- 5.6.1. Reviewing and revamping the Leaders Board to ensure that the right people are connected and working together for the benefit of Cheshire East as a whole.
- 5.6.2. Ensuring that the refreshed partnership strategy has clear lines of accountability all the way through it for different elements of the strategy. The revised partnership strategy is envisaged to be high level, articulating the partnership strategic aims and ambitions. The strategy will be adopted and “owned” by the relevant board. For example; where elements of the partnership strategy relate to Health and Wellbeing, the Health and Wellbeing Board would develop a strategic plan to drive the priorities for delivery. The plan would include, clear and tangible actions, measures of success and an action owner who is ultimately responsible for the delivery. The Health and Wellbeing Board would be held accountable to and commissioned by the Leaders Board, ensuring that the strategic delivery plan dovetailed and aligned to those across the partnership. They would be expected to speak to the other partnerships and especially the Area Boards to get a local feel for what each community needs and enable co-production.
- 5.6.3. Developing an area based approach which reflects the needs of localities and can be the place where the needs of each area are reflected into the thematic partnerships and upwards into the Leaders Board. They would be responsible for participatory budgeting and the first phase of this is proposed to be £400,000 for the delivery of public health outcomes. An example of their engagement and influence would be how they influenced the strategy and policies of organisations to re-align service delivery according to need.
- 5.6.4. Refining our engagement structure with residents, businesses, hard to reach groups and thematic areas to ensure that we have representative and inclusive ways for the community, voluntary and faith sector to engage with us and to influence the commissioning of services.

5.6.5. Reviewing how we fund and work with our Town Partnerships to strengthen our joint working and ensure that we have not only aligned priorities but evidence of success. We currently provide £8,000 per town partnership. A total grant fund of £72,000 will be required in 2016/17. This has been identified and accounted for as expenditure from budgets within Partnerships and Communities. It is proposed therefore that for 2016/17 we continue to fund Town Partnerships as previously agreed per a direct grant award with £8,000 per Town Partnership. However for 2017/18 through to 2019/2020 we will look to “commission” for outcomes that are aligned to the strategic aims and ambitions as set out in the refreshed partnership strategy.

5.6.6. An outline project plan has been developed for delivery of this work and can be seen in Appendix 3.

6. Wards Affected and Local Ward Members

6.1. All wards and all members.

7. Implications of Recommendation

7.1. Policy Implications

7.1.1. The recommendations proposed will support and are aligned to the Council’s corporate ambitions and its values to deliver its promise of Putting Resident First.

7.2. Legal Implications

7.2.1. In undertaking the review and refresh of the strategy the Service has said it will be undertaking consultation. In doing so the Service needs to consider both who to consult (general public and stakeholders) and when to consult (including any need to re-consult as plans develop and options are narrowed/refined). The general principles that must be followed when consulting are well established:

- The consultation must be at a time when proposals are still at a formative stage.
- The proposer must give sufficient reasons for any proposal to enable intelligent consideration and response. Those consulted should be aware of the criteria that will be applied when considering proposals and which factors will be considered decisive or of substantial importance at the end of the Consultation process
- Adequate time must be given for consideration and response.

- The product of consultation must be conscientiously taken into account in finalising any statutory proposals

7.2.2. In developing the strategy the Council must have due regard to the Public Sector Equality Duty as set out at S149 of the Equality Act 2010, which states:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it... “

Carrying out an Equality Impact Assessment would assist in demonstrating that the Council has due regard to the Equality Act 2010.

7.2.3. As the strategy develops due consideration will need to be given to the means by which funding will be sourced and distributed in order to meet specific service delivery plans. Any formal arrangements (such as partnership working and the procurement of services) need to be compliant with the Council’s own Finance and Contract Procedure Rules and National and European procurement legislation. Any State Aid implications will need to be identified and addressed. When granting funding to partners the Council needs to be mindful of state aid and ideally mitigate the risks by following a competitive process.

7.2.4. Legal advice should be sought on the overarching partnership/joint working arrangements (governance and funding) once the options for delivery have been finally established.

7.3. Financial Implications

7.3.1. Undertaking the review and refresh of the revised strategy and its ongoing implementation will incur staff time but no other additional costs. The staffing costs are already covered by base budgets within the relevant service.

7.4. Human Resources Implications

7.4.1. There are no human resource implications, all required work will be delivered within existing resources.

7.5. Equality Implications

7.5.1. There are no specific equality implications.

7.6. Rural Community Implications

7.6.1. There are no specific implications for the rural community.

7.7. Public Health Implications

7.7.1. There are no specific implications for the public health of Cheshire East residents. A revised strategy will embed the principles of improving outcomes for residents as highlighted in the public health outcome framework.

8. Risk Management

8.1. This programme of work will be underpinned by a project management approach and as such will have a risk log which will be regularly reviewed and monitored. High level risks have already been identified and can be seen in Appendix 3.

9. Background Papers

9.1. A copy of Ambition for All – Sustainable Community Strategy 2010-2025 can be accessed via the following hyperlink:

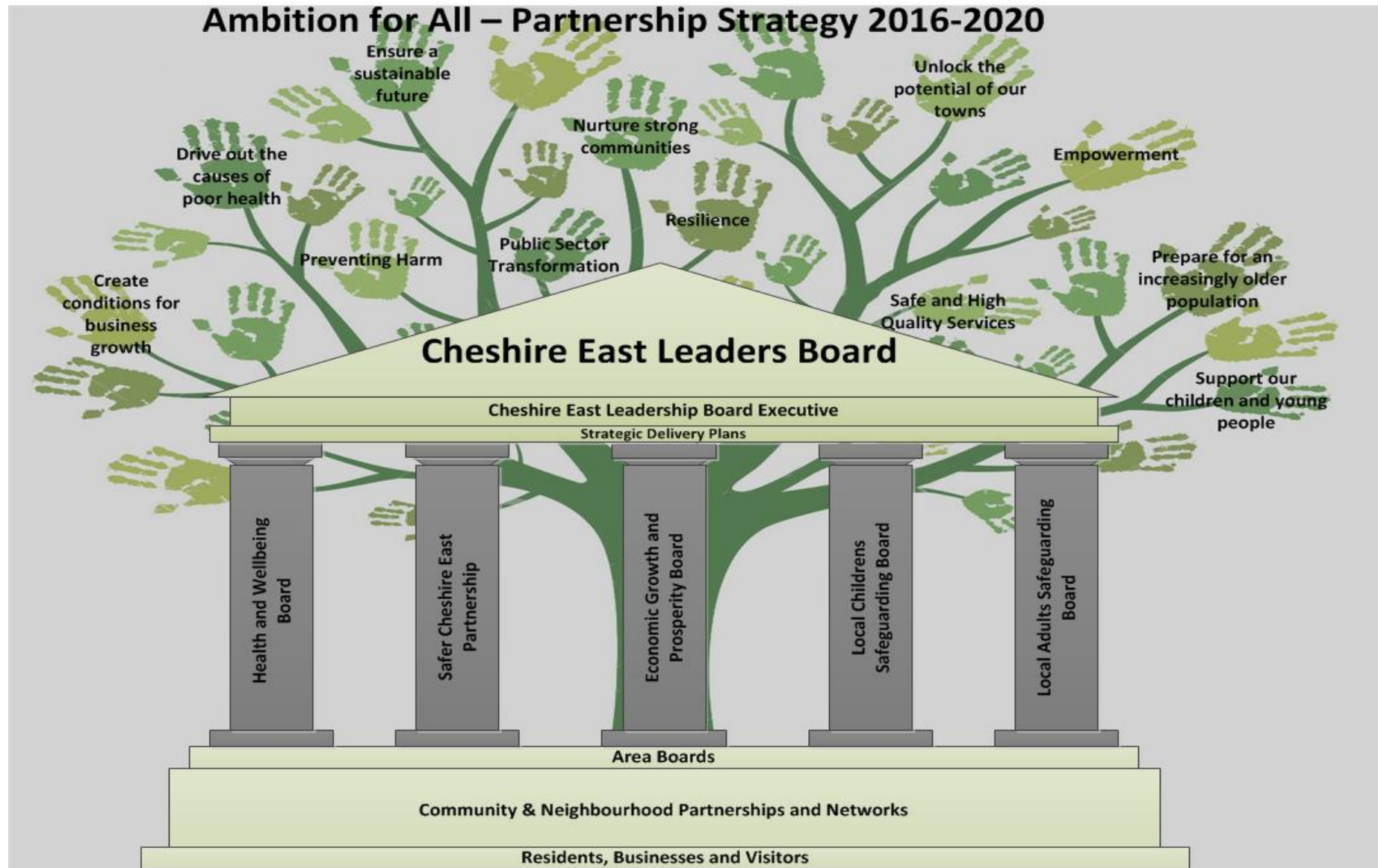
http://www.cheshireeast.gov.uk/council_and_democracy/community/pace_strategic_partnerships/sustainable_community_strategy.aspx

9.2. Further information in relation to the report and its contents can be accessed by contacting the report author.

10. Contact Information

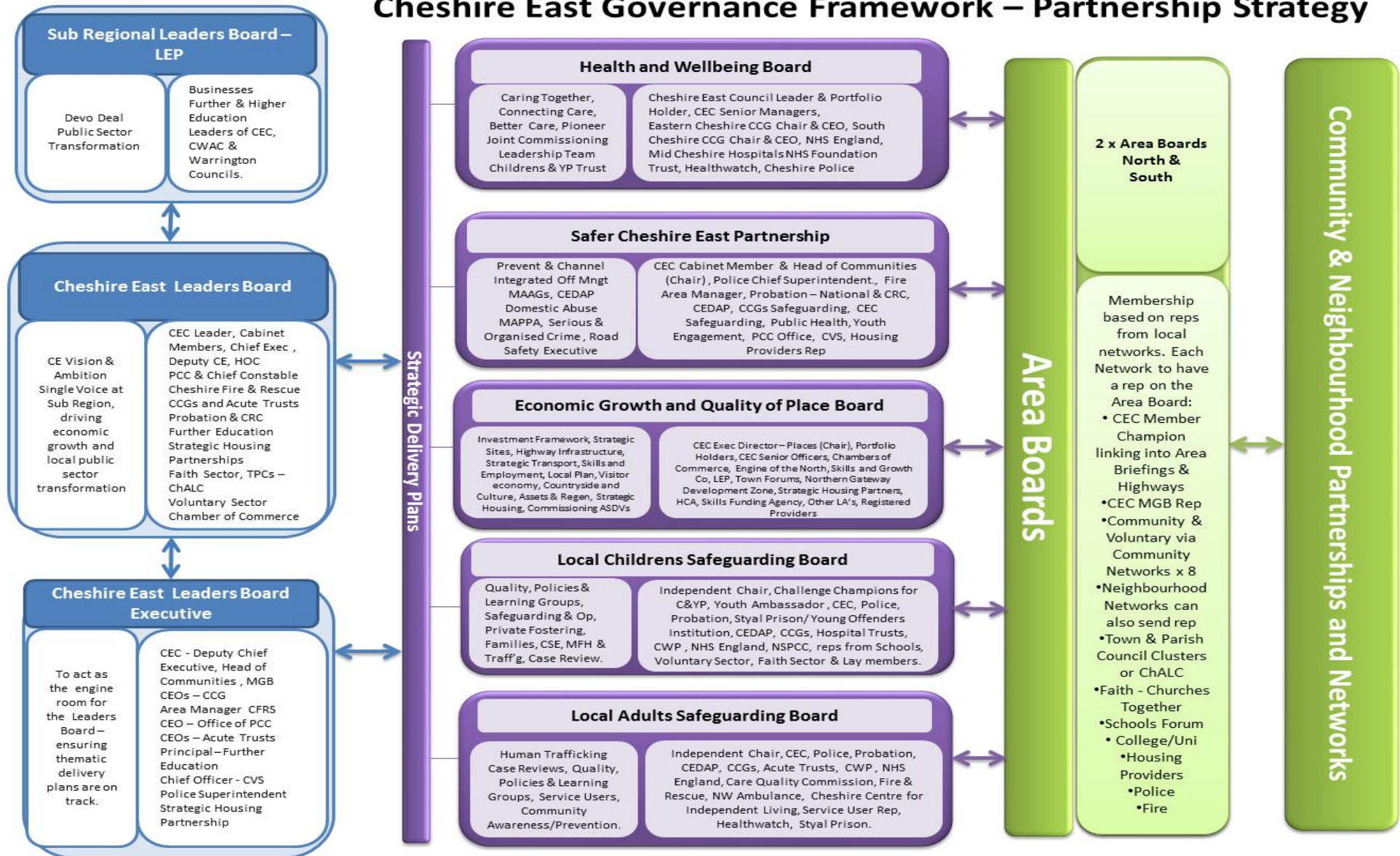
Contact details for this report are as follows:

Name:	Steph Cordon
Designation:	Head of Communities
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Cheshire East Governance Framework – Partnership Strategy



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Challenge Statement		Vision and Aims	
What is the challenge?	Ambition for All, Cheshire East's Sustainable Community Strategy was approved and adopted in 2010. This is a 15 year strategy with 7 ambitious priorities for action. Nearly six years into the strategy, it is now the right time to review progress on the strategy in terms of its key achievements to date and understand the action needed to ensure that we remain on track to deliver on our priorities.	V I S I O N & A I M S	<p><u>Our vision</u></p> <p>Cheshire East is a prosperous place where all people can achieve their potential, regardless of where they live. We have beautiful productive countryside, unique towns with individual character and a wealth of history and culture. The people of Cheshire East live active and healthy lives and get involved in making their communities safe and sustainable places to live.</p> <p><u>Aims</u></p> <ol style="list-style-type: none"> 1. To consider the Sustainable Community Strategy to review progress to date, evidencing key achievements and areas where action is needed. 2. To review partnership governance arrangements to ensure we have robust delivery vehicles for the strategy 3. To review how we currently engage and consult with our communities within the voluntary, faith and community sector including hard to reach groups and protected characteristics. 4. To work with partners to ensure that there is a clear line of sight from the overarching strategy to the delivery mechanism and lines of accountability 5. To ensure stakeholder engagement, including strategic partners in the review of the sustainable community strategy. 6. To identify and agree the strategic and partner priorities for the period 2016-2020 7. To present findings and recommendations in a detailed report to Cheshire East Cabinet for approval and support.
Where is it happening?	Geographical footprint covered by Cheshire East Council Community Services (as defined within scope)		
When is it happening?	<p>This project will require three phases:</p> <p>Phase 1 (Review): 25.04.2016 to 30.09.2016</p> <p>Phase 2 Agreement of Priorities, consultation and engagement : 01.10.16 to 31.12.16</p> <p>Phase 3 Development of strategic delivery plans by the 5 delivery boards/partnerships: 01.01.2017 to 31.03.17</p> <p>Phase 4 Implementation: 01.04.2017 to 31.3.2020</p>		
Who is the audience?	The residents and businesses that live, work and operate in Cheshire East. The project has a number of key interdependencies and stakeholders, including strategic partners and current and future users of community services.		

Key Principle: Ambition for All, (2010-2025)	Priorities for Action: <ol style="list-style-type: none"> 1.Nurture strong communities 2. Create conditions for business growth 3. Unlock the potential of our towns 4. Support our children and young people 5. Ensure a sustainable future 6. Prepare for an increasingly older population 7. Drive out the causes of poor health
Localism Act 2011	The Localism Act: 2011: <ul style="list-style-type: none"> • ensures that local social enterprises, volunteers and community groups with a bright idea for improving local services get a chance to change how things are done • enables local residents to call local authorities to account for the careful management of taxpayers' money • makes it easier for local people to take over the amenities they love and keep them part of local life

Objectives		Scope and Risks	
<div><div><div>1. To agree and set out the scope and parameters of the project</div><div>2. To review and map existing articulated priorities to evaluate impact and progress to date</div><div>3. To map existing partnership arrangements, including governance, accountability and programme delivery</div><div>4. To develop a framework and schedule for stakeholder and partner engagement in the review exercise</div><div>5. To review engagement mechanisms with the VCF sector across CE, scoping co-commissioning opportunities where appropriate.</div><div>6. To identify gaps or opportunities for partnership working including service development and delivery, business improvement activity, integration and joint commissioning opportunities across the partnership.</div><div>7. To identify stakeholders and ensure engagement throughout the project as appropriate</div><div>8. To implement agreed recommendations and actions; reporting progress to the relevant Boards, Committees and stakeholders</div></div></div>	SCOPE RISKS	In Scope	Out of Scope
		<div><div><div>• Sustainable Community Strategy and aligning corporate plans and strategies</div><div>• Partnership plans and strategies that have a direct impact or are integrated either by pathway, process or priority.</div></div></div>	To be confirmed.
		<div><div><div>• Data unavailable/incomplete re: trends and projections</div><div>• Lack of engagement by partners in the review</div><div>• Capacity and internal support to achieve project and associated timescales</div><div>• Lack of consensus and support for recommended priorities, commissioning proposals and service delivery models internally and across the partnership</div><div>• Overlap/gaps in relation to other significant and interfacing projects across the council</div><div>• Changing landscape of community service provision and subsequent challenges</div></div></div>	
Timeline of Key Milestones		Project Team and Stakeholder Group	
<div><div>Deliverables</div><div><div>- Establish Project Plan (requirements, deliverables and timescales)</div><div>- Stakeholder mapping</div><div>- Development and delivery of draft Ambition for All – Partnership Strategy</div></div></div>	<div><div>By Date</div><div><div>30.06.16</div><div>30.06.16</div><div>October 2016</div></div></div>	<div><div>Senior Responsible Officers</div><div>Stephanie Cordon: Head of Communities</div><div>Project Lead:</div><div>Natalie Robinson: Business Manager - Communities</div></div>	<div><div>Lead Councillor</div><div>Councillor Paul Bates (Portfolio Holder for Communities and Health)</div><div>Stakeholder Group:</div></div>

2016-2020 <ul style="list-style-type: none"> - Paper to MGB for discussion - Consultation on final draft with key stakeholders and VCF sector - Final Strategy approved by CE Cabinet for implementation - Implementation and Evaluation 	October 2016 December 2016 01.04.17		The Leadership Board will act as the key stakeholder group to support the project from a strategic perspective.
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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	12 th July 2016
Report of:	Sarah Smith, Corporate Commissioning Manager, Adults Commissioning
Subject/Title:	Better Care Fund (BCF) Carer Breaks 2016/17 Grant Awards
Portfolio Holder:	Cllr Janet Clowes, Adult Care and Integration

1.0 Report Summary

- 1.1 This report recommends that Cabinet approve the award of grants to individual organisations in respect of the Better Care Fund (BCF) Carer Breaks for 2016/17 as per Cheshire East Council's constitution.
- 1.2 The report outlines the reason for awarding grants for these purposes and the objectives of the purposes specified.

2.0 Recommendations

- 2.1 Endorse the competitive procedure to award grants for the provision of Carer Breaks for 2016/17.
- 2.2 That Cabinet approve the award of grants to individual organisations for the provision of BCF Carer Breaks for 9 months to 31st March 2017.

3.0 Reasons for Recommendations

- 3.1 The funding from the BCF available for Carer Breaks Services 2016/17 is £374,000. Cabinet approval is required to award grants. In this case the maximum amount that can be applied for in any one grant is £37,500 to deliver services over a 9 month period. Whilst the level of funding of each grant is within the authority of the Portfolio Holder to approve as per Section 1.21 (Financial and Contract Approval Limits) as organisations can apply for more than one grant and the overall funding available is £374,000 Cabinet approval is required for the approach being proposed.
- 3.2 As this funding is for a limited period with no guarantee of future funding discussions took place with Procurement who agreed that grants could be awarded via a competitive grant procedure. Carer Breaks have previously been delivered in this way and it has assisted smaller voluntary organisations to bid.

- 3.3 The opportunity to apply for a grant has been published on The Chest and also advertised by Community for Voluntary Services (CVS). Applications are being assessed in the following areas:-
- Funding Objectives
 - Quality of the Scheme/Project
 - Evidence of Need for the Project
 - Sustainability and Added Value
- 3.4 Although awarded as a grant, the outcomes delivered by the successful bidders are still monitored to ensure the Council is receiving value for money and Carers are receiving good quality services to meet their needs.
- 3.5 The level of each grant is restricted to £37,500 however organisations can apply for more than one grant. This method of funding allows for a diversity of approaches to be delivered throughout Cheshire East to ensure that Carers are able to continue in their caring role and the offers are tailored to meet their individual support needs.
- 3.6 These grants are intended to compliment other services commissioned by Cheshire East to support Carers. Carer's wellbeing is supported in line with the Care Act 2014 and the Children and Families Act 2014.
- 3.7 The main objectives are to realise and release the potential of carers, supporting carers to remain mentally and physically well and to give support carers to have a family and community life. Grant applications have been invited in the following categories:-
- Carer Wellbeing
 - Young Carers
 - Parent Carers
 - Home Based Carer Breaks & Support
 - Specialist Carers Advocacy
 - Specialist Support for Carers of People with Sensory Impairments
 - Befriending and Carers Bereavement Support
- 3.8 A further update on the outcomes achieved will be provided at the end of the financial year.
- 4.0 Wards Affected**
- 4.1 All Wards
- 5.0 Local Ward Members**
- 5.1 All Ward Members

6.0 Policy Implications

- 6.1 Assists the delivery of the Joint Carers Strategy for Cheshire East 2016-18
- 6.2 Assists in delivering Outcome 1 (Our local communities are strong and supportive) and Outcome 5 (People live well and for longer).

7.0 Implications for Rural Communities

- 7.1 BCF Carer Breaks will have positive impacts for rural communities within Cheshire East as carer breaks will be delivered throughout Cheshire East Borough.

8.0 Financial Implications

- 8.1 The funding for the grants is made available via the BCF and the level of funding has been confirmed by both NHS South Cheshire and NHS Eastern Cheshire Clinical Commissioning Groups but is subject to the total BCF funding being signed off by the Board on 1st July 2016.
- 8.2 Although Carer Breaks are awarded as grants as opposed to contracts Cheshire East Council impose grant conditions to ensure that value for money is achieved and the quality of the delivery can be monitored.

9.0 Legal Implications

- 9.1 The Council has the power to award grants to organisations using its general power of competence in section 1 of the Localism Act 2011. In exercising the power the Council must satisfy its public law duties. In essence this means that in making the decision the Council must have taken into account only relevant considerations, followed procedural requirements, acted for proper motives and not acted unreasonably.
- 9.2 Grants which are awarded to defined organisations, following an application process, and against a set criteria assist the Council to defend any challenge to its decision making process. Grant funding organisations based on a competitive process and satisfies the Council's public law duties.
- 9.3 Direct award of grants favour individual organisations and can potentially be challenged on the basis that they exclude other organisations. A competitive grants process is an open, transparent and fair means to afford all eligible organisations the opportunity to compete for and obtain grant funding from the Council and minimise the risk of illegal state aid.
- 9.4 Grant agreements may contain conditions requiring that organisations report back to the Council upon expenditure of the grant and further appropriate conditions can be imposed.

10.0 Risk Management

- 10.1 As the grants are for a period of 9 months providers will be expected to provide exit strategies to reduce the impact on customers at the end of service.

11.0 Background and Options

- 11.1 The award of the Carer Break Grants supports the implementation of the Joint Carers Strategy.
- 11.2 The funding for the grants is via the BCF and both CCGs have confirmed the funding for 2016/17.
- 11.2 The option of tendering for the services was explored but due to the limited period of delivery and the uncertainty of future funding it was agreed with procurement that it would be preferable to award grants.

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: 12th July 2016
Report of: Steph Cordon – Head of Communities
Subject/Title: Cheshire East Council Enforcement Policy
Portfolio Holder: Councillor Paul Bates – Communities and Health

1. Report Summary

- 1.1. The current Cheshire East Enforcement Policy was approved by Cabinet in March 2009 and was consistent with the Enforcement Concordat as published in 1998. The revised Cheshire East Enforcement Policy (Appendix 1) has been developed to incorporate the principles of the new Code and will apply to all regulatory areas covered by the Council.
- 1.2. Cheshire East Council is committed to be a proactive and enforcing council. This has been communicated most recently as an Outcome Theme definition within the Medium Term Financial Strategy Summary 2016/2019; Outcome 1 - Our local communities are strong and supportive.
- 1.3. The report seeks to provide an overview of the development of the revised Cheshire East Enforcement Policy and those factors which have been considered during its development, and to provide details of the overarching policy and the supporting service specific appendices.

2. Recommendations

- 2.1. That Cabinet Members approve the overarching Cheshire East Enforcement Policy (Appendix 1).
- 2.2. That Cabinet Members notes the service specific appendices which provide additional detail on actions and sanctions available to individual services. (Appendices 2-8).
- 2.3. That Cabinet delegates authority to the Portfolio Holder for Communities and Health in consultation with the Head of Communities to update any service specific policy as required.

3. Other Options Considered

- 3.1. There is the option to continue to carry out enforcement activity in line with the Cheshire East Enforcement Policy published in 2009. However as this policy is now six years old and does not address the requirements of the

Regulators Code produced in 2014. This would therefore leave the authority open to potential criticism and challenge in relation to enforcement activity.

4. Reasons for Recommendations

- 4.1. There is a statutory requirement for Cheshire East Council to have an appropriate Enforcement Policy in respect of the regulatory services that it provides.
- 4.2. A number of sanctions are available across the range of enforcement services however in some cases sanctions are limited to a specific service area. The service specific policies are therefore aimed at providing clarity on enforcement options to those who are the subject of enforcement action.
- 4.3. The constant changes to legislation and the creation of new and additional sanctions requires an expedient update and approval process to ensure that services can take advantage of new sanctions when they become available.

5. Background/Chronology

- 5.1. As part of the government's commitment to reducing regulatory burdens and supporting business growth, the Regulators Code (the Code) was developed and came into statutory effect on 6 April 2014. The Code was made under the Legislative and Regulatory Reform Act 2006 and provides clear principles on how local authorities should interact with those that they are regulating in order to encourage open and constructive relationships.
- 5.2. The Code is underpinned by the principles of good regulation which states that regulatory activity should be carried out in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which access is needed. It is a statutory requirement that regulators must have regard to the Code when developing policies and procedures that guide their regulatory activities.
- 5.3. The key principles of the Code are that regulators should:
 - Carry out their activities in a way that supports those they regulate to comply and grow;
 - Provide simple and straightforward ways to engage with those they regulate;
 - Base their regulatory activities on risk;
 - Share information about compliance and risk;
 - Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
 - Ensure their approach to their regulatory activities is transparent.

- 5.4. The current Cheshire East Enforcement Policy was approved by Cabinet in March 2009 and was consistent with the Enforcement Concordat as published in 1998. The revised Cheshire East Enforcement Policy (Appendix 1) has been developed to incorporate the principles of the new Code and will apply to all regulatory areas covered by the council including; Environmental Health, Trading Standards, Planning Enforcement, Building Control, Licensing, Housing, Antisocial Behaviour, Waste & Littering, Parking, the Blue Badge Scheme and Public Rights of Way.
- 5.5. The revised Enforcement Policy provides guidance to officers, businesses and the general public on the range of options that are available to achieve compliance with legislation enforced by relevant services. It is designed to help businesses and individuals understand our objectives and methods for achieving compliance as well as the criteria we consider when deciding the most appropriate response to a breach of legislation.
- 5.6. The revised Enforcement Policy has been restructured to take into account the wide range of regulatory functions undertaken by the Council and with that the wide variety of sanctions available. As not every sanction is available to every regulatory team it was considered important to make these distinctions clear and to avoid confusion and ambiguity.
- 5.7. As a result the revised Enforcement Policy is comprised of an overarching policy of enforcement which is supplemented by appendices produced by the individual service areas that have a regulatory role (Appendices 2-8). This arrangement therefore allows for the clearer detail on supplementary Statutory Guidance and Codes of Practice that may be specific to individual service areas and which must be considered as part of their regulatory effort.
- 5.8. This service specific approach allows for the easier update of any changes to the enforcement approach or policy that impacts upon single services i.e. the update/amendment or suspension of specific sanctions, changes to Statutory Guidance etc. There is a recommendation that this can also be the subject of timely update and approval by the relevant Head of Service.
- 5.9. It is important that the Enforcement Policy is communicated to all those that it affects. Once approved the Cheshire East Enforcement Policy and supporting Appendices will be published on the Cheshire East website.
- 5.10. Officers involved in regulatory activity will also use their face to face activity and written contact with individuals and business to draw attention to and promote the Enforcement Policy.
- 5.11. In accordance with The Regulators Code details of fees and charges associated with regulatory activity are already published on the Councils website and regularly updated.
- 5.12. In addition, the Council is required to publish details of performance against the policy including feedback from satisfaction surveys and data relating to complaints about them and appeals against their decisions.

- 5.13. It is proposed that the Cheshire East Enforcement Policy will be reviewed every 3 years as a minimum. Updates will also be considered in response to feedback by individuals and businesses or as a result of legislative changes.

6. Wards Affected and Local Ward Members

- 6.1. All ward and all ward members.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. To support the Council's ambition to be an Enforcing Authority that is tough on residents and businesses that are selfish and cause harm to others.

7.2. Legal Implications

- 7.2.1. The objective of the enforcement policy is to support the underlying mechanisms for enforcement set out in Legislation and a formal policy is required to ensure that our principles and approach to enforcement are clear and transparent.
- 7.2.2. A policy provides that there will be a consistent approach across the Council that all Officers must follow and ensure that non-compliance with legislation is dealt with fairly and proportionately.
- 7.2.3. The existence of a policy provides the public with clear guidance as to how matters will be approached and may allow for opportunity to discuss matters thus avoiding the need for formal enforcement action to be taken.
- 7.2.4. Whilst certain enforcement action would not be deemed to be unlawful without the existence of a formal policy, other enforcement legislation is prescriptive in its expectations of the Council and its policies.
- 7.2.5. Failure to adopt an Enforcement Policy may leave the Council open to legal challenge and place the Council at risk of reputational damage.

7.3. Financial Implications

- 7.3.1. Implementing this enforcement policy would incur staff time but no other additional costs. The staffing costs are already covered by base budgets within the relevant service areas.

7.4. Equality Implications

- 7.4.1. The Cheshire East Enforcement Policy aims to outline a transparent and consistent approach to enforcement across Cheshire East. As a consequence there are no equality implications resulting from its adoption and application.

7.5. Rural Community Implications

- 7.5.1. There are no specific implications to the rural community as a result of the adoption of the Cheshire East Enforcement Policy.

7.6. Human Resources Implications

- 7.6.1. Those services which undertake enforcement activity have an ongoing commitment to ensuring that officers engaged in enforcement are suitably trained and supported. There are therefore no additional implications arising from the adoption of this Policy.

7.7. Public Health Implications

- 7.7.1. There are a number of facets of enforcement activity which are directly aimed at protecting public health and these will continue in line with the revised Enforcement Policy. There are no additional implications.

7.8. Other Implications (Please Specify)

- 7.8.1. There are no other additional implications to consider.

8. Risk Management

- 8.1. Failure to adopt the Code and Enforcement policy can increase the risk of legal challenge and adverse scrutiny. Care has been taken to ensure that the Council is not unduly constrained in taking the appropriate regulatory action. If a policy is too restrictive then this could be detrimental to fair and effective regulation; conversely there is a need to provide detail to allow individuals and businesses to understand what they might expect as a result of non compliance.
- 8.2. There is a reputational risk to Council by not having a transparent and robust approach to enforcement.
- 8.3. Once adopted failure to comply with one's own Enforcement Policy is open to legal challenge as an abuse of process.

9. Access to Information/Bibliography

- 9.1. A copy of the Regulators Code of Compliance can be accessed via the following hyperlink:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

- 9.2. Further information in relation to the report and its contents can be accessed by contacting the report author.

10. Contact Information

Contact details for this report are as follows:

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Corporate Enforcement Policy

July 2016

Cheshire East Council – Enforcement Policy

1.0 Background

- 1.1 Cheshire East Council is an Enforcing Council and proud to be one that is tough on residents and businesses that are selfish and cause harm to others. Through this policy we want to be clear about what you can expect from us if you break Council rules on enforcement, or if you are a victim of someone else doing it.
- 1.2 We accept that there are times when you may need help on what the rules are and what we expect from you. So along with our tough stance on enforcement, we will provide advice and assistance, and try and nip problems in the bud through more informal approaches. We will make sure that we target those areas that are most in need and so we are upfront that our challenge is huge, but we are committed to protecting residents and businesses from harm wherever we can.
- 1.2 Cheshire East Council has an existing Enforcement Policy that was approved in March 2009. This new Policy provides an update and refresh of the 2009 version and takes into account changes that have occurred in relation to regulatory activity; this includes updated statutory requirements of an Enforcement Policy, new regulatory sanctions available for specific issues of non compliance and also changes to the structure within Cheshire East Council itself. The Policy was approved by Cabinet on 24 March 2009.
- 1.3 Our policy does not aim to provide a ‘one size fits all’ approach to enforcement across the wide range of regulatory services, but is more of a general overarching view of how Cheshire East and its officers will undertake regulatory and enforcement action as part of their day to day work.
- 1.4 It also takes into account the subtle differences in regulatory approach between the various service areas by providing links to specific local enforcement procedures which will be useful for business and individuals. Where there is a conflict between this general policy and any service specific enforcement policies, the service specific policy will take precedence.

2.0 Scope and Meaning of Enforcement

This Policy applies to all the legislation enforced by Officers with delegated enforcement powers employed by the Council.

‘Enforcement’ includes any criminal or civil action taken by Enforcement/Investigation Officers aimed at ensuring that individuals or businesses comply with the law.

The term ‘enforcement action’ has been given a general statutory definition, which is:

- (a) Action to secure compliance with a restriction, requirement or condition in relation to a breach or supposed breach;
- (b) Action taken in connection with imposing a sanction for an act or omission; and

(c) Action taken in connection with a statutory remedy for an act or omission.

'Enforcement Officer' includes any individual who has been duly authorised by the authority under the terms of the Cheshire East Council Constitution and/or scheme of officer delegations to undertake 'Enforcement' and 'Enforcement Action' in accordance with paragraphs (a)-(c) above.

3.0 What Guides Our Enforcement Approach?

3.1 The Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006 requires every local authority to have regard to the five Principles of Good Regulation when carrying out specific regulatory functions.

1. Proportionate

Our activities will reflect the level of risk to the public and enforcement action will relate to the seriousness of the offence.

2. Accountable

Our activities will be open to public scrutiny, with clear and accessible policies, and a fair and efficient complaints procedure.

3. Consistent

Our advice to those that we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.

4. Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.

5. Targeted

We will focus our resources on higher risk enterprises and activities, reflecting both local need and national priorities.

3.2 The Regulators Code

Cheshire East Council has had regard to the Regulators' code in the preparation of this policy. This provides for an efficient and effective approach to all council regulatory inspection and enforcement functions to improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations and Cheshire East Council itself.

In certain instances we may however conclude that a provision of the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, documented and based on material evidence.

3.3 Human Rights Act 1998

Cheshire East Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for Human Rights and Fundamental Freedoms. The Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

3.4 Data Protection Act 1998

Where there is a need for Cheshire East Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1998.

3.5 The Code for Crown Prosecutors

When deciding whether to prosecute, Cheshire East Council will have regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test'.

1. Evidential Test: Is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, Cheshire East will consider what evidence can be used in court and is reliable. We must be satisfied there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge.

2. Public Interest Test: Is it in the public interest for the case to be brought to court?

Cheshire East will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The following public interest criteria will normally be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive.

- How serious is the offence committed?
- What is the level of culpability of the suspect?
- What are the circumstances of and the harm caused to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is prosecution a proportionate response?

- Do sources of information require protecting?

3.6 Regulatory Enforcement and Sanctions Act 2008

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a Primary Authority relationship and in those circumstances will have regard to guidance issued by the secretary of State in relation to Primary Authority.

4.0 Which services operate in accordance with this Enforcement Policy?

This policy relates to all council services that operate a regulatory function within or on behalf of the council.

Some examples of service areas that have a role to enforce legislation include;

- Environmental Health (food safety, health and safety, environmental protection, public health)
- Licensing (alcohol, hackney carriage & private hire, street trading)
- Animal Health and Welfare (farmed animal health, animal boarders and breeders, zoos, riding schools)
- Trading Standards (doorstep crime, fraud, counterfeiting, under age sales, weights and measures, labelling)
- Housing (housing conditions, licensing of houses in multiple occupation, empty homes, harassment and illegal eviction)
- Planning Enforcement
- Building Control
- Waste & Litter
- Antisocial Behaviour
- Parking Services
- Blue Badge Scheme
- Public Rights of Way and Countryside Services

Please note that this is not exhaustive and refers to the 'traditional' name of the service area/function for simplicity.

5.0 Who does this Enforcement Policy affect?

- 5.1 Although this policy provides a framework for Council employees and contractors whilst they are carrying out their day to day duties it is also designed to provide an overview of the Council's approach and general operating principals to those who might be affected by its use; this would include members of the public, commercial businesses and voluntary organisations.
- 5.2 This policy is also applicable where the Council is the Enforcing Authority for its own premises. In such instances steps are taken to ensure that enforcement decisions are free from any conflict of interest. In particular, any serious breaches of legislation would be brought to the attention of the Head of Service and Chief Executive without delay.

6.0 Evidence Gathering during an Investigation

- 6.1 Regulatory bodies are empowered to gather evidence by various means and as part of any ongoing investigation. This can include overt methods where the subject is aware of the investigation or, where appropriate, covert methods where the subject is unaware.
- 6.2 Where the Council undertakes to gather information covertly then they will have regard to the procedures and protocols laid down within the Regulatory Investigation Powers Act 2000 (RIPA) and the Protection of Freedoms Act 2012 as applicable. The Council has a corporate application and authorisation process for the use of these specific methods which is monitored by senior officers.
- 6.3 During an investigation the type of evidence or intelligence gathered can be wide ranging and may include one or more of the following;
- Photographs
 - Computer Records and open source investigations including information from social media websites
 - Communications data
 - CCTV images including body camera footage
 - Paper Records
 - Samples (food, water, environmental, counterfeit goods)
 - Equipment
 - Plans or sketches made at the scene
 - Noise recording records
 - Invoices
 - Witness Statements

- Expert reports
- Forensics (including forensic examination of electronic devices)
- Results of Test Purchase work
- Information from other agencies such as those listed in section 10.0

6.4 This list is not exhaustive and will depend upon the circumstances of the investigation. Evidence may be retained indefinitely and in certain circumstances the Council may seek to destroy equipment that has been seized as part of an investigation, for example where there is a potential risk to health.

6.5 In gathering evidence the Council routinely undertake recorded investigative interviews. These are carried out in accordance with the Police and Criminal Evidence Act 1984 and associated Codes of Practice and seek to provide an individual or business with the opportunity to provide their version of events as part of an ongoing investigation.

6.6 Attendance in person at an interview under caution is expected on the grounds of gathering complete evidence and to maximise the efficiency of the investigation process. Failure to assist an investigation or the act of obstructing an officer is an offence under many pieces of legislation used by enforcement agencies. The Council expect cooperation and will take action where this is not forthcoming.

6.7 In order to take enforcement action there needs to be sufficient supporting evidence to prove that there is a breach of legislation upon which enforcement action can be taken. In relation to anonymous complaints or cases where there is no independent witness, corroborating independent evidence or evidence exists that undermines a case the Council will take a view as to whether they can take any further action or whether to retain the details purely for intelligence purposes.

All investigations will be carried out lawfully having regard to the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Cheshire East Council:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

7.0 What does enforcement look like?

7.1 Cheshire East Council is committed to working with its local residents, business and volunteer communities to provide a safe, healthy and fair living, working and trading environment. Where it can the Council will provide practical and proactive help and

advice to all parties to helps them achieve compliance with the law. However there remains the expectation that individuals and business will make every effort to comply with the law in their day to day business and social lives.

- 7.2 The Council expects residents and businesses to act on its officer's advice when given. If a resident or business operator chooses not act on this advice, an enforcement intervention should be expected. Similarly Cheshire East Council is committed to taking firm action against those that deliberately or persistently fail to comply with legislation and where this is considered appropriate.
- 7.3 Where non-compliance is identified then the Council will seek compliance through a combination of Promotion, Compliance Advice, Guidance and Support, Informal Warning and Formal Enforcement action.

7.3.1 Promotion

This typically involves a push of information to residents and businesses about specific matters of legislation. This is usually achieved by methods such as direct correspondence, press releases, face to face contact and website information.

7.3.2 Compliance Advice, Guidance and Support

The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. If a similar breach is identified in the future, this advice will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such advice cannot be cited in court as a previous conviction but it may be presented in evidence.

The Council recognises that where a business has entered into a partnership with a Primary Authority, the Primary Authority will provide compliance advice and support, and the Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the Primary Authority in accordance with the Regulatory Enforcement and Sanctions Act 2008.

7.3.3 Informal Warnings

This method is used in circumstances where there has been a breach of legislation, usually minor, and where it was not thought appropriate to take more formal action. In these cases the remedy may be simple and easily achieved following a written or oral warning. Such warnings can be challenged by the recipient and a review by a senior officer can be requested.

7.3.4 Formal Enforcement

This includes a wide variety of sanctions including statutory (legal) notices, written undertakings, the refusal to grant or the revocation of an existing licence or registration, fixed penalty notices, powers of seizure and detention, cautions and prosecution. Formal enforcement action is taken in line with corporate procedures and having regard to Codes of

Practice and professional guidance notes. Formal enforcement action also extends beyond the prosecution process as the Council may apply for further post-conviction sanctions.

7.4 Statutory (legal) Notices

Many pieces of legislation enforced by the Council provide for the service of statutory notices to seek compliance with legal requirements. A statutory notice will require a person, business or organisation to comply with specific legal requirements within a specified time period. A notice shall explain what legislation has been breached, how to comply with the notice and the consequences of not complying with a notice. Notices will be accompanied by any relevant appeal information.

In general, failure to comply with a notice makes the person or business named in the notice liable for prosecution action. Further, the Council may, in some cases carry out the works identified within the notice and recover costs from the recipient of the original notice. Prosecution and Works in Default may run in parallel.

7.5 Written Undertakings (Voluntary and Formal)

Where an individual or organisation persistently fails to comply with the law, the Council may seek a written undertaking from that person that they will cease the action causing the breach. If appropriate and proportionate, this action may preclude the need for further formal action whilst the agreement is met.

Failure by an individual or business to agree to a written undertaking or, in the case where an agreement is breached, can lead to further formal action being taken by the council in accordance with the relevant legal provisions.

7.6 Injunctions/ Enforcement Orders etc

In certain circumstances the Council may consider it necessary or expedient to seek a direction from the court (in the form of an order or an injunction) to control behaviour or an activity. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place. Injunctions are orders of the court, breach of which are punishable as a contempt of court by imprisonment or a fine.

7.7 Seizure proceedings

Certain legislation enables authorised officers to seize goods, for example, unsafe food, sound equipment that is being used to create a statutory noise nuisance, unsafe products or any goods or documents that may be required as evidence for possible future court proceedings.

7.8 Fixed Penalty Notices

A Fixed Penalty Notice may be used as a means of dealing with an offence instead of prosecution action. Certain lower level offences such as littering, dog fouling and smoking in prohibited places are subject to Fixed Penalty Notices and they enable the offender to discharge their liability and avoid a criminal record.

The Council will apply with any current relevant guidance on the use of Fixed Penalty Notices to include;

- a) There must be sufficient evidence to give a realistic prospect of conviction;
- b) The offence is not so serious as to warrant a prosecution and is of a nature suitable for being dealt with by a Fixed Penalty Notice; and
- c) Specific guidance on issuing Fixed Penalty Notices to juveniles; including provisions for issuing a Fixed Penalty Notice to an individual aged between 10-17 years of age; cases where there is doubt over the age of a juvenile; first and second offence provisions.

Where an adult recipient does not pay the penalty offered, or is a repeat offender there will be a presumption that prosecution will follow in relation to the actual offence.

7.9 Penalty Charge Notices

Penalty Charge Notices are issued in relation to breaches of parking restrictions whereby an individual pays an amount of money as a consequence of the breach.

The method and circumstances for issuing a Penalty Charge Notice is prescribed by specific legislation.

Failure to pay a Penalty Charge Notice may ultimately result in the individual being pursued by an independent bailiff where their fees will also apply.

The notices issued are no longer breaches of the criminal law, enforceable through the criminal justice system but instead 'Penalty Charge Notices' (PCN's) are a debt owned by the Authority, enforceable through the civil justice system.

7.10 Revocation, suspension and withdrawal of licensing and permits

Where the council has issued a permit, approval, licence or other form or permission, removal of that permission in line with the relevant guidance or legislation will be considered as an enforcement remedy. This action does not preclude further parallel formal enforcement action by the authority e.g. prosecution.

When considering future licensing applications, Cheshire East may take previous breaches and enforcement action into account.

7.11 Forfeiture Proceedings

This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. The Council may seek an order of the court for forfeiture of goods it has seized either as part of criminal investigations or during the exercise of its enforcement functions.

7.12 Simple Caution

As an alternative to prosecution and in appropriate circumstances a simple caution may be considered as a means of formal enforcement action. A caution is not a criminal conviction but it will form part of an offenders' criminal record and may be referred to in any subsequent proceedings.

For a caution to be issued the following criteria must be met;

- a) There is sufficient evidence for provide a realistic prospect of conviction and it is in the public interest to caution;
- b) There has been a reliable admission of guilt by the offender; and
- c) The offender is over 18 years of age.

The refusal of an offender to accept a caution will not prevent the matter from being prosecuted.

Consideration will be given to the Ministry of Justice - Simple Caution for Adult Offender guidance (MoJ Guidance)

7.13 Prosecutions

The Council will consider a prosecution when;

- a) It is appropriate in the circumstances, as a way to draw attention to the need for compliance with the law, especially where there would be a normal expectation of a prosecution, or where;
- b) Through the conviction of offenders, others may be deterred from offending; or
- c) There is potential for considerable harm arising from the breach; or
- d) The gravity of the offence, taken together with the general record and approach of the offender justifies it.

The decision to prosecute will always take into account the criteria set down in the Code for Crown Prosecutors (section 3.5). The Council will use discretion in deciding to initiate a prosecution and may do so without prior warning taking place.

7.14 Proceeds of Crime

There are some cases where an application under the provisions of the Proceeds of Crime Act is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities. Where such an approach is considered then the Council will seek the advice of an Accredited Financial Investigator at the earliest opportunity so that a parallel financial investigation can be undertaken.

There is a defined timescale for the application to proceed with confiscation; it must be made after conviction but prior to any sentencing.

7.15 Charges

Certain enforcement activities incur a charge designed to solely recover the cost of the enforcement action taken and are recoverable from the offender or perpetrator. Some charges are set by statute whilst other are determined by the Council and must demonstrate financial transparency in how they are calculated.

The authority also has the power to apply interest charge rates to any expense it incurs in the course of enforcement action including works in default. Such charges will be applied with regard to advice provided by from financial services.

7.16 No Action

In certain circumstances, contravention of the law may not warrant any action. This can be where there is insufficient evidence or it is not in the public interest to proceed. Some areas of legislation only allow the Council to take action where it is expedient to do so, taking into account the level of harm caused by the contravention. In certain cases it may not be considered expedient to take enforcement action. All such decisions will be made transparently.

8.0 How do we determine the most appropriate enforcement action?

- 8.1 The Council will carry out its duties in a fair and consistent manner. Whilst officers are expected to exercise judgement in individual cases the Council has formal documented arrangements in place to review proposed enforcement actions in the more serious cases and a published scheme of officer delegation. This could include an internal case review and discussion on whether the proposed action is the most suitable means of achieving compliance.
- 8.2 As part of its decision making process, Cheshire East will also consider the role of supplementary decision making policies and tools that are available across the wide range of regulatory functions; this could include the use of the HSE Enforcement Manager Model, Codes of Practice or the role of Primary Authority protocols etc.
- 8.3 Where there is a shared enforcement role with other local authorities and/or enforcement agencies, the Council will ensure that effective liaison and consultation takes place to ensure that the needs of all parties are considered and to help achieve the best outcome from formal enforcement action.

9.0 What can you expect from your enforcing officer/council?

- 9.1 All officers engaged in enforcement functions are appropriately trained and authorised in line with the provisions of the Cheshire East Council Scheme of Delegations to ensure the highest standards of service delivery. Officers of the Local Authority are subject to a twice yearly appraisal to identify where new or refresher training is required to help them carry out their existing and new roles.
- 9.2 Authorised officers will carry out their enforcement activities in accordance with the principles of this Policy and the requirements of the particular legislation under which they are acting and with any associated guidance or codes of practice.
- 9.3 The Council believes that prevention is better than cure and encourages businesses and individuals to seek advice on matters that they are unsure of without fear that this will trigger direct enforcement action. In return the Council will be clear about issues that constitute direct non-compliance with legislation and those matters which are examples of good practice. Where appropriate, advice and guidance will be

followed up by dedicated compliance checks or will form part of any routine inspection programme.

- 9.4 The Council will endeavour to provide information and advice in plain language. The Council will discuss general issues, individual compliance failures or problems with anyone experiencing difficulties should it be requested. To support this, the Council will identify named contacts in any correspondence that it issues.
- 9.5 The Council will have regard to the challenges faced by individuals and businesses, particularly small businesses. It will ensure that any action it requires is proportionate and balanced against risk. As far as the law allows, the council will take account of the individual circumstances of each case when considering action. This includes the seriousness of the offence, past history, confidence in management, the consequences of non compliance and the likely effectiveness of the various enforcement options.
- 9.6 A business or individual will be notified of any intended enforcement action as soon as possible, unless this could undermine an investigation or pose a safety risk to those concerned, the environment or the general public.
- 9.7 In cases where there is an imminent risk to health or the environment, enforcement action may be taken before any right or challenge can be heard.
- 9.8 The Council will provide information on how to challenge or appeal any enforcement decision as part of the enforcement action and where a statutory appeal process exists; where no statutory appeal process exists, guidance on how to challenge or make a representation is provided at the time the action is taken. In addition the Council will also provide its formal complaints procedure for those wishing to use this approach.
- 9.9 The Council will make businesses and individuals aware of the current Enforcement Policy through the website, direct correspondence or as part of day to day contact. Printed copies of the Policy will be provided on request.

10.0 Which other agencies might we work with?

- 10.1 The Council will aim to maximise its effectiveness by working with other authorities and other agencies to share intelligence and resources where it is lawful to do so. Where issues are identified that extend beyond the remit of one agency and into the role of another, then joint operations will be undertaken to maximise resources and improve any enforcement outcome.

Some examples of agencies that the Council might work with include;

- Police
- Environment Agency
- Health and Safety Executive
- Fire Service

- HM Revenue and Customs
- DEFRA
- Animal Plant Health Agency
- Better Regulatory Delivery Office
- Citizens Advice
- Department for Work and Pensions
- DfT
- Registered Social Landlords
- Other Local Authorities (particularly where a Primary Authority relationship exists)
- Other Enforcement Agencies

11.0 Equality and Diversity

Cheshire East Council is committed to providing high-quality, customer focussed services for all people living in, working in, or visiting the area. Promoting fairness and providing equality and inclusion is one of our important ambitions and relates to:

- Accessing the Council's services
- Accessing employment opportunities with the Council, or with its contractors who supply goods or services to the Council.
- Developing policies and plans that impact upon communities and individuals

Through all our work we are committed to achieving the following outcomes:

- Narrowing the gap between our communities
- Providing access to services for all our communities
- Understanding and reflecting the needs of all our communities
- Fostering good relations with all our communities and partners
- Ensuring our workforce is representative of the communities it serves

12.0 Complaints, compliments and suggestions

12.1 Complaints, compliments or suggestions on any aspect of the services the Council provides should be directed to the Service Manager of the relevant service area in the first instance.

- 12.2 If the Council's response to a complaint about the service fails to resolve the matter then you may wish to lodge a formal complaint using our dedicated corporate complaint procedure.

http://www.cheshireeast.gov.uk/council_and_democracy/customer_services/complaints_and_feedback/complaints_and_feedback.aspx

- 12.3 Where a complaint is received about the conduct of an officer then this will be investigated separately to run in parallel with the enforcement investigation; this will ensure that there is no unnecessary delay in the enforcement process.

13.0 Review of this enforcement policy

- 13.1 This policy will be reviewed every three years or more frequently in response to a significant service change or changing regulation.
- 13.2 If you have any queries regarding the content of this policy then please contact:

Tracey Bettaney Principal Manager: Regulatory Services and Health

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Service Specific Enforcement Policy

Regulatory Services and Health

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

CHESHIRE EAST BOROUGH COUNCIL

REGULATORY SERVICE & HEALTH ENFORCEMENT POLICY

1. Aims of this Policy

- 1.1 To advise and inform businesses and individuals with regards to the legislative powers available to the Regulatory Services & Health (RS&H) team and how and when those controls will be executed.
- 1.2 This policy must be read in conjunction with the Cheshire East Corporate Enforcement Policy which provides details of the overarching approach taken by Cheshire East in its enforcement duties.

2. Functions of Regulatory Services and Health

- 2.1 The Regulatory Services & Health (RS&H) team sits within the broader Communities Service and consists of the following teams:
 - Commercial Services (including Trading Standards)
 - Environmental Protection
 - Licensing
 - Animal Health and Welfare

3. Working With Other Agencies

- 3.1 RS&H undertakes a wide range of functions across the whole of Cheshire East and works with a number of internal and external partners to provide a holistic approach to enforcement. Where issues are identified that extend beyond the remit of one agency and into the role of another, then joint operations will be considered to maximise resources and improve any enforcement outcomes.
- 3.2 We will refer matters to other authorities where we believe they are the most appropriate to deal with the matter in hand. Similarly we will also accept referrals from others where we believe we are the most appropriate enforcement body to deal with the issue effectively.

4. Our Approach to Enforcement

- 4.1 In addition to the range of legislation available to the team, national guidance and Codes of Practice are considered when determining the most appropriate course of action to remedy a problem.
- 4.2 Enforcement action should not normally be considered as an initial remedy for any contraventions and where possible officers should consider informal action in the first instance. However, there are occasions, depending of the severity of the contravention, where formal action will be considered as the initial and most appropriate course of action.

5. General Service Standards

- 5.1 RS&H aims to respond to all requests for service, complaints or information received within service standards and to conduct any investigation efficiently and as quickly as possible. Despite this, due to the complexity of some of the work, it is possible for investigations to take a considerable amount of time to enable a thorough investigation and in these circumstances officers will, where possible, keep all parties updated.

6. Legislative Framework

- 6.1 RS&H has a wide range of powers contained within a variety of legislation and regulations which is supported by statutory and non statutory guidance in relation to interpretation and implementation.
- 6.2 In some instances, specific powers contained within legislation are restricted to those officers who are deemed to have the relevant qualification, skills and experience to enforce them. These delegations are formally recorded within individual authorisations granted to and held by each officer.

7. How to Make a Report to Regulatory Services and Health

- 7.1 Before making direct contact with Regulatory Services and Health, individuals and businesses may choose to visit the Cheshire East webpages for initial information and advice www.cheshireeast.gov.uk

7.2 For Environmental Protection, Pest Control, Food Safety, Health & Safety, Licensing, Animal Health & Welfare

Reports can be made through either the Customer Contact Centre on 0300 123 5015 or on line at www.cheshireeast.gov.uk .

7.3 For Trading Standards

Cheshire East Council has a formal arrangement with the Citizens Advice Consumer Service (CACS) who provide all initial advice to consumers in relation to Trading Standards matters. CACS can be contacted on 03454 04 05 06.

- 7.4 Businesses seeking advice on Trading Standards matters can use the dedicated Cheshire East webpages www.cheshireeast.gov.uk which contains a wide variety of information. The webpage also provides contact details for the Business Support Team if further help is required.

- 7.5 In all cases, written communications can be sent to Regulatory Services and Health, Municipal Buildings, Earle Street, Crewe CW1 2BJ.

7.6 Anonymous Complaints

There are circumstances where customer details are required to enable a full investigation to take place. Whilst officers must ensure customers details are kept

confidential, there are occasions when people wish to remain anonymous. In these situations, officers will use professional judgement to determine if the service request or information can be actioned in the absence of customer details.

8. Power of Entry

- 8.1 Where legislation grants officers the power to enter premises to carry out statutory functions, this will be undertaken in accordance with the requirements of relevant legislation.
- 8.2 Where a warrant is required from the Magistrates' Court, an application will be made in accordance with the Council's procedures and the requirements set out by the Magistrates' Court.

9. Enforcement Proceedings

Type of Enforcement Action	Description
Promotion	This typically involves a push of information to residents and businesses about specific matters of legislation. This can be achieved by a variety of methods including direct correspondence, press releases, face to face contact and website information.
Compliance Advice, Guidance and Support	RS&H uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of an informal warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible and avoiding the need for any formal enforcement action. Where a similar breach is identified in the future, this advice will be persuasive in considering the most appropriate enforcement action to take on that occasion.
Informal Warnings	Informal warnings are used for low-level breaches of legislation and where there is a low risk of harm being caused to health or the environment. They can be either oral or written, but where an oral warning is given, it will be confirmed in writing either with an inspection record left at the time of the visit or by a subsequent letter. When a warning is issued by RS&H, it may be followed up by a further visit or inspection to ensure the problem has been rectified.
Fixed Penalty Notice	Certain lower level offences are subject to a Fixed Penalty Notice which allows the offender to discharge their liability and avoid a criminal record. RS&H will comply with any current relevant guidance on the use of Fixed Penalty Notices. Where an adult recipient does not pay the penalty offered or is a repeat offender there will be a presumption that prosecution will follow in relation to the actual offence committed.
Formal Notices	Where a breach is either causing, or likely to cause

	<p>serious harm to health, the environment or safety, a formal notice may be issued to all parties concerned and can include the owner(s) of the premises. A formal notice will require a person, business or organisation to comply with specific legal requirements within a specified time period. A notice shall explain the legislation that has been breached, how to comply with the notice and the consequences of not complying with a notice. Notices will be accompanied by any relevant appeal information.</p> <p>In general, failure to comply with a notice makes the person or business named in the notice liable for prosecution action.</p>
Variation/Review of Permits and Licences	<p>Where a minor breach to a permit or licence has occurred, the Council may either vary the conditions applicable to that licence or call the licence in for a review by the relevant Committee.</p>
Suspension/Revocation of Permits or Licences	<p>Where a permit or licence has been issued and where continued or serious breaches occur, the Council will consider suspending/revoking the licence.</p> <p>With regards to taxi licensing a licence may be suspended for a suitable period of time to allow for specific actions to be undertaken in order to achieve compliance.</p>
Seizure and Suspension Proceedings	<p>Certain legislation enables authorised officers to seize or suspend goods, for example, unsafe food, unsafe products or any goods or documents that may be required as evidence for possible future court proceedings.</p>
Forfeiture Proceedings	<p>This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them from re-entering the market place or being used to cause a further problem. RS&H may seek an order of the court for forfeiture of goods it has seized either as part of criminal investigations or during the exercise of its enforcement functions.</p>
Works in Default	<p>Where a formal notice has not been complied with and it is in the public interest to undertake the work to ensure that risks to health or the environment are prevented, the Council can undertake the works to ensure the notice is complied with. In some circumstances, the Council may decide to undertake the work in default and prosecute.</p> <p>The Council can recover its costs in undertaking Works in Default from the individual or business responsible for the breach of legislation.</p>
Closure of Premises	<p>Where serious concerns for the health or safety of the public or the environment, the Council may apply to the Courts to close a premises.</p>
Caution	<p>Where appropriate, consideration will be given to offering a Caution to a person, where they admit culpability for the offence, rather than taking a prosecution through the</p>

	<p>Courts. Therefore a Caution will be considered in those instances where the Council is satisfied that there is sufficient evidence to offer a realistic prospect of conviction.</p> <p>A Caution is not a criminal conviction but it will form part of an offenders criminal proceedings and may be referred to in any subsequent proceedings.</p>
Prosecution	<p>The Council will consider commencing prosecution proceedings in the Courts against any person(s) who fails to comply with the requirements of a formal Notice or in those cases where the legislation allows for this without the service of an initial formal Notice.</p> <p>Before commencing legal proceedings, the Council will ensure it is satisfied there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. The Council will use discretion in deciding to initiate a prosecution and may do so without prior warning taking place.</p>
Injunction/Enforcement Order	<p>Where a formal Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to secure compliance, the Council will consider applying to the Court for an Injunction. Such action will only be considered if the breach is likely to continue.</p> <p>In certain circumstances RS&H may consider it necessary or expedient to seek a direction from the court (in the form of an order or injunction) to control behaviour or activity.</p>
Proceeds of Crime	<p>There are some cases where an application under the Proceeds of Crime Act is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities. Where such an approach is considered appropriate an Accredited Financial Investigator will commence a parallel financial investigation. Any subsequent confiscation must be made after conviction but prior to any sentencing.</p>

10. Naming Offenders

10.1 The names and addresses of individuals or businesses who act in ways that represent significant harm or risk, particularly to the young and vulnerable or against the interest of legitimate businesses may be published. This action may be taken in circumstances where:

- Evidence of unfair, dishonest or illegal trading is conclusive;
- It is in the public interest to do so;
- There is no risk of prejudicing legal proceedings or other formal enforcement action;
- To do so does not breach Human Rights or Data Protection law;
- After every prosecution.

11. Appeals

- 11.1 There is a statutory right of appeal against the Council's decision to issue a formal Notice. The period for submission of the appeal is set by legislation and all notices will contain notes relating to the appeal provisions.
- 11.2 Unless otherwise stated in the formal Notice, where an appeal is lodged with the Courts, the requirements of the Notice will be held in abeyance until the appeal has been determined.
- 11.3 In addition, some decisions taken by the council can be challenged through a formal appeals process. Where this is available information will be supplied with the decision.

12. Works in Default – Cost Recovery

- 12.1 The Council has the power to carry out works in default for certain Notices and recover all of its reasonable costs from any person(s) responsible for a failure to comply with requirements. It is not necessary for the Council to have exhausted all other avenues, e.g. prosecution before a decision is taken to carry out works in default.
- 12.2 Where it is considered reasonable and proportionate, the Council will carry out works in default and seek to recover all costs incurred either directly from the owner/occupier or by placing a registered charge on the land. Ultimately, the Council may seek to use its powers to force the sale of land to recover its costs.

13. Verbal/Physical Abuse Towards Officers

- 13.1 The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and, where appropriate, will use legal action to prevent abuse, harassment or assault towards officers. To obstruct an officer in carrying out their duties is an offence and legal action may be taken against any person(s) doing so.
- 13.2 Officers are entitled, if subjected to verbal abuse either in person or on the telephone, to terminate the meeting or telephone call.

14. Complaints and Compliments about the service

- 14.1 In accordance with the Council's Compliments and Complaints procedure, persons wishing to make a complaint or compliment about the Regulatory Services and Health service should do so in writing to:

Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ.

- 14.2 Alternatively you can telephone 0300 123 5500 or complete the "Contact Form" at www.cheshireeast.gov.uk

- 14.3 If the complainant has exhausted the Council's corporate complaint process without satisfaction, they can complain to the Local Government Ombudsman. Advice about the types of complaint the Local Government Ombudsman can investigate, as well as application forms for such complaints can be found at the following web site, www.lgo.org.uk. Application forms for such complaints are also available on request at Cheshire East Borough Council offices.



Service Specific Enforcement Policy

Blue Badge

Disabled Persons Parking

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

CHESHIRE EAST BOROUGH COUNCIL
BLUE BADGE ENFORCEMENT POLICY

1. Introduction

- 1.1. The Blue Badge (Disabled Persons' Parking) Scheme is to help disabled people with severe mobility problems to access goods and services, by allowing them to park close to their destination. It is irrespective of whether they are travelling as a driver or a passenger.
- 1.2. Blue Badges must be clearly and properly displayed whilst the vehicle is parked, with the expiry date and serial number clearly visible. The blue clock should be used where a time limit or restriction is in place.
- 1.3. The Department for Transport (DfT) is responsible for the legislation that sets out the framework for the scheme and the Council is responsible for its administration.
- 1.4. Cheshire East Council is an enforcing Council and this policy outlines what can be expected with respect to enforcement of the Blue Badge Scheme.
- 1.5. The policy should be read in conjunction with the Council's overarching Enforcement Policy and other associated policies such as Parking Enforcement, covering the misuse of a Blue Badge and powers to inspect and retain badges¹.

2. Abuse of the Blue Badge Scheme

- 2.1. Blue Badge misuse has historically been perceived as a victimless crime. However when a disabled bay is being used by someone who does not have a legitimate Blue Badge this will have many implications:
 - Genuinely disabled people cannot park close enough to their intended venue (this may mean being unable to attend health appointments or parking close enough to shops)
 - Working disabled people may be unable to get to work on time or sometimes not at all
 - Loss of revenue in car parking charges to the Council impacting all Council Tax payers
 - Detrimental effect on air quality and traffic management as abuse of a Blue Badge can make driving and parking more affordable and increase the number of vehicles on the road
- 2.2. The following are examples of more common misuse/fraudulent use of a Blue Badge:

¹ The Disabled Persons' Parking Badges Act 2013 and Road Traffic Regulation Act 1984 as amended

- Making a fraudulent application – including the misrepresentation of circumstances
- Misuse of an organisational badge
- Use of a deceased persons badge
- Covering up or changing expiry date
- Photocopying a badge
- Using a valid badge belonging to friend/family to gain free parking with and sometimes without, the badge holder's knowledge.
- Persistent misuse e.g. using someone else's badge to park for work every day
- Using counterfeit or stolen badges.

Communication

2.3. The Council ensures all Blue Badge holders receive detailed information on the scheme when a badge is issued and publicises this on its web site and via other Council communications to ensure misuse is not caused by ignorance of the regulations.

2.4. Information on how to report suspected abuse is included on the Council's web site.

Verification

2.5. To minimise the risk of abuse the Council requires evidence of identity and residency at the start of an application and where entitlement can be automatic upon receipt of certain benefits, checks are undertaken. Where it is not clear that a person is entitled, they will be referred for an independent mobility assessment (IMA) undertaken by Occupational Therapists with expertise in mobility issues. However, due to resources available there is an element of relying on the honesty of the applicants.

3. Action where misuse/fraudulent use is suspected

3.1. Where many breaches can be dealt with by providing advice, more serious cases can only be dealt with effectively under a more formal manner.

3.2. Dependent upon the relevant legislation, a variety of actions can be taken, including:

- Verbal or written warning
- Penalty Charge Notice
- Suspension/seizure of a Blue Badge
- Simple Caution
- PACE interview
- Prosecution

3.3. Where immediate enforcement action is necessary, an explanation will be given and this will be followed up in writing. Where possible there will be an opportunity for a person to discuss the issue, but in the case of a potential prosecution this will be at a formal interview.

3.4. All legal codes will be followed on how investigations are to be conducted including consideration of the Code for Crown Prosecutors.

3.5. To ensure any action taken is proportionate, a number of factors will be considered:

- The seriousness of the alleged offence
- Value involved
- Age and vulnerability of the customer
- Any previous history
- Actions taken to prevent the offence occurring again
- Any explanations offered
- Period of alleged abuse/fraud



Service Specific Enforcement Policy

Building Regulations and Dangerous Structures

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

Enforcement Strategic Policy Statement for Building Regulations and Dangerous Structures

1.0 Introduction

- 1.1 The purpose of this policy is to secure efficient compliance whilst minimising the burden to the Building Control function, individuals, organisations and businesses.
- 1.2 The policy explains in general terms, as it may be applied to a wide range of situations, the approach adopted by the Building Control when enforcing Building Control legislation.

The policy is built on five guiding principles:

Consistency: to ensure that similar issues are dealt with in a similar way.

Fairness: to ensure a fair and even-handed approach.

Proportionality: to ensure that action taken relates directly to the actual or potential risk to health, safety, the environment, and the continuance of discrimination against people with disabilities.

Transparency: to ensure that the enforcement action taken by the relevant Council is easily understood by individuals, organisations and businesses having to comply with Building Control legislation, and that clear distinctions are made between legal requirements and advice or guidance about what is desirable but not compulsory.

Objectivity: to ensure that decisions are not influenced by the gender, ethnic origin, religious or political beliefs or sexual preferences of the offender, victim or witness. Sensitive consideration will be given where persons involved have a significant mental or physical disability, are children, or are elderly.



2.0 Decision Making – Authorisations

- 2.1 The Principal Building Control and Planning Systems Manager will authorise any actions under relevant statutes subject to being satisfied on the Officer's competence, appropriateness of qualifications and experience.

3.0 Levels of Enforcement Action

- 3.1 The Council may enforce Building Control legislation by one or a combination of methods that may include:


Promotion: to raise awareness about Building Control law, required standards and to promote good practice amongst those who carry out or design work controlled by Building Control legislation. This is typically achieved by:

- the issue of informative correspondence
- making leaflets and other forms of written guidance available to the public and businesses
- by publicising new government guidance to selected groups
- by face to face contact
- by placing information on the Council's Web site and by providing links to other web sites containing relevant information.

Formal Enforcement: this includes the use of statutory notices, works in default, formal cautions, use of injunctions, prosecution and powers of access. Formal action would be taken following procedures laid down in legislation, codes of practice and government guidance notes and will generally only be applied to actual or suspected major contraventions of Building Control legislation as defined below. Section 16 of the Building Act 1984 requires that plans are formally approved or refused to a prescribed time scale.



4.0 Statutory Notices

- 
- 4.1 The Building Act 1984 is the main legislation within the jurisdiction of the Building Control service and provides for the service of statutory notices, which require a person, business or organisation to comply with specific legal requirements. Where a formal notice is served, the method of appealing against the notice (if you feel that the notice is unjustified or excessive in its requirements) will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what will happen if the notice is not complied with.
- 4.2 The Principal Building Control and Planning Systems Manager will give a realistic period for compliance but should also take into account any previous informal notice issued to the recipient. The Principal Building Control and Planning Systems Manager may extend the time period of statutory notices if they are satisfied that the recipient is making reasonable progress with the work or has genuine reason for requesting more time.
- 4.3 In general, failure to comply with a properly written and served statutory notice will make the recipient liable to prosecution. The Council can also carry out works to comply with the notice and recover the cost of doing so from the recipient of the notice. In certain circumstances it is possible to prosecute as well as serve a notice in which case failure to comply with the notice is then an additional offence.

5.0 Formal Cautions

- 5.1 In certain circumstances, a formal caution may be an alternative to prosecution. This option will be considered before prosecution. It may be used to influence any decision whether or not to institute proceedings if the person should offend again, and it may be referred to in any subsequent court proceedings. It will not be referred to in respect of any offence committed more than three years before.

The purposes of formal cautions are:

- to deal quickly and simply with less serious offenders;
- to avoid unnecessary appearance in criminal courts;
- to reduce the chance of offenders offending again.

Before issuing a caution, which will usually be administered by letter, the following conditions must be satisfied:

- there must be evidence of guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must admit the offence, usually by signing a declaration;
- the suspected offender must understand the significance of a formal caution and give an informed consent to the caution.

6.0 Prosecution

- 6.1 The Council will use discretion in deciding whether to initiate a prosecution. Other approaches may be effective but, where the circumstances warrant it, prosecution may take place.

The Council will consider prosecution if:

- it is appropriate in the circumstances, as a way to draw attention to the need for compliance with the law and the maintenance of standards required by law. Especially where there would be a normal expectation that a prosecution would be taken, or where, through the conviction of offenders, others may be deterred from similar failures to comply with the law; or
 - where there is the potential for considerable harm arising from the breach; or
 - the gravity of the offence, taken together with the general record and attitude of the offender warrants it.
- 6.2 The decision to prosecute will always take account of the criteria set down in the code for Crown Prosecutors and section 222 of the Local Government Act 1972.
- 6.3 The Council will also identify and prosecute, or recommend for prosecution individuals, including company directors, and managers, if they consider that such a conviction is warranted and can be secured.
- 6.4 Before deciding to prosecute there must be sufficient evidence for a realistic prospect of conviction taking account of any defence that may be available, and it must be in the public interest.



7.0 Public Interest Criteria

7.1 The Council will normally take the following Public Interest Criteria into account when deciding on the relevance of legal proceedings, however, the list is not exhaustive:

- Consistency of Council's priorities as stated in its Corporate and Directorate Plans
- The prevalence of the type of offence
- The need for a suitable deterrent
- The risk of danger or injury to people in or around the building or structure
- The extent to which the adequacy of measures to secure adequate energy conservation are affected
- The extent to which the adequacy of measures to secure equality for people with disabilities are affected
- The failure to comply with a statutory notice or respond to advice about legal requirements
- The disregard of legal requirements for financial reward
- Significant potential or actual financial loss to a third party
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, gross negligence or guilty knowledge is a factor
- Multiple minor offences
- The probability of progressing the offence to conviction within any statutory time limit that applies.

7.2 Where possible we will tell an offender, as soon as we obtain sufficient evidence, if a prosecution may follow. The Council will bring all prosecutions without unnecessary delay.



8.0 General Approach to Contraventions of Building Regulation Legislation

- 8.1 A Minor Contravention of Building Control legislation occurs when controllable work, commenced in accordance with the procedural requirements of the relevant legislation, is constructed differently from the approved plan and contravenes the Building Regulations on site.
- 8.2 When an Officer becomes aware of, or observes, a minor contravention the Officer will:
- notify the builder, applicant, owner, or other person as appropriate, of the contravention, verbally in the first instance where it is considered practical and safe to do so, and request that the work is rectified
 - verify that the work has been rectified at the next site visit or within an agreed period
 - If the matter is not satisfactorily resolved within an agreed period, the Officer will refer the matter to a Senior officer for evaluation to determine whether further action is necessary.
- 8.3 A Major Contravention occurs when controllable work has been commenced (whether in accordance with the procedural requirements of the relevant legislation or not) and is constructed or executed contrary to:
- an approved plan and contravenes the Building Regulations; and
 - has not been rectified to satisfy the Building Regulations, and the defective work is significant in terms of health and safety, energy conservation or the potential to encourage discrimination against people with disabilities;
 - cannot be inspected due to the advanced nature of the works and is considered significant;
 - requires extensive alteration to secure adequate standards of health and safety, energy conservation or equality for people with disabilities.
 - or is contrary to requirements set out in a properly written and served statutory notice.

When an Officer becomes aware of, or observes a major contravention the Officer will:

- notify the builder, applicant or owner, or other person as appropriate, of the contravention, where it is considered practical and safe to do so, and request them to rectify the works; and
- refer the matter to a Senior officer for evaluation and to determine whether further action is necessary.



Enforcement of Dangerous Structures

1.0 Introduction

- 1.1 The purpose of this policy is to demonstrate the responsibilities, powers and work of Building Control Service in addressing the problems of Dangerous Structures in the community of Cheshire East.
- 1.2 The council has a duty to protect members of the public in the area of Cheshire East from dangers arising from any structures in the area.
- 1.3 Dangerous structures are buildings, parts of buildings or other structures that pose a structural threat, for example, possibility of collapse, to persons in or around them.
- 1.4 In the event of a building or structure becoming dangerous the council through the Council will require the owner, agent or occupier, to remove the danger by taking appropriate action, either by repairing, securing or demolishing the structure.
- 1.5 If the owner or occupier of the dangerous structure does not take the appropriate action, the council will carry out this work in default to ensure any imminent dangers to the public are removed. The council will then pursue the owner for any costs accrued in carrying out this work.



2.0 Legislation



2.1 The council is empowered to take action, in relation to dangerous buildings, under the following legislation:

2.1.1 Building Act 1984. This act applies to dangerous structures; this includes all buildings and anything affixed to, or projecting from buildings and walls. The most common types of dangerous structure include chimneys and walls, but other items such as shop awnings, gutters and roof timbers are also included.

2.1.2 Building Act 1984 Section 77 This section of the act enables the council to apply to a magistrate's court requesting an order requiring an owner to carry out works in respect of dangerous buildings. The order may require the execution of such work as may be necessary to remove the danger, or to demolish the building or structure. A person who does not comply with such an order is liable on summary conviction to a fine.

2.1.3 Building Act 1984 Section 78 This section of the act enables the Council, where it considers a building or structure to be dangerous and immediate action should be taken, to take such steps as may be necessary for that purpose. Before exercising these powers, where it is practicably reasonable they should give sufficient notice to the owner or occupier of the premises. The council may recover any expenses reasonably incurred by them.

3.0 Objectives

3.1 Through this policy we aim to achieve the following objectives:

- Creating a safer community
- Protecting the public
- Fulfilling our statutory and corporate duties
- Ensuring the safety of Cheshire East Staff.

3.2 As with all the enforcement work we undertake we will comply with the principles of good enforcement these are:

- Consistency
- Fairness
- Proportionality
- Transparency
- Objectivity

4.0 Principles of Good Enforcement

- 4.1 We will carry out our duties in a fair, equitable and consistent manner and will endeavour so far as is practicable, to;
 - 4.1.1 Apply this policy to all structures where known danger exists and where we possess legislative responsibilities.
 - 4.1.2 Train staff annually relating to their duties and responsibilities in surveying dangerous structures and places in accordance with this policy.
 - 4.1.3 Develop a staff guide to accompany this policy to advise and assist all our staff as to their responsibilities in relation to the implementation of this policy for dangerous structures and places.
 - 4.1.4 Ensure surveyors responsible for such sites will at all times retain personal protective equipment and wear it as necessary.
 - 4.1.5 Ensure our contractors produce a method statement that outlines a plan of works that are to be performed in regard to a dangerous structure or place, and their work will be carried out in accordance with a Health and Safety Plan as required by the Construction (Design and Management) Regulations.
 - 4.1.6 Ensure all owners, agents, or persons responsible in relation to a dangerous structure or place will be issued with a dangerous structures notice and a letter within 72 hours of discovering the danger.
 - 4.1.7 Respond promptly to reports of dangerous structures both during and outside normal working hours in accordance with its categorisation. (Refer to 6.0)
 - 4.1.8 Pro-actively resolve any dangers presented by buildings to which we have legal responsibility.
- 4.2 Proportionality
 - We will attempt to minimise the costs of compliance by ensuring any action we take is proportionate to the risks and will endeavour so far as is practicable, to;
 - 4.2.1 Ensure that any intervention is lawful and proportionate.
 - 4.2.2 Assess the extent of any danger and categorise it into category A, category B or category C in accordance with this policy.
 - 4.2.3 Ensure that our decisions in respect of dangerous structures will be evidence-based.
 - 4.2.4 Use the most appropriate legislative powers to deal with the dangers posed in the most effective and efficient manner.
 - 4.2.5 Ensure that sites are levelled off when our contractors have undertaken this work in default.
 - 4.2.6 Order the immediate demolition of a dangerous structure if it poses a severe and imminent threat to public health and safety.



5.0 Our Commitment to work with Others

- 5.1 The council is committed to working with others whenever the need arises in carrying out its role in relation to this policy. This commitment to work with other organisations is essential in ensuring the proper, effective and efficient implementation of this policy.
- 5.2 Where a potential overlap in duties exists between the council and other organisations, the service will seek to consult with the relevant organisation to ensure a holistic approach is taken.
- 5.3 This policy will be circulated to, and approval sought from, organisations that have a vested interest in protecting members of the public in Cheshire East from dangers arising from any structure.
- 5.4 It is our belief that through joined-up working arrangements with other organisations the council can ensure that dangerous structures in Cheshire East are dealt with in the most effective manner and relevant organisations properly perform their respective duties.

List of organisations for consultation:

- Wulvern Housing Association
- Dane Housing Association
- Peaks and Plains Housing Association
- The Cheshire Fire and Rescue Service
- The Cheshire Police Service
- Heritage and Design Service
- Electricity Supplier
- Highways Service
- The Health and Safety Executive
- United Utilities Water Service
- British Gas / Transco



6.0 Categorisation



- 6.1 To guarantee a proportionate response is delivered by the Council we will categorise a dangerous structure depending on the basis of the information known. The aim of categorisation is to ensure our response to a danger will be efficient, effective and reasonable.
- 6.2 **Category A Danger:** When the complainant has specifically stated that the building or structure is in their opinion in a dangerous condition and there is a potential for immediate collapse the complaint will be given a Category A rating. If verified by the surveyor they will arrange to secure and close off the vicinity in conjunction with relevant agencies so as to prevent any danger to the public. Category A will be our default position in respect of dangerous structures and places when, due to lack of information, a surveyor cannot make a category assessment from the information received. This may be revised following initial site inspection. Response to Category A Danger: Where, in the opinion of the surveyor, the structure is on the point of collapse, or is in a ruinous and dangerous condition, the surveyor will secure immediate demolition as required under appropriate legislation. This decision will be based on all available evidence so it is legally defensible. Further to an initial assessment the surveyor will devise a plan of action with all relevant stakeholders, preferably on site. In addition, following the categorisation of a building as being a Category A danger the surveyor will ensure that this work remains his priority until such times as the building is made safe or is secured. Response time: Immediate
- 6.3 **Category B Danger:** Complaints which fall into this category are buildings which are not in danger of imminent collapse but are of ongoing concern such as slates blowing from a roof. Response to Category B Danger: Where it is established that certain works are required to render the property safe but such works are not immediate, the surveyor will take the necessary action as required under the Building Act 1984. Response time: within 24 hours
- 6.4 **Category C Danger** These are complaints where a danger exists but it is not affecting the public. Response to a Category C Danger: Where a place or structure may constitute a danger but poses no threat to the public the surveyor will classify the property as safe and advise all other relevant parties of this decision. Response time: at the discretion of the service

7.0 Site Investigation

- 7.1 Upon arrival on site, the surveyor who performs the site investigation will take photographs of the site.
- 7.2 When site investigations involve special circumstances, such as contaminated land, asbestos, sports grounds or petrol stations the surveyor will consult and work in partnership with other relevant council officers.
- 7.3 If required a surveyor will place warning tape around the structure or place, and place visible signs to inform the public of the danger which is posed. Where necessary the council will obtain the permission of the Highways Service to erect a hoarding on a public road or footpath. If required the surveyor will instruct a contractor to erect proper hoarding or fencing to secure the danger.
- 7.4 When possible a surveyor will give written notice to the owner or occupier if known, and also place a notice on the door or other conspicuous part of the building. This notice will require the owner or occupier to take down, secure, or repair the danger in accordance with relevant legislation.
- 7.5 Where appropriate action is not taken in a timely manner in response to a notice, the council may take the case before the magistrates court to seek an order for the owner, or the occupier if appropriate, to carry out the requisite work.



8.0 Ownership



- 8.1 When possible notices will be served on the property owner or, where it is rented property on the agent. Conclusive proof of ownership is often difficult. When appropriate the council will appear before the magistrates court to secure an order to carry out the necessary remedial works where the owner remains unknown.
- 8.2 Where the property is owned by an individual or an individual acts as agent for a rented property, the notice will be served on that individual at their normal place of residence.
- 8.3 In the case of a Registered Company, the notice will be served in the name of the company and served at the company address or offices.
- 8.4 In the case of a partnership, all partners will be served with a notice, or where a partner has specific responsibility for that area of the company's operation, on that particular partner.
- 8.5 Where the ownership of a property is held by trustees the notice will be served on all trustees or on the person the trustees have elected to represent their interests, normally this will be a solicitor.

9.0 Form of Notice & Subsequent Action

- 9.1 The wording of the notice we serve will follow the wording stated in the relevant legislation; and will give the recipient of the notice the choice of: 'taking down, securing, or repairing the property', to the satisfaction of the surveyor.
- 9.2 The surveyor will seek to reach agreement with the person responsible for compliance with the notice as to their method of compliance and the timeframe in which such remedial works will take place.
- 9.3 The notice will also state the time period in which the works are to be carried out, although where possible we will contact the recipient and agree an appropriate time period in which the work must be carried out.
- 9.4 The council will provide any reasonable adjustment to the notice to cater for any disability the recipient may have.
- 9.5 The site will be monitored on a regular basis following the issue of the notice to ascertain the continuing risk, if any, that the site poses and to confirm that the condition of the structure has not deteriorated. These monitoring visits may be more frequent depending on the nature of an individual case.
- 9.6 If, during this period, the requested work has been satisfactorily completed and the danger adequately removed, the surveyor will ensure that all necessary details are recorded, the owner is notified and the file on the case will be closed.
- 9.7 If, at the end of the notice period or the period agreed with the owner or agent, the requested works have not been completed or are not completed to the satisfaction of the surveyor, legal proceedings will be initiated.
- 9.8 A case file will then be prepared and forwarded to the Legal Services Department at the earliest opportunity to begin legal proceedings.



10.0 Legal Proceedings

- 10.1 All legal proceedings shall be conducted through the Councils Solicitor.

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Service Specific Enforcement Policy

Housing

To be read in conjunction with the Cheshire East Council Enforcement
Policy

July 2016

Housing Enforcement Protocol

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This protocol should be read in conjunction with the Council's Enforcement Policy which sets out what those being regulated can expect from the Council, committing us to good enforcement practice, bringing benefits to businesses, enforcers and consumers alike.

Summary

The main function of local government enforcement is to protect the public and the environment and promote wellbeing and quality of life to all residents, workers and visitors within Cheshire East.

The Housing Enforcement Protocol provides a background to the legislation and guidance on which it is based and specifically relates to the duties and powers vested in the Council to deal with poor housing conditions, statutory nuisances and related public health issues, substandard management of multi-occupancy housing and the enforcement of various legal aspects of the relationship between neighbouring residents, letting agents, landlords and their tenants.

1. Introduction

The Strategic Housing service is part of the Council's Economic Growth & Prosperity directorate and aims to ensure that there is sufficient good quality housing available to meet people's housing needs across all tenures.

The Council has a statutory duty to keep housing conditions in its area under review, using a wide range of housing, building and public health related legislation, and to secure its efficient compliance, whilst minimising the burden on businesses, individuals, landlords and organisations, as well as the Council itself.

The Council's Enforcement Policy outlines the approach to enforcement across a wide range of activities and highlights that effective and well-targeted regulation is essential in promoting fairness and protection from harm.

This protocol provides details of the Council's specific approach to regulating housing standards in Cheshire East and confirms that:

- The Council will provide awareness, advice and assistance whenever possible to the public, businesses and organisations to help them meet their legal obligations before embarking on the enforcement process.
- The Council is committed to carrying out its duties in a fair and consistent manner and ensuring that enforcement action is proportional to the seriousness of failure to comply with statutory requirements.
- The decision to use enforcement action will depend on the severity of the non-compliance.

The aim of this protocol is to ensure that regulation and enforcement of housing standards is consistent, risk-based, targeted and proportionate and is carried out in line with the Council's Enforcement Policy and other relevant detailed guidance, such as the Housing Health and Safety Rating System (HHSRS) Enforcement Guidance and HHSRS Operating Guidance.

2. General principles and Matters to be taken into account when regulating housing conditions

a) Is advice and guidance sufficient to resolve matters?

General information, advice and guidance will be provided in clear, concise and accessible language, using a range of appropriate formats and media.

We will organise and provide events specifically for landlords and letting agents to provide updates and information on good practice and legislative changes.

When offering advice we will distinguish between statutory requirements and discretionary good practice.

Detailed advice such as fire safety risk assessments, floor plans or schedules detailing the work that would be required to let a property in multiple occupation are available as a chargeable service.

b) What is the risk associated with the housing conditions?

Suitably trained officers routinely use the Housing Health and Safety Rating System (HHSRS), which is a statutory, evidence-based, risk assessment method for assessing and dealing with poor housing conditions.

We will use risk assessment to concentrate resources in the areas that need them most and on the properties in the worst condition.

Following receipt of a service request or complaint about poor housing conditions, an initial risk assessment will normally be carried out and any follow up advice or action will depend on the outcome of this initial assessment.

c) Inspection of housing conditions

Inspections will take place in response to:

- A service request from a tenant or landlord;
- Where poor conditions have been brought to our attention by a third party;
- As a result of a risk based inspection programme; or
- In accordance with statutory inspection requirements.

Unless the visit is intended for advice purposes only, the landlord or their agent will be given the opportunity to accompany the investigating officer at the visit. Following an inspection, positive feedback will be given wherever possible to encourage and reinforce good practices.

d) Compliance and enforcement actions

By taking a stepped approach to enforcement and working with landlords and their agents to bring about improvements to rented housing, we aim to achieve a good, safe standard of housing and reducing the need for remedial enforcement actions. Resources will be targeted on those that deliberately or persistently flout housing legislation.

For clarity, our stepped approach to enforcement is set out below; where each step is not successful, further action in the stepped approach will be considered on each of their merits:

- i. General advice and information, available to all members of the public;
- ii. Tailored advice and information for the occupiers and owners and their agents;
- iii. Informal action to resolve the issues including information on what will be acceptable to remedy the issue; in the use of the Housing Act 2004 this will involve the service of a Hazard Awareness Notice;
- iv. Formal action through the service of a legal Notice;
- v. Prosecution and/or carrying out of the works in default, and charging the Owner for any costs.

This is a summary of our approach and will be tailored according to the powers set out in the applicable legislation and the merits of each case.

There will be occasions where the severity of the hazard or breach of legislation necessitates swifter action, such as an imminent risk to health and safety, and the stepped approach may commence at an advanced level. We will take all reasonable steps to discuss our actions with the landlord or their agent and seek to resolve this without our intervention.

We will ensure that clear reasons for, and any implications of, enforcement action are given and complaints and appeals procedures are explained at the same time.

If a notice is complied with, no further action will be taken. However if the notice is not complied with and there is no reasonable excuse for non-compliance, the Council will consider the following options:

- Prosecution;
- Carrying out the works in default;
- Carrying out the works in default and prosecution;
- Whether a simple caution is appropriate;

Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine (previously up to £5,000). Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

The Council will take action to recover its costs in connection with work in default. The Council will also take action to recover the costs incurred in carrying out works associated with Emergency Remedial Action.

e) Information sharing

Matters concerning non-compliance may be shared, where appropriate and in public interest, with other enforcement agencies. This could include situations where there is a shared or complementary enforcement role with other agencies such as the Police, Home Office, Fire & Rescue Service, Health & Safety Executive and other Council departments.

Requests for information will be administered having regard to the Freedom of Information Act 2001 and the Data Protection Act 1998.

f) Partnership working

Partnership working with like-minded agencies and departments will lead to a healthier housing stock and will ensure consistent and targeted enforcement. We will ensure that partnership links are developed and maintained and will co-ordinate guidance and act as the regulatory link with other enforcement authorities both locally and throughout Cheshire East.

External partners include Cheshire Fire and Rescue Service (CFRS), Cheshire Police, the Home Office, Health services in Cheshire East, Registered Providers of social housing and members of the Landlord Accreditation Scheme.

g) Consideration of tenure

All legislation set out in Section 3 below is available to the Council regardless of whether the premises in question are owner-occupied, privately rented or belong to a Registered Provider of Social Housing. However, the Council considers that owner-occupiers are usually in a position to take informed decisions concerning maintenance and improvement issues that might affect their welfare and are then able to set their financial priorities accordingly, whereas tenants do not have the legal responsibility to maintain their home and are in a contractual relationship with a landlord whose duty it is to provide a well maintained home that is free from hazards.

For this reason the Council judges that it is appropriate for its powers to be used differently according to tenure, as follows:

Owner-Occupiers

Other than in exceptional cases, the Council expects owner-occupiers, including long leaseholders, to take their own action to remedy problems of disrepair or nuisance.

In the event that intervention is needed, the Council anticipates that Hazard Awareness Notices served under the Housing Act 2004 will frequently be the appropriate course of action, together with assistance through our home improvement agency service. However, the use of legal Notices will be considered in cases involving:

- Vulnerable or elderly people who are judged not-capable of making informed decisions about their own welfare or the safety of others;

- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected;
- Hazards that might reasonably affect persons other than the occupants; or
- Serious risk of life-threatening harm such as electrocution or fire.

Private Tenants

The Council's primary focus on regulation of housing standards, assessed on a risk based approach, is the private rented sector. There are many responsible private landlords that offer good management and accommodation standards. In some instances however, standards offered by landlords can fall below what is expected. As generally private landlords do not have access to in-house maintenance teams, they can have an ad-hoc approach to repairs and maintenance. Disappointingly, there is a small proportion of private landlords who either do not understand their legal responsibilities when providing housing, or deliberately ignore their duties. Whilst our risk based approach dictates that the private rented sector deserves more of our focus, we also apply that risk based approach further within the sector to target our resources to the worst conditions.

The Council will seek to ensure that the tenant has taken all necessary steps to inform the landlord of any disrepair before taking any action itself, and will provide guidance to the tenant on what is expected from them.

Following an inspection, if the Council considers that satisfactory proposals and timescales for the work to be carried out are received and agreed, and provided matters then proceed to a satisfactory conclusion, the Council will not normally need to take any further action to discharge its duties.

We will proceed with formal action to remedy housing conditions if:

- There is no response from the landlord/agent or;
- A response is judged inadequate or;
- Proposals that were judged acceptable but which are not then followed-through (for example if works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard).

Formal action will be initiated immediately if:

- The housing conditions pose an imminent risk of serious harm to any person (whether or not immediate action is required, and whether the hazard(s) in question is likely to affect a tenant, an employee or a member of the public), or;
- The landlord in question is known to have failed, on a previous occasion, to take appropriate action in response to an informal approach;

Landlords are expected either to provide any agent acting for them with sufficient authority to act on their behalf in the event they are contacted by the Council, or to ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to the Council. The failure of

an agent to respond to communication from the Council or any failure to take appropriate action may be treated as a failure by the landlord.

Social Housing Tenants

Registered Providers typically provide a high standard of accommodation for their tenants, and their management is subject to regulation by other bodies.

The Council will not normally take formal action against a Registered Provider unless:

- It is satisfied that the problem in question has been properly reported to the Registered Provider and;
- The Registered Provider has then failed to take appropriate action;

If the Council determines that it is appropriate to take action, it will then normally notify the Registered Provider that a complaint has been received and/or a hazard identified and seek the Registered Provider's comments and proposals. Only in cases where it judges that an unsatisfactory response has been received will the Council take further action in a stepped approach.

h) Consideration of the occupier's actions and views

Before we consider taking any action in respect of a tenanted property, we expect that normally the tenant should contact the landlord first, and give the landlord reasonable opportunity to remedy the housing conditions.

Legislation covering landlord and tenant issues require that tenants notify their landlords of any problems with the property. This is because it is more difficult for landlords to carry out their obligations under the legislation, unless they have been made aware of the problem.

Where the matter appears to present an imminent risk to the health and safety of the occupants, it is expected that tenants will still try to contact their landlord, even if this is after they have contacted the Council.

In exceptional circumstances we will not insist on tenants contacting their landlord first, for example:

- Where there is a history of harassment/threatened eviction/poor management practice;
- Where the tenant appears to be vulnerable or where there are vulnerable members of the household;
- Where the tenant could not for some other reason be expected to contact their landlord/managing agent;
- Where the property is a House in Multiple Occupation which appears to fall within HMO licensing;

Tenants are responsible for keeping officers informed of any contact they have had with their landlord (or the landlord's agent or builder, etc.), which may affect the action the Council is taking or considering taking. Tenants should also consider seeking independent legal advice about their own individual powers to resolve any dispute with their landlord.

i) Consideration of whether it is reasonable and appropriate to intervene

Where any of the following situations arise, consideration will be given to whether it is reasonable and/or appropriate to intervene in the regulation of housing standards:

- Where the tenant unreasonably refuses access to the landlord, managing agent or landlord's contractor, to arrange or carry out works;
- Where the tenant has, in the opinion of the Council, caused the damage to the property, and there are no other items of disrepair;
- Where the tenant repeatedly fails to keep an appointment and/or not responded to any follow up contact;
- Where the tenant has been aggressive, threatening, verbally or physically abusive towards officers;
- Where there is found to be no justification for the complaint regarding housing conditions; or
- Where the tenant unreasonably refuses to provide the Council with relevant documentation that is necessary for the Council to be able to carry out its duties.

3. Housing Enforcement Legislation

Following is a list and brief description of the more frequently used legislation to regulate housing standards (this is not an exhaustive list):

Housing Act 2004 – Chapter 34

The Housing Health and Safety Rating System (HHSRS) is the method for assessing, rating and categorising hazards (category 1 or category 2) found in dwellings, the service of statutory notices and the undertaking of emergency remedial action.

Mandatory HMO Licensing is detailed in Part 2 of the Act, and places an obligation for all local authorities to set up a scheme to licence those properties that are 3 or more stories, with 5 or more tenants, making up 2 or more households, and who share amenities.

The Housing Act 2004 is the primary piece of legislation used in regulating housing standards and is explored in greater detail in Appendix A.

Housing Act 1985 (as amended)

Where Category 1 Hazards exist as rated using the HHSRS, the Housing Act 1985 may be used to declare Clearance Areas or Demolition Orders;

Part 10 of this Act makes provision for determining whether a dwelling is overcrowded.

Local Government (Miscellaneous Provisions) Act 1976

Section 16 provides provision for the authority to serve a Requisition for Information Notice, requiring the recipient to disclose their interest in a particular property or land and that of any other person who they believe may have an interest.

Local Government (Miscellaneous Provisions) Act 1982

Section 29 provides the authority with the power to secure a property that is not effectively secure against unauthorised entry.

Environmental Protection Act 1990

Section 80 enables authorities to deal with properties that are injurious or prejudicial to health or causing a statutory nuisance.

Town and Country Planning Act 1990

Section 215 enables authorities to deal with poor and unsightly condition of properties and/or land that are judged to be detrimental to the local amenity.

Prevention of Damage by Pest Act 1949

Enables authorities to remove article(s) that are considered putrescible or offering harbourage to pests, either within a premise or on the land around.

Public Health Act 1961

Section 17 provides emergency powers for authorities to deal with blocked drains.

Public Health Act 1936

Section 45 provides for the service of a Notice to repair and/ or cleanse a defective water closet that is in such condition as to be prejudicial to health or a nuisance;

Section 50 provides authorities with a power to deal with overflowing/leaking cesspools.

Building Act 1984

Section 59 provides powers to deal with defective drainage including gutters and down pipes;

Section 64 provides a duty to serve a Notice requiring the provision of water closets in a dwelling where insufficient facilities exist;

Section 63 covers water closets, drains and soil pipes improperly constructed or repaired and in such a state as to be prejudicial to health or a nuisance;

Section 76 affords a quicker response to dealing with premises that are prejudicial to health or a nuisance than is afforded through the use of Section 80 of the Environmental Protection Act 1990;

Section 79 covers ruinous or dilapidated buildings and neglected sites.

Protection from Eviction Act 1977

Section 1 provides powers to deal with landlords and/or their agent who unlawfully evict or harassment a tenant or a member of their household.

Landlord and Tenant Act 1985

Section 11 implies a covenant into all leases of a dwelling house for less than seven years. Landlords must keep in repair the structure and exterior of the dwelling (including drains, gutters and external pipes) and keep in repair and in proper working order the installations in the house for the provision of water, heating, electricity, gas and sanitation (including basins, sinks, baths and sanitary conveniences).

4. Houses in Multiple Occupation

The Housing Act 2004 introduced a mandatory licensing for certain types of Houses in Multiple Occupation (HMO). The aim of licensing is to ensure the larger type, higher risk HMOs are properly managed and provide greater protection for the health, safety and welfare for the occupants and visitors.

The responsibility as to who must apply to the Council for a licence rests with the person having control of, or the person managing the property.

Fees for Licences

The Council will charge a differentiated fee structure depending on the size of the HMO. Licence fee charges reflect the level of work Council officers undertake in processing an application for a licence.

Licensing Offences

The Housing Act 2004 lays down a number of licensing related offences including:

- Operating a licensable HMO without a licence or allowing it to be occupied by more persons than a licence allows: unlimited fine (previously up to £20,000);
- Breach of any licence conditions: unlimited fine (previously up to £5,000);
- Supplying incorrect information in a licence application: unlimited fine (previously up to £5,000);

In addition to the above, a landlord who operates a licensable HMO without a licence:

- May be subject to Rent Repayment Order (RRO) requiring repayment in respect of all Housing Benefit received by the landlord over the previous 12 months;
- Loses the right to automatic possession under an assured shorthold agreement;
- May be subject to a Management Order where the Council will take control of the HMO (see Interim and Final Management Orders on page 21 within Appendix A).

Where an unlicensed HMO has been identified without good reason for it not being so licensed, the Council will take formal proceedings with a view to prosecution in the courts.

If a landlord of an unlicensed HMO approaches the Council for a licence of their own volition and subsequently co-operates fully with the Council, including addressing any identified management, safety or amenity issue within an agreed timescale, the Council would not normally pursue formal enforcement action.

Any breach of licence condition will initially be dealt with informally. However, if this breach is not remedied within an agreed timeframe or is considered to be a serious nature putting the health, safety or welfare of any occupier or other persons living or owning property in the vicinity at risk, the Council will pursue formal enforcement action.

Interim and Final Management Orders

See Interim and Final Management Orders on page 21 within Appendix A

Temporary Exemption Notices

A Local Housing Authority has a discretionary power to serve a Temporary Exemption Notice (TEN) on managers or owners of HMOs which are capable of being licensed, who notify the local housing authority of their intention to take particular steps to ensure that their HMO no longer requires a licence. TENs last for 3 months but are renewable for another 3 months in exceptional circumstances.

Raising Standards in HMOs

Traditionally, housing conditions in HMO type properties are viewed as being the worst in the rented sector for safety, facilities, repairs, harassment of occupiers and management standards, and are often occupied by people living on low income who are often from vulnerable or disadvantaged groups.

Many of these HMO type properties will not require a licence to operate as such and the Council will look to regulate these HMOs through the enforcement of the HMO Management Regulations and by the use of the Housing Health and Safety Rating system.

Currently, these non-licensable HMOs will only be inspected when the Council receives a complaint or enquiry about the property. These HMO properties will then be subjected to risk assessment by the Council, scoring the HMO in five areas; Confidence in Management; Amenities; Standard of Fire Safety Management; Structure and Fire Provisions. Where landlords can demonstrate a good standard of compliance within these five areas, they will benefit from a lower frequency for re-inspection, which could be in 5 years.

Fire Safety in HMOs

Statistically, HMO type properties have one of the highest incidents of deaths caused by fire in any type of housing. It is therefore essential that any HMO possesses an adequate means of escape in the event that a fire should occur and also adequate fire detection and alarm measures in place to provide early warning of such.

This area of law is covered by both the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005, the latter of which is enforced by Cheshire Fire and Rescue Service.

The LACORS, Housing - Fire Safety guidance helps to manage the relationship between the Housing Act 2004 and the Fire Safety Order by offering advice and assistance to enforcers, landlords, managing agents and tenants, amongst others, on ways to make residential buildings safe from fire and compliant with legislation.

The Local Housing Authority will generally be the lead enforcing authority for fire safety in HMO type properties, however, where an HMO contains communal areas, the Regulatory Reform (Fire Safety) Order 2005 requires the responsible person for an HMO to carry out and provide a Fire Risk Assessment.

The actual level of fire protection and detection that will be required to be provided within any HMO will be risk assessed, taking into account the property characteristics, the management practices in place, the written fire risk assessment and the recommendations contained within the LACORS, Housing - Fire Safety guidance

General Management of HMOs

The Management of Houses in Multiple Occupation (England) Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007, require the person having control of any HMO to ensure that:-

- The name, address and contact telephone number for the manager of the HMO is provided to each occupier and also displayed within a prominent position in the HMO;
- All means of escape from fire are kept free from obstruction and maintained in good order and repair and ensure any fire fighting equipment and fire alarms are maintained in good working order;
- Ensure the water supply and drainage system is maintained in good, clean and working condition and protected from frost damage where appropriate;
- Ensure that any gas appliance and fixed electrical installation is inspected and tested by a recognised engineer and certification provided specifying the results of the test;
- All common parts are maintained in good and clean decorative repair, maintained in a safe and working condition and kept clear from obstruction;
- The external structure, outbuildings, yards, forecourts, gardens and boundary walls, fences and railings are maintained in good, safe repair and clean condition;
- That each unit of living accommodation and any furniture supplied with it are in clean condition at the beginning of a person's occupation;
- The internal structure, any fixtures, fitting or appliances and every window and other means of ventilation are kept in good repair and in clean working order;
- Ensure sufficient bins or other receptacles are provided for the storage and disposal of refuse and litter from the HMO;
- All Tenants should fulfil their tenancy obligations and conduct themselves in a manner that will not hinder or frustrate the manager in the performance of his duties;

5. Empty Homes

Empty homes are a recognised wasted housing resource and deprive people of a much needed home. Empty homes can cause blight in our local communities, prevent investment and regeneration, devalue surrounding properties and also attract anti-social behaviour. Cheshire East Council is committed to identify long term empty nuisance properties and will strive to take steps to bring them back into use through formal or informal action.

Thousands of properties will become empty at some point as part of the normal operation of the housing market, usually during the rental or buying process. It is only when properties stay empty longer than six months without any obvious signs of renovation or rental that they become 'true' empty homes. The scale of the problem dictates that with the level of resources available to the Council, we cannot tackle every empty home in Cheshire East.

Our approach is to work with the owners of empty homes, to support and encourage voluntary action to bring these homes back into use. Where co-operation fails, we will use a scoring matrix to determine the extent the empty home impacts on its neighbours and the wider community, which shall in turn inform our decision whether to prioritise the property for enforcement intervention.

Some of the criteria used in this scoring matrix includes: the condition of the property and state of the garden, any anti-social behaviour evident, any fly tipping evident, the number of complaints received, the owner's response to our contact, is the property open to access and length of time the property has been empty.

The Council will use its enforcement powers in line with the most appropriate of the following legislation:

- Town and Country Planning Act 1990 (untidy land notice)
- Environmental Protection Act 1990
- The Housing Act 2004
- Prevention of Damage by Pests Act 1949
- The Building Act 1984
- Local Government (Miscellaneous Provisions) Act 1982
- The Housing Act 1985
- Law of Property Act 1925

The Council's approach to dealing with empty homes is articulated in the Strategic Housing Delivery Framework.

6. Harassment

Harassment is a criminal offence and occurs when landlords deliberately interfere with a tenant's quiet enjoyment of their residential home. Harassment can also be committed by the landlord's managing/letting agent, friend or family member.

The law protects tenants living in residential property against harassment and illegal eviction, making it an offence for the landlord or an agent of the landlord to;

- a) interfere with the peace or comfort of an occupier or members of their household; or
- b) persistently withdraw or withhold services for which the tenant has a reasonable need to live in the premises as a home;

and in either case has reasonable cause to believe this conduct is likely to cause the occupier to give up the occupation of either the whole or part of the premises.

Harassment will ultimately be interpreted by the courts but may include such things as: frequent visits by the landlord to demand rent or to inspect the condition of the property, verbal abuse, entering the property without the tenant's consent, failing to carry out essential repairs or disconnection or disruption of the electricity, gas or water supply without good cause.

7. Illegal Eviction

It's a criminal offence for a landlord or their managing/letting agent to evict a tenant without following the correct legal steps for eviction.

Actions that would typically be considered to constitute an illegal eviction by a landlord are:

- if a landlord forces a tenant to leave by threatening or harassing;
- a landlord physically throws a tenant out;
- a landlord prevents a tenant from using certain parts of their home;
- a landlord changes the locks whilst the tenant is out, if the correct procedure for eviction has not been followed.

If a private tenant has an assured shorthold tenancy or a pre-1989 'fair rent' or regulated tenancy, only a bailiff can lawfully evict them from their home.

Before the bailiffs can come, a landlord must first:

1. give the tenant notice to leave;
2. go to a court for a possession order;
3. apply to a court for bailiffs to evict the tenant.

It's illegal eviction if a landlord forces their tenant to leave before bailiffs arrive, even if the landlord has obtained a court order requiring the tenant to leave or has given the tenant written notice to leave.

The Housing Act 2004 – Primary legislation used in regulating housing standards

Following is a list and brief description of some of the duties and functions provided by the local housing authority under this Act in relation to regulating housing standards (this is not an exhaustive list):

Further information on the Housing Act 2004 is available at the following website:-

<http://www.legislation.gov.uk/ukpga/2004/34/contents>

The Housing Act 2004 introduced the Housing Health & Safety Rating System (HHSRS), described “as a means of identifying faults in dwellings and of evaluating the potential effect of any faults on the health and safety of the occupants or visitors”. Faults contribute to and are categorised into 29 possible hazard profiles (see Appendix B for further information on hazard profiles) for which the legislation provides a range of actions for addressing identified hazards. It is a two stage calculation combining the likelihood of an occurrence taking place and then the range of probable harm outcomes that might arise from that occurrence to give a numerical rating. This is repeated for each of the hazards present. The assessment is not based upon the risk to the actual occupant but upon the group most vulnerable to that particular risk. Once scored, any action that is then considered will take into account the effect of that risk upon the actual occupant.

The scores for each hazard present are then banded from A to J. Bands A to C (ratings of 1,000 points and over) are the most severe, and are known as Category 1 hazards when considering action. Bands D to J, are less severe (rating less than 1,000 points) and are known as Category 2 hazards.

HHSRS provides a combined score for each hazard identified and does not provide a single score for the dwelling as a whole. It is applied to all residential premises, whether owner-occupied or rented.

When a Category 1 hazard is identified, the Council has a duty to take appropriate action and must decide which of the available enforcement options is most appropriate to use (these are explained in more detail below).

When a Category 2 hazard is identified, the Council has a discretionary power to take action and will consider individual cases and circumstances when deciding whether any action should be taken.

This Protocol takes account of guidance provided by the Government and sets out how the Council will use its powers and reach its decisions in relation to the Housing Health & Safety Rating System (Part 1 of the Housing Act 2004).

Authority to investigate

The Housing Act 2004 and associated secondary legislation sets out the duties and powers that the Council has in relation to regulating housing standards in its capacity as Local Housing Authority.

The Act requires the local housing authority to consider the housing conditions within their area. The Act also provides that the local housing authority must arrange for an inspection to be carried out, where it has become aware that it would be appropriate for a residential premises to be inspected.

Choice of appropriate enforcement action

When determining the most appropriate action we will have regard to the Housing Act 2004 Enforcement Guidance. Unless there is an imminent risk to the health and safety of the occupant or visitors to the property, the Council will attempt to secure the required improvements informally and within a reasonable amount of time.

Since informal action is not a legislative option for the Council under the Housing Act 2004, where hazards are found and assessed to represent either a category 1 or significant category 2 hazard, a Hazard Awareness Notice may initially be served, to draw a landlord's or owner-occupier's attention to the desirability of remedial action.

Where an informal approach fails the Council will determine which of the specific enforcement options it will use, taking into account the facts and circumstances in each individual case.

Reasons for the Council's decision to serve a notice or order

A statement of reasons will be provided with any notice or order served, explaining why the Council decided to take a particular course of action, rather than any other kind of enforcement action.

The notice or order will also include details on the right to appeal against the decision and the period in which an appeal may be made. Since there is no actual requirement to comply with a Hazard Awareness Notice there is no appeal process against this type of notice.

When a Category 1 hazard is identified, the Council will take the most appropriate of the following courses of action:

- Serve an Improvement Notice (including a Suspended Improvement Notice);
- Make a Prohibition Order (including a Suspended Prohibition Order);
- Serve a Hazard Awareness Notice;
- Take Emergency Remedial Action;
- Make an Emergency Prohibition Order;
- Make a Demolition Order;
- Declare a Clearance Area.

When a Category 2 hazard is identified, the Council may take the most appropriate of the following courses of action:

- Serve an Improvement Notice (including a Suspended Improvement Notice);
- Make a Prohibition Order (including a Suspended Prohibition Order);
- Serve a Hazard Awareness Notice;
- In prescribed circumstances – make a Demolition Order;
- In prescribed circumstances – declare a Clearance Area.

Improvement Notices

It is anticipated that Improvement Notices will be an appropriate and practical remedy for most hazards.

Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard, it will require works that will either remove the hazard entirely or will reduce its effect so that it ceases to be a Category 1 hazard.

If the Council determines the hazard can only be reduced to a Category 2 hazard rather than removed altogether, it will require works to be carried out as far as is reasonably practical to reduce the likelihood of harm.

Where the Council determines that an Improvement Notice should be served in respect of a Category 2 Hazard, it will require works it judges sufficient either to remove the hazard or reduce the likelihood of harm to an appropriate degree, and will make these decisions having considered the circumstances of the case.

Suspended Improvement Notice

The Council has the power to suspend the operation of an Improvement Notice, if considered reasonable to do so, until the occurrence of a specified time or event, which will be specified within the notice. The following are situations in which it may be appropriate to suspend an Improvement Notice:

- The need to obtain planning permission (or other appropriate consent) that is required before repairs and/or improvements can be undertaken;
- Works which cannot properly be undertaken whilst the premises are occupied and which can be deferred until such time as the premises falls vacant or temporary alternative accommodation can be provided;
- Personal circumstances of occupants, for example, temporary ill-health, which suggests that works, ought to be deferred;

When deciding whether it is appropriate to suspend an Improvement Notice the Council will have regard to:

- The level of risk presented by the hazard(s);
- The turnover of tenants at the property;
- The response or otherwise of the landlord or owner;
- Any other relevant circumstances (e.g. whether the vulnerable age group is present);

Suspended Improvement Notices will be reviewed after a maximum of 12 months and then at intervals of not more than 12 months, but suspension will not normally exceed 6 months.

Prohibition Orders

Prohibition Orders can be used where either a Category 1 and/or Category 2 hazard exists on a residential dwelling or HMO, or part of, where repair and/or improvement appears to

be inappropriate on grounds of practicality or excessive cost (i.e. the cost is unrealistic in terms of the benefit to be derived). An example might include:

- The use of a dwelling or part of a dwelling where adequate natural lighting or adequate fire escape cannot realistically be provided (cellar or attic);
- The use of specified dwelling units or of common parts within an HMO if the means-of-escape is unsatisfactory;
- To specify the maximum number of persons who can occupy a dwelling where it is too small for the household's needs, in particular, in relation to the number of bedrooms;
- Where a premise is lacking an appropriate number of washing, bathing or toileting facilities but of which are nonetheless suitable for a reduced number of occupants;

In addition to prohibiting all uses in relation to the whole or part of the premises in question (other than uses specifically approved by the Council), Prohibition Orders can prohibit specific uses (section 22 (4)(b) Housing Act 2004). This option may be employed to prevent occupation by particular descriptions of persons. Use of this power may be appropriate in situations such as the following:

- Premises with steep staircases or uneven floors which make them particularly hazardous to elderly occupants;
- Premises with open staircase risers or widely spaced balustrades that make them particularly unsuitable for infants;

Suspended Prohibition Order

The Council has the power to suspend a Prohibition Order once served and will consider this course of action where it is reasonable to do so if the facts of a particular case appear to justify it.

Suspended Prohibition Orders will be reviewed after a maximum of 12 months and then at intervals of not more than 12 months, but suspension will not normally exceed 6 months.

The Council will consider any written requests made for alternative uses of premises or part-premises which are subject to a Prohibition Order, and will not withhold its consent unreasonably. Any such consent will be confirmed in writing.

Hazard Awareness Notice

Hazard Awareness Notice is a notice advising the person on whom it is served of the existence of a category 1 or 2 hazard on their residential premises. The use of such a notice allows for a warning to be heeded and voluntary action taken or representations to be made, before alternative stricter enforcement action may be used.

It might be applicable to use a Hazard Awareness Notice:

- To notify owner-occupiers of the existence of hazards (for example where the risk from the hazard is mitigated by the longstanding nature of the occupancy);
- It is judged appropriate to draw a landlord's attention to the desirability of remedial action;
- To notify a landlord about a hazard as part of a measured enforcement response;

Emergency Remedial Action & Emergency Prohibition Order

The situations in which Emergency Remedial Action and Emergency Prohibition Orders may be used are specified by sections 40 to 45 of the Housing Act 2004. Specifically, the Council must be satisfied that:

- A Category 1 hazard exists on the residential premises, and;
- The hazard involves an imminent risk of serious harm to any occupier; and;
- That no management order is in force in respect of the premises;

If these conditions are met the Council will take appropriate emergency action to remove or reduce any imminent risk of serious harm and will seek to recover its expenses incurred in having to do so.

Situations in which emergency action may be appropriate include:

- Residential accommodation located above commercial premises and lacking a safe means of escape in the event of fire because there is no independent access;
- Risk of electrocution, fire, gassing, explosion or building collapse;

Demolition Orders

The provisions within Section 265 of the Housing Act 1985 have been amended to align that legislation with the new method of hazard assessment and the enforcement provisions in Part 1 of the Housing Act 2004.

Where a category 1 hazard exists on any residential premises, the making of a demolition order, when considered to be the most appropriate enforcement action to take, is an option available to the Council. Where a category 2 hazard exists on any residential premises, only under prescribed circumstances will a demolition order be considered. In either event, in determining whether to issue a Demolition Order the Council will take account of Government guidance and will consider all the circumstances of the case.

Clearance Areas

The Council can declare an area to be a Clearance Area if it is satisfied that each of the premises in the area is affected by one or more Category 1 hazards (or that they are dangerous or harmful to the health & safety of inhabitants as a result of bad arrangement or narrowness of streets). In determining whether to declare a Clearance Area the Council will act only in accordance with section 289 of the Housing Act 1985 (as amended) and having had regard to relevant Government guidance on Clearance Areas and all the circumstances of the case.

Discretionary Powers

Alongside the abovementioned main enforcement powers, the Housing Act 2004 introduced a range of discretionary measures relating to both individual residential premises and geographically defined areas within the local authority.

These are listed below with a brief explanation of their relevance. We will only introduce such powers when the evidence to do so is compelling.

Designation of Additional Licensing Areas

In addition to the mandatory licensing for specified types of HMOs, local housing authorities are permitted to extend these licensing requirements to also include other types of HMOs as well, either within a specific part of its area or across all of its area. Certain criteria will need to be met prior to introducing additional licensing, which includes an overall determination to be assessed on the level and adequacy of the management of the specified HMOs, the level and extent of anti-social behaviour being caused and whether other courses of action, other than licensing, may be used to deal with the identified problem such as a voluntary accreditation scheme. Prior to the introduction of any additional licensing areas, the local authority are required to consult with those who are likely to be affected by any such scheme.

Designation of Areas subject to Selective Licensing

This allows for all privately rented properties within either part or the entire local authority area to be subject to licensing criteria. Selective licensing is designed to be able to focus on more localised problems, such as low housing demand and to run in parallel and to compliment HMO licensing. As for Additional Licensing Areas, the local authority is required to consult with those who are likely to be affected by any such scheme prior to its introduction, and specific housing problems need to be evident, such as low housing demand or anti-social behaviour. The Council will keep the need for selective licensing under review.

Interim and Final Management Orders (IMO and FMO)

These provisions are designed to be used to safeguard the health, safety or welfare of any occupier or other persons living or owning property in the vicinity of a poorly managed rental property. Management Orders allow local housing authorities to intervene in particular circumstances and step into the shoes of a failing landlord and provide mechanisms to ensure necessary improvements in the physical conditions, the management of the rented accommodation and the behaviour of the occupiers are in place. IMOs are temporary measures designed to last for 12 months, whereas FMOs can last for up to 5 years.

In certain circumstances, such as in the case of a licensable HMO which is not and is not likely to become licensed in the near future the provision to make a management order is mandatory. In other circumstances relating to non-licensable HMOs and other rented properties, management orders are discretionary and need to be ratified by a Residential Property Tribunal (RPT).

Empty Dwelling Management Orders (EDMO)

These are orders that allow local housing authorities where certain conditions are met to step into the shoes of the owner of an unoccupied privately owned house or flat to secure its occupation and to provide proper management of the property on a day to day basis. Initially the local housing authority will need to apply to the Residential Property Tribunal for authorisation to make an Interim EDMO. Interim EDMOs can last for up to 12 months and can be replaced with a Final EDMO, which may then last for an additional 7 seven

years (or longer if a subsequent EDMO has been applied for) and allows the authority to create new assured short-hold tenancies, collect rent, and carry out any repairs and to maintain the property throughout this period.

Overcrowding Notices

These provisions are designed to prevent overcrowding in non-licensable HMOs. The local authority may serve an overcrowding notice on the relevant person(s) if, having regard to the rooms available, it considers that too many persons are being, or are likely to be accommodated in the HMO concerned. The notice will state the maximum number of persons that will be allowed to occupy a room as sleeping accommodation, and will specify which rooms will not be allowed to be used for sleeping accommodation.

Additionally, under the Housing Health and Safety Rating System, residential premises can be assessed against the hazard of Crowding and Space. In the event of a single dwelling being significantly over occupied, an Order may be served specifying the maximum number of persons who may be allowed to occupy it.

Works in Default

Works in Default will be considered when all other methods to try to remedy any identified deficiencies have proved unsuccessful.

Where an Improvement Notice under the Housing Act 2004 is served, the council will require sufficient works to be carried out to abate the hazard for five years. The law prescribes that only the minimum works to abate the hazard should be carried out in default. The Council will require works of a reasonable duration to prevent a recurrence of the hazard and the Council considers five years to be a reasonable duration.

In determining if work in default is appropriate, we will consider:

- The effects of not carrying out the work on the health and safety of the occupant of the property concerned;
- The wishes of the tenant where the Notice has been served in respect of a rented property;
- The reason for the work not being carried out in the first place;
- Any other factors that are specific to individual properties;
- The Council will normally seek to recover all of the costs associated with undertaking of work in default (including time spent by its officers, administrative costs, contractors costs, the cost of any specialist reports, supervisory costs etc.)
- In the case of Officer time, the Council will calculate costs as follows:
 - ⌚ The actual time spent by Council Officers on the chargeable activities and recorded using file notes and database;
 - ⌚ Time spent will be converted into a monetary figure using the appropriate hourly rate set for the Officer(s) concerned;

The expenses are to be recovered from the person(s) on whom the Notice or Order is/are served ("the relevant person"). Where the relevant person receives the rent on behalf of another, the expenses are also to be recovered from that other person.

Where applicable, expenses will carry interest, applied on a daily basis from the date the demand becomes operative until all sums due under the demand are recovered. The Law Societies interest rate will be used for the purpose of calculating any due interest.

The recoverable expenses, together with interest accrued on them are a charge on the premises and will be recorded in the Local Land Charges Register.

In addition, as a means of recovering the costs, the Council may also serve Recovery Notices to recover, receive and give a discharge for any rent or sums in the nature of rent.

See Appendix C for further information regarding charging for enforcement activity.

Power of Entry

The Council has the power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004 provided that:

- The Officer has written authority from an appropriate officer stating the particular purpose for which entry is authorised;
- The Officer has given 24 hours notice to the owner (if known) and the occupier (if any) of the premises they intend to enter;

No notice is required where entry is to ascertain whether an offence has been committed under sections 72 (offences in relation to licensing of HMOs), 95 (offences in relation to licensing of houses) or 234(3) (offences in relation to HMO management regulations).

If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry then a warrant may be granted by a Justice of the Peace on written application. A warrant under this section includes power to enter by force, if necessary.

Power to Require Information

The Council also has power under Section 235 of the Housing Act 2004 to require documentation to be produced in connection with:

- Any purpose connected with the exercise of its functions under Parts 1-4 of the Housing Act 2004;
- Investigating whether any offence has been committed under Parts 1-4 of the Housing Act 2004;

The Council also has powers under Section 237 of the Housing Act 2004 to use information obtained by the authority for Housing Benefit and Council Tax purposes to carry out its functions in relation to Parts 1-4 of the Act.

Power to Charge for Enforcement Action

The Local Authority has the power under Section 49 of the Housing Act 2004 to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in serving an Improvement Notice, Hazard Awareness Notice, making a Prohibition, Emergency Prohibition or Demolition Order or taking Emergency Remedial Action.

Where a charge is made, the Council can recover a reasonable amount for expenses incurred in connection with time spent gaining entry, visiting and inspecting the premises to determine appropriate action and the administration costs for the production of a Notice, Order or Remedial Action.

Costs incurred carrying out Work in Default or Remedial Action will be charged separately.

When the charge demand becomes operative, the sum recoverable will be a local land charge. As a charge on the property, the costs give the Authority the same powers and remedies as a Mortgagee under the Law of Property Act 1925 (Enforced Sale).

See Appendix C for further information regarding charging for enforcement activity.

Revocation and Variation of Notices

Once an improvement notice has either been fully or partially complied with, the local housing authority will decide whether to revoke or vary the original improvement notice and will serve either a notice of revocation or variation to reflect the circumstances. Similarly, if the local housing authority decides not to revoke or vary an improvement notice then a notice of refusal to revoke or vary must be served. Either of these notices can be appealed against to the Residential Property Tribunal.

Housing Health & Safety Rating System – Hazard profile descriptions

	Hazard	Description
1	Damp and Mould Growth	Exposure to house dust mites, mould or fungal growths resulting from dampness or high humidity
2	Excess Cold	A temperature, which is less than 18 degrees centigrade
3	Excess Heat	A temperature, which is more than 25 degrees centigrade
4	Asbestos and MMF	Exposure to asbestos fibres or manufactured mineral fibres
5	Biocides	Exposure to chemicals used to treat timber and mould growth
6	Carbon Monoxide and Fuel Combustion Products	Exposure to carbon monoxide, nitrogen dioxide, sulphur dioxide and smoke
7	Lead	The ingestion of lead
8	Radiation	Exposure to radon gas
9	Uncombusted Fuel Gas	Exposure to uncombusted fuel gas
10	Volatile Organic Compounds	Exposure to volatile organic compounds that are gaseous at room temperature
11	Crowding and Space	A lack of adequate space for living and sleeping
12	Entry by Intruders	Difficulties in keeping the dwelling or HMO secure against unauthorised entry
13	Lighting	A lack of adequate lighting
14	Noise	Exposure to noise
15	Domestic Hygiene, Pests and Refuge	a) Poor design, layout or construction such that the dwelling or HMO cannot readily be kept clean b) Exposure to pests c) An adequate provision for the hygienic storage and disposal of household waste
16	Food Safety	An inadequate provision of facilities for the storage, preparation and cooking of food
17	Personal Hygiene, Sanitation and Drainage	a) Facilities for maintaining good personal hygiene; b) Sanitation and drainage
18	Water Supply	An inadequate supply of water for drinking and other domestic purposes

19	Falls Associated with Baths	Falls associated with baths, showers or other washing facilities
20	Falls on Level Surfaces etc	Falls on any level surface or falls between surfaces where the change in level is not more than 300 millimetres
21	Falls Associated with Stairs etc	Falls on stairs, steps or ramps where the change in level is more than 300 millimetres
22	Falls between Levels	Falls between levels where the difference in levels is more than 300 millimetres
23	Electrical Hazards	Exposure to electricity
24	Fire	Exposure to uncontrolled fire
25	Flames, Hot Surfaces etc	Contact with: a) Controlled fire or flames; b) Hot objects, liquid or vapours
26	Collision and Entrapment	Collision with or entrapment of body parts in doors, windows or other architectural features
27	Explosions	An explosion at, or near, the dwelling or HMO
28	Position of amenities etc	The position and location of amenities, fittings and equipment
29	Structural Collapse and Falling Elements	The collapse of the whole or part of the dwelling or HMO

Statement of Principles used in determining the amount of a penalty charge.

The Council has a statutory duty to keep housing conditions in its area under review, which may result in the need to address sub-standard housing conditions, utilising a wide range of powers and service of statutory notices under housing, building and public health related legislation.

Whilst Council officers will look to secure compliance chiefly through negotiation and co-operation, it will however occasionally be necessary to undertake formal enforcement proceedings. Where formal enforcement is considered necessary, the Council will act fairly, lawfully and without discrimination, in-line with legislation, the Council's Enforcement Policy and this protocol.

Various legislative acts allow the Council to make a reasonable charge as a means of recovering expenses that have been directly incurred when undertaking enforcement activity. Certain legislation also allows for the expenses to then be recoverable through a charge on the property, and until these expenses are repaid, the Council may also levy interest on any outstanding sum.

Where a demand for payment becomes operative and interest becomes payable, interest will be applied on a daily basis from the date the demand becomes operative until all sums due under the demand are recovered. The Law Societies interest rate will be used for the purpose of calculating any due interest.

Interest payments where applicable will be applied to prevent those persons responsible for carrying out repairs to their property from benefiting from what would otherwise be an interest free loan from the Council, and profiteering from their poor management of the property.

Where legislation allows, the Council will seek full recovery of its administrative costs incurred in the service of any formal enforcement notice and also for any expenses properly incurred in carrying out any remedial works, when required in default of the person responsible.

The aim of levying a charge is to hopefully avoid the need to serve a notice in the first place. The levying of charges and interest is not simply a matter of recovering costs incurred by the Council, but will importantly also discourage bad management practice.

Any charge will be assessed by time recording the various activities involved, as appropriate to the Act's provisions. The relevant officer salaries will be used with an apportionment for on costs.

When determining the costs to be levied having taken enforcement action, the council will have consideration of some or all of the following and will not be limited to time spent:

- Travel and time involved in inspecting the premises;
- Collation of documentation and information;
- Analysis of the issues and decision to serve a notice;
- Obtaining specialist advice and reports;

- Drafting a notice and requisite schedules;
- Administration costs in serving the notice and securing payment;
- Preparation of schedules of work and organising contractor quotations;
- Inspecting completion of works carried out in default;

Generally, charges will be levied where the responsible person for taking action fails to co-operate with the Council, resulting in the service of a statutory enforcement notice. Additionally, charges will generally be levied where there is a continued lack of co-operation and results in the need to review a notice.

Under certain circumstances it may be necessary to serve a statutory notice on an owner occupier. This notice would normally be Hazard Awareness Notice that would not incur a charge, but occasionally it may be necessary to serve another type of statutory notice for which a charge will be levied. In these cases, consideration of their financial position will be considered when deciding whether to charge.

Officers will not charge for their time in circumstances that were not in the owner or landlord's control, such as when a tenant or builder does not turn up or make themselves available.

In all cases the action to be taken must be appropriate to the nature of the problem. It would be contrary to the principles of enforcement to use specific powers solely because a fee can be charged. Other powers may be appropriate, and all options should be considered on their merits.

The most appropriate notice will be used in all cases. In some situations it may be necessary to serve more than one notice on a property; however, there will be good reason for this, either because of statutory requirements or due to the specific circumstances of the case.

There will be discretion to waive a charge when it is not reasonable to expect a person to pay for the enforcement action taken i.e. where the reason for the charge was outside of the control of the person charged or persons acting on their behalf. There may also be circumstances where it is considered inappropriate to charge or appropriate to delay, waive or demand a lesser charge in certain situations. The discretion to waive, delay, reduce or cancel a demand for payment will sit with the Team Leader for Housing Standards and/or Private Sector Housing Manager.

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Service Specific Enforcement Policy

Parking

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

CHESHIRE EAST BOROUGH COUNCIL PARKING ENFORCEMENT POLICY

Introduction

Cheshire East Council, since its inception in April 2009 has been working under the Traffic Management Act 2004. This means that it is responsible for the enforcement of 'on-street' and 'off-street' parking areas.

The Traffic Management Act 2004 allows the charges of £70, discounted to £35 for the higher value contraventions e.g. yellow line waiting restriction, and £50, discounted to £25 for the lower value contraventions e.g. parked without displaying a valid Pay and Display ticket. A full list of parking contraventions can be found on the Cheshire East website.

Notices issued for parking contraventions are not breaches of criminal law enforceable through the criminal justice system, but instead 'Penalty Charge Notices' (PCN's) are a debt owned by the Authority, enforceable through the civil justice system.

Civil Enforcement Officers (CEO's)

The PCN's are issued by Civil Enforcement Officers (CEO's) who are employed by the Council to carry out 'on street' and 'off street' parking enforcement. The PCN's can be affixed to the vehicle, handed to the person who appears to be in charge of that vehicle or issued by post if the CEO is prevented from issuing the PCN.

To protect the CEO's from allegations of inconsistency, favouritism or suspicion of bribery, they do not have the powers to exercise discretion. All appeals in relation to the issue of a Penalty Charge Notice are dealt with by the Council's Parking Services Team. This promotes greater consistency in the approach taken to enforcing the traffic regulations.

There are three circumstances in which a PCN may be served by post:

- (i) where the contravention has been detected on the basis of evidence from an approved device (not currently enforced by Cheshire East Council)
- (ii) if the CEO has been prevented, for example by force, threats of force, obstruction or violence, from serving the PCN either by affixing it to the vehicle or by giving it to the person who appears to be in charge of that vehicle; and
- (iii) if the CEO had started to issue the PCN but did not have enough time to finish or serve it before the vehicle was driven away and would otherwise have to write off or cancel the PCN.

Once a PCN has been issued, the Notice can either be paid or disputed by following the appeal process. Details on how to pay a PCN and/or how to appeal its issue are documented on the reverse of the PCN itself.

Payment Details

If payment is made within 14 days of the issue of the PCN, the discounted amount will apply. The day of service of the PCN is counted as day 1 of the 14 day period. If payment is not

made within the 14 day period, the opportunity to pay at the reduced amount is no longer available and the full charge becomes due.

Payments can be made by:

- Internet - www.cheshireeast.gov.uk/parking
- Automated payment line 0300 123 5036 - 24 hours a day.
- Cheque/postal orders (payable to Cheshire East Council) and posted to : Parking Services, Municipal Buildings, Crewe CW1 2BJ

The Appeals Process

Where a parking contravention occurs, it is the 'owner' of the vehicle involved who is legally obliged to pay the penalty charge. The 'owner' means the person by whom the vehicle is kept, which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 (c.22) is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered at the DVLA. The only exception to this is where the vehicle was hired from a firm under a hiring agreement and the person hiring it had a signed statement of liability in respect of any Penalty Charge Notice served in relation to the vehicle during the currency of the agreement. If a PCN has been issued to a company owned vehicle, the Notice to Owner (NtO) will be sent to the company listed as the registered keeper of the vehicle.

Vehicle owners may dispute the issuing of a PCN at three stages:

1. Informal

An informal challenge can be made before the Council issues a NtO. (This does not apply in the case of a PCN issued by post, as the postal PCN then also acts as the NtO). As a challenge at this stage will be made by the person who has received the PCN, it may be that the person submitting the challenge was the driver of the vehicle, rather than the vehicle's owner.

Challenges must be made in writing:

- Online at
- www.cheshireeast.gov.uk/car_parks_and_parking/penalty_charges/how_to_appeal_against_a_pcn.aspx
- By post to: Cheshire East Council, Parking Services, Municipal Buildings, Crewe CW1 2BJ

The PCN number should be included in the challenge along with reasons why the Notice has been incorrectly issued or compelling reasons why the PCN should be cancelled. Where applicable, include documentary evidence to enable the challenge to be fully considered.

If the challenge is accepted the case will be closed and payment will not be required. If the challenge is rejected and it was received within 14 days from the issue of the PCN, a further 14 days in which to make payment at the discounted rate will be given. Once the 14 days have expired the full charge will be applicable. If the challenge is rejected and it was received after the 14 day discount period, the full penalty charge will be due.

2. Formal

If payment is not received within 28 days of the date the PCN is issued, the Council will make an enquiry of DVLA to obtain the vehicle owner details. A NtO will then be served requesting payment of the PCN. At this stage the owner has 28 days in which to make formal representations to the Council. The NtO sets out specific grounds on which formal representations may be made. However, representations may also be made on the basis that, in the particular circumstances of the case there are compelling reasons for the cancellation of the penalty charge.

If the formal representation is accepted the case will be closed and payment will not be required. If the representation is rejected the full charge will be applicable and a 'Notice of Rejection' will be sent.

Statutory grounds on which a formal representation may be made to the Council:

- The contravention did not occur.
- The recipient has never owned the vehicle in question.
- The recipient had ceased to be the owner before the contravention date or, became the owner after that date. Proof of sale or purchase will be required. If the vehicle has been sold, the name and address of the person buying the vehicle must also be supplied in order that the Council can redirect the Notice and serve a Notice to Owner to the new owner. It is not acceptable to simply say the vehicle was sold to somebody else without proof. A letter from DVLA confirming that a person was not the owner at the date of event may assist the Council in making a decision.
- The vehicle was a hire vehicle, on hire under a formal hire agreement and the hirer had signed a statement acknowledging liability for any PCN issued during the hire period. (A copy of a signed hire agreement, which includes the start and end dates will be required).
- The vehicle was parked without the owner's consent. (This does not cover cases such as lending the vehicle to a friend who then parks illegally; or to a vehicle which is parked illegally whilst in the hands of a vehicle repair or service business). If the vehicle has been stolen, the Council will require details of the crime reference number and the name of the police station to which the crime was reported or a letter from an insurance company.
- The Penalty Charge exceeded the amount properly due (i.e. the amount is more than you are legally liable to pay – not that you feel the charge is too much).
- The traffic order was invalid (i.e. the Council had not followed the proper statutory steps in making the order).
- There has been a procedural impropriety by the enforcement authority
- The NtO should not have been served because the PCN had already been paid

Each case will therefore be considered on its own merits and all mitigating circumstances will be taken in to account.

Mitigating Circumstances which may apply:

- The person became unwell while driving or whilst parked. Evidence of having a medical condition that is consistent with the symptoms described will be required. This evidence should also indicate at the time the PCN was issued that the condition had prevented safe movement of the vehicle.

- The vehicle had broken down. Evidence of breakdown is required such as, an authenticated garage repair/ vehicle recovery bill. This evidence should indicate the timing is relevant to the issue of the PCN.
- You were delayed due to unforeseen circumstances and the parking time purchased had expired. Where appropriate evidence is produced to confirm that delay was caused by unforeseen, unavoidable and exceptional circumstances.
- The Pay and Display machine was faulty. This is subject to another Pay and Display machine not being available and maintenance records supporting the claim.
- The vehicle was on police, fire brigade or ambulance duties. Supporting evidence by a senior officer on letter headed paper is required.
- The owner liable for payment of the PCN is said to have died or the motorist claims to have been recently bereaved. The circumstances will be explored by making sensitive enquiries.

The above list is not exhaustive, for full mitigating circumstances – see the Cheshire East website.

A PCN is unlikely to be cancelled on the following grounds:

- The parking restrictions are unfair.
- Blue badge not on display and/or not properly on display.
- You claim to be unaware of the restriction.
- You had gone to get change for a pay and display machine.
- You had only parked for a few minutes.
- You were not causing an obstruction.
- There was nowhere else to park.
- You ran out of fuel (unless due to a mechanical or electrical fault in which case evidence will be required).
- You are a Council Officer or Elected Member attending Council business.
- You are a Council Officer or Elected Member and the only space available was a disabled parking bay

The above list is by no means exhaustive.

The process of dealing with challenges and representations against the issue of PCN's is well documented and will be carried out in a fair, unbiased and consistent manner. These procedures include the ultimate right of all appellants to refer the matter to an independent arbitrator – The Traffic Penalty Tribunal.

To preserve the integrity of these procedures, they will be managed and carried out by the administration and processing staff in Parking Services.

3. Appeal to the Traffic Penalty Tribunal

Following a 'Notice of Rejection', the owner (or hirer, if the vehicle was on hire when the PCN was issued) may, within 28 days from the date of issue of the 'Notice of Rejection of Representation' appeal to the Traffic Penalty Tribunal. The form to make the appeal is included with the Council's rejection letter. The adjudicators have a judicial position and are appointed with the agreement of the Lord Chancellor. They are independent of the Council and their decision is final (subject to their own power to review a decision).

The appellant has the choice of a postal decision, a personal hearing at the town or city of his/her choice, from the locations listed on the appeal form, or a telephone hearing. If the appeal is accepted the case will be closed and payment will not be required. If the appeal is dismissed the full penalty charge is payable.

Charge Certificate

If payment is not received, a Charge Certificate will be issued which increases the original charge by 50%. It occurs, not less than 28 days beginning with the date on which:

- the NtO is served and no formal representation has been received;
- a Notice of Rejection of Representation is sent and no appeal is made to the Traffic Penalty Tribunal;
- the adjudicator's decision to dismiss the appeal is served on the appellant.

Debt Registration

If, after 14 days from the issue of the Charge Certificate, payment is not received, the Council will register the debt at County Court. This could ultimately lead to the issue of a warrant which is recoverable through an independent enforcement agent where their fees will also apply.



Service Specific Enforcement Policy

Partnerships and Communities

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

CHESHIRE EAST BOROUGH COUNCIL

PARTNERSHIPS AND COMMUNITIES ENFORCEMENT POLICY

1. Aims of this Policy

- 1.1 To advise and inform businesses and individuals with regards to the legislative powers available to the Partnerships and Communities (P&C) team and how and when those controls will be executed.
- 1.2 This policy must be read in conjunction with the Cheshire East Corporate Enforcement Policy which provides details of the overarching approach taken by Cheshire East in its enforcement duties.

2. Functions of Partnerships and Communities

2.1 The Partnerships and Communities team sits within the broader Communities Service and consists of the following teams:

- Community Safety Delivery Team incorporating;
Community Protection (Trading Standards Investigations)
Anti Social Behaviour and Community Enforcement
CCTV
- Community Impact
- Community Resilience
- Community Strategy
- Community Development

3. Working With Other Agencies

- 3.1 P&C undertakes a wide range of functions across the whole of Cheshire East and works with a number of internal and external partners to provide a holistic approach to enforcement. Where issues are identified that extend beyond the remit of one agency and into the role of another, then joint operations will be considered to maximise resources and improve any enforcement outcomes. We work with our partner agencies using a wide range of measures to enforce against issues across the community.
- 3.2 We will refer matters to other authorities where we believe they are the most appropriate to deal with the matter in hand. Similarly we will also accept referrals from others where we believe we are the most appropriate enforcement body to deal with the issue effectively.

4. Our Approach to Enforcement

- 4.1 In addition to the range of legislation available to the team, national guidance and Codes of Practice are considered when determining the most appropriate course of action to remedy a problem.
- 4.2 Enforcement action should not normally be considered as an initial remedy for any contraventions and where possible officers should consider informal action in the first instance. However, there are occasions, depending of the severity of the

contravention, where formal action will be considered as the initial and most appropriate course of action.

5. General Service Standards

- 5.1 P&C aims to respond to all requests for service, complaints or information received within service standards and to conduct any investigation efficiently and as quickly as possible. Despite this, due to the complexity of some of the work, it is possible for investigations to take a considerable amount of time to enable a thorough investigation and in these circumstances officers will, where possible, keep all parties updated.

6. Legislative Framework

- 6.1 P&C has a wide range of powers contained within a variety of legislation and regulations which is supported by statutory and non statutory guidance in relation to interpretation and implementation.
- 6.2 In some instances, specific powers contained within legislation are restricted to those officers who are deemed to have the relevant qualification, skills and experience to enforce them. These delegations are formally recorded within individual authorisations granted to and held by each officer.

7. How to Make a Report to Partnerships and Communities

- 7.1 Before making direct contact with Partnerships and Communities, individuals and businesses may choose to visit the Cheshire East webpages for initial information and advice www.cheshireeast.gov.uk

7.2 For Community Protection (Trading Standards Investigations)

Cheshire East Council has a formal arrangement with the Citizens Advice Consumer Service (CACS) who provide all initial advice to consumers in relation to Trading Standards matters. CACS can be contacted on 03454 04 05 06 or by visiting www.citizensadvice.org.uk/consumer/get-more-help

7.3 For the Anti Social Behaviour Team

If you have been the victim of an incident of Anti-Social Behaviour/it is occurring now/damage has been caused, threats verbal or written have been made/physical violence used or threatened/you are feeling intimidated etc. please contact Cheshire constabulary on 101 (if you require urgent/immediate assistance please call 999).

If you would like to report on-going incidents, lower level ASB or would like to discuss with our team how you could get assistance tackling ASB that you feel you are suffering from, please contact Cheshire East Councils ASB Team on:

Telephone: 0300 123 5030

Email: safer@cheshireeast.gov.uk

Community Trigger

The Community Trigger gives, those affected by anti-social behaviour, the right to request an anti-social Behaviour case review of the response by agencies to their reports of anti-social behaviour. The Community Trigger should only be used if you think your concerns have not been dealt with, or acted upon, by agencies.

Concerns about individual officers, or services, should continue to be directed to the relevant organisation's complaints procedure and/or the Ombudsman or the Independent Police Complaints Commission.

For further information, please use the link below.

http://www.cheshireeast.gov.uk/environment/community_safety/anti-social_behaviour

You can also report any ASB you are suffering from via a third party such as a Councillor.

- 7.4 In all cases, written communications can be sent to Partnerships and Communities, Municipal Buildings, Earle Street, Crewe CW1 2BJ.

7.5 **Anonymous Complaints**

There are circumstances where customer details are required to enable a full investigation to take place. Whilst officers must ensure customers details are kept confidential, there are occasions when people wish to remain anonymous. In these situations, officers will use professional judgement to determine if the service request or information can be actioned in the absence of customer details.

8. **Power of Entry**

- 8.1 Where legislation grants officers the power to enter premises to carry out statutory functions, this will be undertaken in accordance with the requirements of relevant legislation.
- 8.2 Where a warrant is required from the Magistrates' Court, an application will be made in accordance with the Council's procedures and the requirements set out by the Magistrates' Court.

9. **Enforcement Proceedings**

Type of Enforcement Action	Description
Promotion	This typically involves a push of information to residents and businesses about specific matters of legislation. This can be achieved by a variety of methods including direct correspondence, press releases, face to face contact and website information.
Compliance Advice, Guidance and Support	P&C uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of an informal warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible and avoiding the need for any

	formal enforcement action. Where a similar breach is identified in the future, this advice will be persuasive in considering the most appropriate enforcement action to take on that occasion.
Mediation	In many cases mediation can be an effective tool to resolve an issue by bringing all parties together for facilitated discussion. This can be very effective in situations where it can be difficult to establish who the victim is. There must be a willing to partake by all parties.
Informal Warnings	Informal warnings are used for low-level breaches of legislation and where there is a low risk of harm being caused to health or the environment. They can be either oral or written, but where an oral warning is given, it will be confirmed in writing either with an inspection record left at the time of the visit or by a subsequent letter. When a warning is issued by P&C, it may be followed up by a further conversation, visit or inspection to ensure the problem has been rectified.
Written Undertakings (Voluntary and Formal)	Where an individual or organisation persistently fails to comply with the law, P&C may seek a written undertaking from that person that they will cease the action causing the breach. Failure by an individual or business to agree to a written undertaking, or in cases where an agreement is breached, can lead to further formal action being taken as appropriate.
Fixed Penalty Notice	Certain lower level offences are subject to a Fixed Penalty Notice which allows the offender to discharge their liability and avoid a criminal record. P&C will comply with any current relevant guidance on the use of Fixed Penalty Notices. Where an adult recipient does not pay the penalty offered or is a repeat offender there will be a presumption that prosecution will follow in relation to the actual offence committed.
Formal Notices	Where there is a breach of relevant legislation a formal notice may be issued to all parties concerned and can include the owner(s) of the premises. A formal notice will require a person, business or organisation to comply with specific legal requirements within a specified time period. A notice shall explain the legislation that has been breached, how to comply with the notice and the consequences of not complying with a notice. Notices will be accompanied by any relevant appeal information. In general, failure to comply with a notice makes the person or business named in the notice liable for prosecution action.
Suspension/Revocation of Permits or Licences	Where a permit or licence has been issued and where continued or serious breaches occur, the Council will consider suspending/revoking the licence.
Seizure and Suspension Proceedings	Certain legislation enables authorised officers to seize or suspend goods, for example, unsafe products or any goods or documents that may be required as evidence for possible future court proceedings.
Forfeiture Proceedings	This procedure may be used in conjunction with seizure

	and/or prosecution where there is a need to dispose of goods in order to prevent them from re-entering the market place or being used to cause a further problem. P&C may seek an order of the court for forfeiture of goods it has seized either as part of criminal investigations or during the exercise of its enforcement functions.
Closure of Premises	Where serious concerns for the health or safety of the public the Council may apply to the Courts to close a premises.
Caution	<p>Where appropriate, consideration will be given to offering a caution to a person, where they admit culpability for the offence, rather than taking a prosecution through the Courts. Therefore a Caution will be considered in those instances where the Council is satisfied that there is sufficient evidence to offer a realistic prospect of conviction.</p> <p>A Caution is not a criminal conviction but it will form part of an offenders criminal proceedings and may be referred to in any subsequent proceedings.</p>
Prosecution	<p>The Council will consider commencing prosecution proceedings in the Courts against any person(s) who fails to comply with the requirements of a formal Notice or in those cases where the legislation allows for this without the service of an initial formal Notice.</p> <p>Before commencing legal proceedings, the Council will ensure it is satisfied there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. The Council will use discretion in deciding to initiate a prosecution and may do so without prior warning taking place.</p>
Injunction/Enforcement Order	<p>Where a formal Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to secure compliance, the Council will consider applying to the Court for an Injunction. Such action will only be considered if the breach is likely to continue.</p> <p>In certain circumstances P&C may consider it necessary or expedient to seek a direction from the court (in the form of an order or injunction) to control behaviour or activity.</p>
Proceeds of Crime	There are some cases where an application under the Proceeds of Crime Act is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities. Where such an approach is considered appropriate an Accredited Financial Investigator will commence a parallel financial investigation. Any subsequent confiscation must be made after conviction but prior to any sentencing.
Acceptable Behaviour Contracts	Acceptable Behaviour Contracts (ABC's) can be an effective way of dealing with individuals, especially where there are a number of problem behaviours. They can also be effective as an early intervention option. ABCs are a written agreement between a perpetrator of anti-social behaviour and the agency or agencies.
Criminal Behaviour Orders	The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought

	them before a criminal court. The CBO can also address the underlying causes of the behaviour through new, positive requirements.
Community Protection Notices	The Community Protection Notice (CPN) is intended to deal with particular ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible (aged 16 or over).
Public Space Protection Orders	Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces in a safe environment. Councils only issue a PSPO after consultation with the Police, Police and Crime Commissioner and other relevant bodies.
Closure Powers (Notice/Order)	Closure powers can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.
Possession Order	P&C uses possession orders obtained from court to remove unauthorised persons from land and regain possession of such.
Direction/order to leave	P&C can use powers to direct unauthorised encampments to leave land not owned by Gypsies and Travellers. If this is not complied with an order can be obtained from the court to allow the removal of unauthorised persons.

This is not an exhaustive list.

10. Naming Offenders

- 10.1 The names and addresses of individuals or businesses who act in ways that represent significant harm, risk, nuisance or disorder, particularly to the young and vulnerable or against the interest of legitimate businesses may be published. This action may be taken in circumstances where:

- Evidence of unfair, dishonest or illegal trading is conclusive;
- It is in the public interest to do so;
- There is no risk of prejudicing legal proceedings or other formal enforcement action;
- To do so does not breach Human Rights or Data Protection law;
- After every prosecution.

If the disposal of a matter is concluded by way of a Fixed Penalty Notice, the offender discharges their liability and the naming of the offender is no longer an option.

11. Appeals

- 11.1 There is a statutory right of appeal against the Council's decision to issue a formal Notice. The period for submission of the appeal is set by legislation and all notices will contain notes relating to the appeal provisions.
- 11.2 Unless otherwise stated in the formal Notice, where an appeal is lodged with the Courts, the requirements of the Notice will be held in abeyance until the appeal has been determined.

- 11.3 In addition, some decisions taken by the council can be challenged through a formal appeals process. Where this is available information will be supplied with the decision.

12. Verbal/Physical Abuse Towards Officers

- 12.1 The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and, where appropriate, will use legal action to prevent abuse, harassment or assault towards officers. To obstruct an officer in carrying out their duties is an offence and legal action may be taken against any person(s) doing so.
- 12.2 Officers are entitled, if subjected to verbal abuse either in person or on the telephone, to terminate the meeting or telephone call.

13. Complaints and Compliments about the service

- 13.1 In accordance with the Council's Compliments and Complaints procedure, persons wishing to make a complaint or compliment about the Regulatory Services and Health service should do so in writing to:

Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ.

- 13.2 Alternatively you can telephone 0300 123 5500 or complete the "Contact Form" at www.cheshireeast.gov.uk
- 13.3 If the complainant has exhausted the Council's corporate complaint process without satisfaction, they can complain to the Local Government Ombudsman. Advice about the types of complaint the Local Government Ombudsman can investigate, as well as application forms for such complaints can be found at the following web site, www.lgo.org.uk. Application forms for such complaints are also available on request at Cheshire East Borough Council offices.



Service Specific Enforcement Policy

Planning Enforcement

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

CHESHIRE EAST BOROUGH COUNCIL

PLANNING ENFORCEMENT PLAN

1. Aims of this Plan

1.1 To advise and inform businesses and members of the public of:

- the legislative powers available to the Local Planning Authority in relation to the effective enforcement of planning control and how and when those controls will be exercised;
- the decision making process;
- how priorities are set; and
- a framework for measuring the performance of the service

1.2 This policy is to be read in conjunction with the Cheshire East Corporate Enforcement Policy.

2. Introduction

2.1 National guidance on planning enforcement is contained in the National Planning Policy Framework (NPPF) www.planningportal.gov.uk/planning/nppf and National Planning Policy Guidance (NPPG) www.planningportal.gov.uk/planning/nppg .

2.2 Paragraph 207 of the NPPF relates specifically to enforcement of planning control and makes it very clear that the Council's use of its enforcement powers is discretionary.

2.3 Enforcement action should not be taken simply to remedy the absence of a planning permission where development is acceptable on its planning merits. Legislation provides that planning permission may be granted retrospectively to regularise development which has already been carried out without the necessary permission.

2.4 Any development carried out without the necessary planning permission is done so at the developers own risk. However it does not constitute an offence. It only becomes an offence at a point when the requirements of a Notice have not been complied with.

2.5 Planning enforcement aim to deal with all allegations of breaches of planning control in accordance with the priorities and timeframes set out in this plan. However some cases take a considerable amount of time to resolve, for example due to the need for a full and in depth investigation, negotiation or formal enforcement action. There is a right of

appeal against most types of notice which suspends the Notice coming into effect until the outcome of the appeal.

- 2.6 Effective enforcement is important to:
- Tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of the area.
 - Maintain the integrity of the decision-making process
 - Help to ensure that public acceptance of the decision making process is maintained.
- 2.7 Any action which is taken must be proportionate to the breach which it is seeking to remedy and must also be expedient.
- 2.8 An effective enforcement function is essential to a credible planning service and it is with this in mind that resources must be targeted to dealing with the most serious breaches of planning control where clear and demonstrable harm is being caused.
- 2.9 Decisions on enforcement action will have regard to the Development Plan and relevant material considerations.
- 2.10 As a unitary authority the Council also fulfils the role of Minerals and Waste Planning Authority. Alleged breaches of planning control which involve minerals or waste related development are investigated, and if necessary, enforced against by the Minerals and Waste Team in consultation and liaison with the Planning Enforcement Team. Those investigations are also covered by this policy.

3. Breaches of Planning Control

- 3.1 A breach of planning control, as defined by section 171A of the Town and Country Planning Act 1990 includes the following:
- Carrying out development without the required permission
 - Failing to comply with any condition or limitation subject to which planning permission has been granted

Note: Development is defined by section 55 of the Town and Country Planning Act 1990. This includes material changes of use of buildings and land as well as building work. Certain demolition work may also be included.

Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015, constitutes a breach of planning control against which enforcement action may be taken.

- Building or Land whose external condition adversely affects the amenity of the area may also be at risk of enforcement action by the Council

3.2 Some breaches of planning control constitute criminal offences and can be subject to legal action and significant fines from the court. Such offences include:-

- Unauthorised work to a listed building
- Unauthorised advertisements
- Unauthorised demolition of certain unlisted buildings in a Conservation Area
- Unauthorised works to trees protected by a Tree Preservation Orders
- Unauthorised works to certain trees within a Conservation Area.

3.3 A list of matters commonly reported to planning enforcement which either do not fall within the remit of the Local Planning Authority or **DO NOT** constitute a breach of planning control is set out in Appendix 1.

4. Legislative Framework

4.1 Local Planning Authorities have powers contained within the Town and Country Planning Act 1990 (as amended) to investigate alleged breaches of planning control to remedy proven breaches by statutory means.

4.2 The following sets out the legislative framework applicable to breaches of planning control (this list is not exhaustive and is subject to change by parliament):

- The Town and Country Planning Act 1990 (as amended)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- The Town and Country Planning (Trees) Regulations 1990 (as amended)
- The Tree Preservation England
- The Town and Country Planning (General Permitted Development) Order 2015 (as amended)
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- Part 1 of the Wildlife and Countryside Act 1981 (as amended) section 25 – Role of Local Authorities.
- The Human Rights Act 1998
- Caravan Sites Act 1960 and 1968

5. How to Report an Alleged Breach of Planning Control

5.1 Alleged breaches of planning control can be reported to the Council using the online enforcement enquiry form located at www.cheshireeast.gov.uk/planning/planning_enforcement.aspx or by telephoning the

Councils Contact Centre on 0300 123 5014. Full details of the allegation must be provided along with full contact details including an email address (where applicable) this allows the Local Planning Authority (LPA) to target its limited resources and contact the complainant more readily.

5.2 A complainants details will be kept confidential (subject to any request from the Information Commissioners or the Courts).

5.3 A reported breach will be acknowledged within 3 working days and will be investigated in accordance with the timescales set out in this plan.

5.4 **Anonymous Complaints** – It may not be possible to investigate such a complaint due to the limited information provided and officers are unable to make contact to obtain any additional information that may be necessary. In certain cases it may be possible to identify both the breach of planning control and the level of harm it is causing from an initial site inspection, e.g. an unauthorised building or extension. However, in other circumstances it will not be possible to identify the breach or seek to remedy it without evidence being provided by the complainant (e.g. allegations concerning running a business from a residential property, hours of operation). Without this evidence formal enforcement action will fail at appeal or in the courts and therefore will not be commenced. In these circumstances, the Council will undertake a desk top analysis in the first instance. If it is considered necessary one site visit will be carried out and if it is not possible to identify a breach of planning control from this visit the investigation will not be progressed any further. Complainants will be notified of this procedure when contacting the Council.

5.5 **Additional Investigations Required** - It may be necessary to carry out further investigations after the initial site inspection to determine whether or not a breach of planning control has occurred. This may involve additional site inspections, research, seeking advice from other services/agencies or seeking further information from the complainant, site owner or other parties.

In certain circumstances, e.g. where the allegation relates to a material change of use, it may be necessary for the complainant to keep a diary of activity, including dates, times, duration and nature of suspected breach, over a period of not less than three weeks to assist the Council in their investigations. In some cases the complainant may be requested to provide a witness statement and to give evidence in Court. If the complainant is unwilling to assist they may be advised that this may result in the Council not being able to pursue the investigation due to insufficient evidence being available.

5.6 **Expedient/Proportionate**

Enforcement action will only be taken when the Council is satisfied that it can demonstrate that the proposed action is both expedient, i.e. necessary to remedy demonstrable harm, and proportionate, i.e. the remedy it is seeking does not exceed

what is reasonably required in order to remove/reduce the level of harm being caused. Where no material harm can be demonstrated enforcement action will not be taken.

In some circumstances, and in order to be proportionate, action may only be taken against certain breaches of planning control and may not include all of the development that has taken place without the benefit of planning permission.

5.7 Where resources permit the Council will undertake pro-active monitoring of compliance with planning conditions. Resources will be targeted to development sites in accordance with the designated hierarchy.

- Major development sites
- Development sites with significant ecological or heritage assets
- Other development

6. Priorities

6.1 Priority 1 – High - Site visit within one working day

- Unauthorised works to listed buildings
- Unauthorised demolition in a Conservation Area
- Development Causing Immediate and irreparable harm to an identified environmental asset.
- Development causing serious danger to the public
- Unauthorised works to or affecting trees covered by a Tree Preservation Order or in a Conservation Area.

6.2 Priority 2 – Medium – Site visit within 5 working days

- Operational development already in progress
- Development which is potentially immune from enforcement action within 6 months
- Development causing serious harm to amenity or the environment
- Breaches of Condition/non compliance with approved plans which is causing serious harm
- Development which represents a clear breach of planning policy and is unlikely to be granted planning permission.

6.3 Priority 3 – Low – Site visit within 15 working days

- Other operational development which is complete
- Development not causing significant harm to amenity or the environment
- Advertisements
- Breaches of condition/non compliance with approved plans causing no significant harm to or no harm to amenity

- Development which is likely to be permitted development
- Minor domestic development e.g. fences, small outbuildings, satellite dishes
- Untidy Land

NB There are certain circumstances where a site visit will not be required, e.g. where it can clearly be established that planning permission has already been granted.

7. Targets

7.1 The LPA aim to achieve an “identified action” in relation to alleged breaches of planning control within 8 weeks of receiving the enquiry or where a complainant is requested to keep a diary of activity receipt of that diary.

- Identified actions are:
- **No Breach**
If following an initial investigation it is evident that there has been no breach of planning control the case will be closed.
- **Action Not Expedient**
In some instances a breach of planning control may be identified but it may be considered to be minor, insignificant in nature or causing no material harm in planning terms. Alternatively there may be insufficient evidence to pursue the matter. In such cases enforcement action would not be expedient and the case will be closed. The developer may be invited to submit a retrospective application to regularise the development.
- **Breach ceased voluntarily**
Where it has been established that a breach of planning control has occurred, the Council will, where appropriate, attempt to negotiate a solution to remedy that breach without recourse to enforcement action. Such negotiations may involve the reduction/cessation of an unauthorised use or activity or the modification or removal of unauthorised operational development. However these negotiations will not be allowed to hamper or delay the consideration of enforcement action where a breach of planning control causes serious harm to amenity or an historical or ecological asset.
- **Planning application requested****
In circumstances where a breach of planning control has occurred and it is considered that the development could be made acceptable by the imposition of conditions, or where the submission of a planning application is likely to benefit the proper assessment of the impact of the unauthorised development, a retrospective planning application would be invited within a specified timescale. In such circumstances it will be made clear that the invitation is made without prejudice to any final decision the Council may make in the matter. If such an application is not submitted, the Council will consider whether or not it is expedient to take enforcement action.

- **Relevant Notice issued**

Where it has been established that a breach of planning control has occurred the Council will consider using the discretionary use of its powers to take action to remedy that breach. These powers are listed in Table 1 below. The use of these powers is discretionary and they will only be used when it is considered expedient to do so. Any action must be proportionate to the breach it is seeking to remedy.

There are rights of appeal to the Secretary of State against an Enforcement Notice/Listed Building/Conservation Area Enforcement Notice. In the case of a Breach of Condition Notice or a Temporary Stop Notice there is no right of appeal to the Secretary of State and they may only be challenged by an application for Judicial Review to the High Court. In the case of a S215 Notice (Notice Requiring the Proper Maintenance of Land) the appeal is made through the Magistrates Court.

Where it appears to the Council that a breach of planning control may have occurred it will consider the serving of a Planning Contravention Notice (PCN) or a Requisition for Information (RFI) to obtain information relating the suspected breach of planning control or site ownership details. There is a legal requirement for the recipient of a PCN or RFI to respond within the prescribed timescales.

- **Legal proceedings requested**

Where there is evidence that a Notice has not been complied with the Council may seek to prosecute any person/s responsible for that offence. Cases are normally heard in the Magistrates Court however certain proceedings may be taken to the Crown Court, County Court or High Court.

In such instances instructions will be sent to the Council's legal services with regards to those proceedings. In order for any case to proceed there must be sufficient evidence to support the allegation and it must be in the public interest to proceed with the matter.

If the Council considers it expedient and proportionate to seek an injunction it will do so through either the County or High Court. Injunctions are only sought in exceptional cases.

****Where an application has been requested the time period for submission will normally be 4 weeks from the date of the request.**

8. In relation to minerals and waste planning permissions all mineral and landfill sites will be visited annually (or more frequently where deemed appropriate) to check compliance with any attached conditions. Under the Town and Country Planning (Fees for Applications and Deemed Applications (Amendment) (England) Regulations 2006, sites will have an agreed number of chargeable visits during the financial year (April to March) with a minimum of two and a maximum of eight.

9. Site visits are charged as follows:

- Where the site is an active site, or partly an active site and partly an inactive site, the fee payable shall be £288
- Where the site is inactive the fee payable shall be £96.

10. Enforcement Proceedings - Table 1

Type of Enforcement Action	Description
Enforcement Notice/Listed Building/Conservation Area Enforcement Notice	<p>Where a breach of planning control is resulting in demonstrable harm or conflicts with planning policies and where the harm or conflict could not be overcome by the imposition of conditions on a grant of planning permission.</p> <p>The Enforcement Notice will specify the reason(s) for its issue, the steps required to remedy the breach, the date it takes effect and the time period(s) for compliance.</p>
Stop Notice	<p>Where a breach of planning control is causing serious harm to public amenity and the environment and in cases where urgent action is necessary to bring about a cessation of a relevant activity before the expiry period of the related Enforcement Notice.</p> <p>The Stop Notice will refer to the Enforcement Notice to which it relates, specify the activity or activities which are required to cease and the date it takes effect.</p> <p>(A Stop Notice cannot be used to prevent the use of a building as a dwelling).</p>
Temporary Stop Notice	<p>This differs from the normal Stop Notice in that Temporary Stop Notice does not have to wait for an Enforcement Notice to be issued. In addition, the effect of a Temporary Stop Notice will be immediate.</p> <p>The Temporary Stop Notice will set out the activity that the Council believes to be in breach of planning control. It will also set out the Council's reasons for issuing the Temporary Stop Notice. A Temporary Stop Notice lasts for a maximum of 28 days.</p>
Breach of Condition Notice	Where the breach of planning control relates to

	<p>non-compliance with a condition on a planning permission or a limitation under the Town and Country Planning (General Permitted Development) Order 2015.</p> <p>The Breach of Condition Notice will specify the steps required to comply with the condition(s) or limitation(s), the date that it takes effect and the time period for compliance.</p>
Section 215 (Untidy Land) Notice	<p>In instances where the amenity of an area is adversely affected by the condition of land or buildings a Notice can be issued which requires specified steps to be taken to address the adverse condition of the land and/or buildings within a prescribed timescale.</p>
Prosecution	<p>The Council will consider commencing prosecution proceedings in the Courts against any person/s who has/have failed to comply with the requirement(s) of any of the above Notices where the date for compliance has passed and the requirements have not been complied with.</p> <p>The Council will also consider commencing prosecution in the Courts where unauthorised works have been carried out to trees protected by a Tree Preservation Order or trees in a Conservation Area, as well as unauthorised works to a listed building, unauthorised demolition in a Conservation Area, unauthorised advertisements or where the recipient of a Planning Contravention Notice, Requisition for Information of S330 Notice has failed to provide the requested information within the prescribed timescale.</p> <p>Before commencing any legal proceedings the Council will need to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.</p>
Simple Caution	<p>Where appropriate consideration will be given to offering a simple caution to a person rather than pursuing a prosecution through the Courts. A</p>

	caution will only be considered in instances where the Council is satisfied that there is sufficient evidence to offer a realistic prospect of conviction and the offender admits their guilt.
Injunction	Where a Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to secure compliance the Council will consider applying to the Court for an Injunction. Such action will only normally be considered if the breach is particularly serious and is causing or is likely to cause exceptional or irreparable harm. In exceptional circumstances, and where there is substantive evidence of an apprehended breach of planning control the Council may seek a pre-emptive injunction.
Direct Action	Where any steps required by an Enforcement Notice have not been met within the compliance period (other than the discontinuance of the use of land), or where any steps required as part of a S215 (Untidy Land) Notice have not been met within the prescribed timescale the Council will consider whether it is expedient to exercise its' powers under S178 and 219 of the Town and Country Planning Act 1990 (as amended) to; <ul style="list-style-type: none"> (a) Enter the land and take the steps; and (b) Recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

12.0 Reporting

- 12.1 A regular report on the performance of the planning enforcement service will be presented to the Strategic Planning Board (or any equivalent) for information.
- 12.2 Ward Members will be notified within 5 working days of the issue of a an Enforcement Notice, Breach of Condition Notice, S215 Notice, Temporary Stop Notice or Stop Notice in their ward.

13.0 Appeals

- 13.1 There is a statutory right to appeal against the Council's decision to issue an Enforcement Notice and S215 Notice. Guidance on how and where to make that appeal will be attached

to any Notice issued. These guidance notes also provide details of the grounds on which an appeal may be lodged. That appeal must be submitted before the Notice takes effect.

- 13.2 Where an appeal is lodged against a Notice it will be suspended from coming into effect until the outcome of the appeal is known. If the appeal is dismissed the Notice will come into effect on the date of the Inspectors decision.
- 13.3 There is no right to appeal against the Council's decision to issue a Breach of Condition Notice.
- 13.4 Appeals against a S215 (Untidy Land) Notice are heard in the Magistrates Court.

The Council maintains an Enforcement Register for Notices. Viewing of this can be done by arrangement at designated Council offices. Please contact 0300 123 5014.

14.0 Works in Default

- 14.1 The Council has the power to carry out works in default of certain Notices and recover all of its reasonable costs from the any person/s who own the land at the time of the works. It is not necessary for the Council to have exhausted all other avenues, e.g. prosecution before a decision is made to carry out works in default.
- 14.2 Where it is considered to be reasonable and proportionate the Council will carry out works in default and will seek to recover all of its costs either directly from the owner/occupier or by placing a registered charge on the land. Ultimately the Council may seek to use its powers to force the sale of land to recover its costs.

15.0 Verbal/Physical Abuse Towards Officers

- 15.1 The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and, where appropriate, will use legal action to prevent abuse, harassment or assaults on Officers. To obstruct an officer in carrying out their duties is an offence and legal action may be taken against any person/s doing so.
- 15.2 Officers are entitled to, if subjected to verbal abuse either in person or on the telephone, terminate the meeting or telephone call.

16.0 Rights of Entry

- 16.1 Officers have the right to enter land or adjoining land, at any reasonable time to investigate an alleged breach of planning control with the exception of a dwelling house where 24 hours notice is required should access be denied.

- 16.2 To deny an officer access in any other circumstance could be considered to constitute an offence of obstruction for which the Council could seek to prosecute any person(s) obstructing an officer.
- 16.3 If access is denied to a dwelling house after 24 hours notice has been given that may also constitute obstruction.
- 16.4 In circumstances where access has been denied or there is reasonable prospect that it will be denied the Council can apply to the Magistrates Court for a Warrant of Entry.

17.0 Complaints and Compliments about the service

- 17.1 In accordance with the Council's Compliments and Complaints procedure persons wishing to submit a compliment or make a complaint about the planning enforcement service should do so in writing to:

Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ.

- 17.2 Alternatively you can telephone 0300 123 5500 or complete the "Contact Form" at www.cheshireeast.gov.uk

- 17.3 If the complainant is not satisfied with the Council's response then they may complain to the Local Government Ombudsman. Advice about the type of complaint the Local Government Ombudsman can investigate as well as application forms for such complaints can be found at the following web site, www.lgo.org.uk. Application forms for such complaints can also be made available on request at Cheshire East Borough Council offices.

APPENDIX 1

A list of matters commonly reported to planning enforcement which either do not fall within the remit of the Local Planning Authority or **DO NOT** constitute a breach of planning control.

- Development which is Permitted Development by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- Works to trees not protected by a Tree Preservation Order or in a Conservation Area
- Planting of shrubs/trees.
- Trespass or boundary disputes (Civil matters)
- Obstruction of a Public Right of Way
http://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/public_rights_of_way.aspx
- Activity taking place on a highway (Highways)
http://www.cheshireeast.gov.uk/highways_and_roads/highways_and_roads.aspx
- Storage of a caravan on a driveway
- Re-roofing properties (unless listed building or in a Conservation Area)
- Standard television aerials
- Solar panels on houses (unless listed building or in a Conservation Area)
- Flying the national flag of any country (see Plain English Guide to Flying Flags)
- New uses which do not represent a material change of use and the only objection is increased competition.
- Restrictive covenants on deeds.
- Loss of property value.

The Local Planning Authority has no jurisdiction over such matters and has no power to intervene; therefore no action will be taken in respect of them. The Local Planning Authority will endeavour to direct the complainant to the correct enforcing authority where relevant.

Note: this list is not exhaustive but is provided to assist interest parties to avoid unnecessary complaints being raised, or help direct the enquiry to the correct enforcing agency or department .

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	12 th July 2016
Report of:	Andrew Round, Interim Executive Director - Place
Subject/Title:	Strategic Housing: Housing Related Support Procurement
Portfolio Holder:	Councillor Ainsley Arnold, Housing and Planning

1. Report Summary

- 1.1. Housing is a major determinant of health and well-being. Access to decent, sustainable and affordable housing is critical to enable people to maintain their social and support networks as well as their independence. As a complete wraparound service, the provision of housing related support can contribute to efficiency savings as well as achieving the policy aspirations of integration and prevention.
- 1.2. Housing related support projects successfully work to provide a preventative approach to avoid more intense and costly crisis intervention. The focus of housing related support is in enabling and supporting the resident to 'do things for themselves' and having control over how their support is delivered. It can be delivered in a number of different ways. It can either be over an agreed long-term or provided for temporary periods.
- 1.3. Essentially, housing related support is to develop and sustain an individual or family capacity to live independently. It covers a wide range of activities and behaviours, including assistance with life skills; budgeting; maintaining a tenancy; providing advice and support to arrange a repair and helping people to understand the consequences of their actions, for example getting along with their immediate neighbours and wider community and prevent longer financial implications for associated social care provision.
- 1.4. To support a more integrated and flexible programme of housing related support, and as part of the contribution to budget saving of £8.651m, Adult Social Care submitted a report to Management Group Board to transfer the commissioning responsibility to Strategic Housing on 20 January 2016.
- 1.5. As such, strategic Housing have successfully worked with Adult Social Care in taking over the commissioning responsibility for the current period of 2016/17 and are now seeking to procure new services beyond 2017/18, with a contract value of £958,772.09 per year, a budget currently held by Adults, which will be transferred to Strategic Housing as soon as possible.

2. Recommendations

- 2.1. To provide approval to the Strategic Housing Manager to procure a new Housing Related Support service for a period of 3 years, with an option for a further 2 years, as from 2017/18.
- 2.2. In addition, in the interests of efficiency, agree to delegate authority to the Interim Executive Director of Growth & Prosperity, made in consultation with the Portfolio Holder for Housing and Planning; Director of Legal and Executive Director of People to procure and enter into any contract to secure effective delivery of support services for qualifying residents as outlined within this report.

3. Other Options Considered

- 3.1. A range of options has been devised for consideration:

- 3.2. **Option 1: Commission a like for like service**

Commission and seek to continue the equivalent housing related support services, with current client groups, on block gross contract accessing current accommodation services, assuming the current accommodation remains available from the current registered social landlords and care providers. While this may seem to have the benefit of retaining service continuity and stability within providers, however this option would fail to address the issues identified by the previous remodelling and review of services as set out in this report, leaving inequitable provision across the Borough

- 3.3. **Option 2: Stop funding HRS projects**

While there is no statutory duty to provide housing related support in all its forms, the Council could cease funding of this service. However, ceasing funding would result in significant issues for individuals (including young people), families, and communities (increasing street homelessness) and increased financial and resources pressure on the Council and our strategic partner organisations', together with an impact on our statutory duty both under the Care Act 2016 in promoting wellbeing and Housing Act 1996 (as amended by Housing Act 2002) in homelessness prevention. It is therefore also likely to increase pressures elsewhere within the Council.

- 3.4. **Option 3: Commission reviewed, targeted housing support services, realising long term budget savings**

As the preferred option, this will take into consideration the outcome of the service review, the emerging key principles in the scope of a new housing related support, which is an essential programme for Cheshire East residents' with qualifying support needs, and a prevention and early intervention programme which ultimately seeks to reduce associated care

costs and use of expensive alternatives, for example in the case of homelessness expensive B&B provision.

4. Reasons for Recommendation

- 4.1. Housing related support is the provision of short term hostel accommodation or maintains independent living through support at their home. While the original grant funding has been directly withdrawn nationally, local authorities receive an indicative allocation as part of the revenue support grant, in which distribution of funding is made through the appropriate commissioning groups.
- 4.2. While nationally commissioning local authorities have sought to transform housing related support services while making significant budgetary savings, there is increasing evidence that the use of locally developed innovative methods in delivery is becoming increasingly localised, with different models emerging in different localities. As such, Strategic housing will seek to promote such innovation in the future delivery of housing related support as an essential preventative service.
- 4.3. The primary outcome of housing related support projects is to prevent homelessness and / or repeat homelessness and improve the ability of residents with qualifying support needs to live independently within the community. Key to the achievement of these outcomes is the ability of services to work with service users to gain and / or maintain suitable accommodation. Services can offer a range of support activities including, financial capability / budgeting, maximising income (including Welfare Benefits), liaising with landlord regarding tenancy agreement, maintaining physical and / or mental health, preventing harm, improving opportunities through education, training and employment.
- 4.4. To ensure a clear pathway for local residents with support needs into housing related support services', Adult Service implemented the Single Point of Access in 2013/14 – which is a managed gateway administered by Strategic Housing. The aim is to provide a first point of contact and assessment, managing referrals into services and to provide a measurable output.
- 4.5. Following recommendations from an independent review, the current delivery of service is now managed by Strategic Housing, having obtained the commissioning function from Adult Services for the period 2016/17. The provision is divided into Lots of Accommodation based and Floating Support (see 9.1), with a contract value of £1,075,783.
- 4.6. During the past 3 years, over 4,000 people have sought to access housing support services which include;
 - Single homeless
 - Homeless families
 - Young People / care leavers
 - People affected with drug and alcohol misuse
 - People with disabilities

- Older people with support needs
 - Teenage parents
 - Offenders or people at risk of offending
 - People affected with mental health issues
 - Resettlement
- 4.7. A number of the current services are due to end in March 2017. As such, to enable Strategic Housing to deliver a strategically relevant and value for money housing related support service, it is proposed to work with all appropriate stakeholders; elected members and service users to procure a redesigned programme for 2017/18 and beyond.
- 4.8. In working to develop an approach for the future, it is increasingly acknowledged nationally that taking a person centered approach should not be constrained by a single policy area; service departments; specialist role or area of statute. Indeed, the governments social policy initiative for the 'Troubled Families' programme of dealing with complex needs is now being considered as the preferred approach for implementing wider generic support.
- 4.9. Therefore, in the shaping of a new housing related support programme, Strategic Housing are seeking to engage with stakeholders and service users in working together in designing an approach which seeks to support national policy, but shaped by the complex needs for people with support needs at a local level.
- 4.10. While Strategic Housing are at the project scoping stage of the procurement, proposed changes have been developed based on evidence of needs and a consideration of services which assist in preventing pressure on existing statutory services, prioritising services for qualifying residents in need of support and seeking to work with potential providers in instigating new and innovative ways for future provision.

5. Background/Chronology

- 5.1. Housing related support services are aimed at individuals and families who may be homeless and/or supported to develop and sustain a capacity to live independently. As such, housing related support covers a wide range of activities and behaviours, including assistance with life skills; budgeting; maintaining tenancies; arranging repairs and helping people to understand the consequences of their action.
- 5.2. It is effectively an early intervention and preventative programme, , seeking to support the health and wellbeing of Cheshire East residents with support needs, preventing them from falling into further crisis and reduces potential demand for more expensive social care, health services and for statutory homelessness services.
- 5.3. The Council have a number of contracts with different local and national service providers, generally social housing providers and third sector organisations, delivering a range of housing related services. Historically, this had been commissioned and contract managed by Adult Services. As part of overall cost savings, the services provided have experienced a budget saving realignment during 2015/16, with a number of services being

withdrawn or reduced capacity with all remaining services being subject to change in commissioning and contract management to Strategic Housing as from 2016/17.

- 5.4. With the current provision of services being subject to contract end in March 2017, it is necessary to commence the procurement of new services from 2017/18 and beyond.
- 5.5. To inform and facilitate the commissioning of strategically relevant and services that provide value for money, Strategic Housing have undertaken a review of housing related support services, since the implementation of Single Point of Access, the referral gateway (see 9.2).
- 5.6. The review findings indicate that single homeless and people with mental health issues represent the greatest demand on services, across both accommodation and floating support. However, clearly evident is the complexity of need, which may not be identified directly by the existing models of referral gateway. As such, considerations of service user pathways need to be fundamental to a new service specification design.
- 5.7. To support the review and pending procurement exercise, and working with the guidance and support of Corporate Procurement, Strategic Housing have commenced initial market engagement; service user consultation and research of good practice. Which all indicate a need to design services based upon successful outcomes for the service users and be clearly linked to the Councils' Health and Wellbeing agenda.
- 5.8. Using an evidence based commissioning model of assessing needs, the planned procurement of new housing related support will ensure services are flexible, providing a more personalised response to need, reducing dependency, avoiding duplication with other services across the Council and meeting local priorities such as reducing admissions to institutions.
- 5.9. This approach will ensure that those with the most complex needs, who receive a range of services, will be supported into independence where this is achievable or will have a suitable service in place to support them to maintain accommodation and prevent homelessness. People with lower needs will now receive short term, outcome focused and targeted support.
- 5.10. A focus will also be on people who have been in homeless services for some time to offer them sustainable support and accommodation packages. We want to significantly reduce the numbers of people who have unplanned moves between homeless services and ensure people have a suitable service which adequately meets their needs.
- 5.11. To ensure appropriate measures are in place for TUPE implications for current providers, Strategic Housing have been working with providers in the collation of staffing information to minimise the effects of relevant decisions during the procurement process.

- 5.12. The Project Plan [see 9.3] and summary in Table 1, details steps to be undertaken for the delivery of a successful outcome for both the interim contact management arrangements and timescale for the procurement exercise for a new contract as from April 2017.

Table 1: Project Plan Steps {Summary}

Key Deliverable	Description / What	Why	Timescale
Scope	Current Position Assessment	▪ Review available demand intelligence	Mar-Apr 16
	Commissioning Plan	▪ Collation of relevant open procurement documentation	
	Procurement: Option Appraisal	▪ High level assessment of future service design	
Financial	Budget setting	▪ Transferred budget for 2016/17 / Agree budget for 2017/18	Mar-Apr 16
Current Contracts	Contract variations	▪ Amendment to contract management / payment arrangements	Mar-Apr 16
	Contract management	▪ Function of managing contracts for 2016/17	
Consultation	Market Engagement Events	▪ Initial testing the market	Mar – July 16
	Stakeholder	▪ Formal consultation period with relevant stakeholders	
	Service Users	▪ Under the direction of current providers, link with service users to obtain experiences	
Approval Process	CEC steps for internal approval	▪ Democratic approval process	May – July 16
Procurement Stage 1	Procurement Engagement	▪ Commence work with Corporate Procurement	May 16 / Mar 17
	TUPE	▪ Initial intelligence gathering / implications	Apr – May 16
Procurement Stage 2	Project management	▪ Practical arrangements for project managing the process	Mar 16 / Mar 17
Procurement Stage 3	Preferred option	▪ Finalise / agree service delivery option	July 16
Procurement Stage 4	Specification design	▪ Working with Corporate Procurement in shaping specification / procurement method	July – Aug 16
Procurement Stage 5	PQQ / ITT	▪ Formal procurement process / negation / tender award	Dec 16 / Jan 17
Transition	Handover	▪ TUPE arrangement / formal handover	Jan – Apr 17

6. Wards Affected and Local Ward Members

6.1. All

7. Implications of Recommendation

7.1. Policy Implications

7.1.1. Housing related support projects support a wide ranging policy agenda for Cheshire East Council's and our partner agencies, including;

Cheshire East Council Resident First	(Particularly) <ul style="list-style-type: none"> Our local communities are strong and supportive People have the life skills and education they need in order to thrive People live well and for longer
Cheshire East Council 4 Year Plan	(Particularly) <p>Communities: Helping residents to help themselves and each other. Supporting volunteering and minimising antisocial behaviour</p> <p>Health: Safeguarding the vulnerable and providing appropriate care that helps people live well and for longer.</p>
Cheshire East Health and Wellbeing	<ul style="list-style-type: none"> Joint Strategic Needs Assessment Joint Health and Wellbeing Strategy
Ageing Well in Cheshire East	A Plan for People Aged 50 and Over 2012 – 2017
Cheshire East Vulnerable and Older People's Housing Strategy	A multi agency strategy to the provision of care and support
Cheshire East Homelessness Strategy 2014 - 2017	Providing direction and advice in the provision of multi agency approach to early intervention and prevention for homelessness

7.2 Legal Implications

7.2.1 In accordance with Part 7 of the Housing Act 1996 (as amended), the Council has certain statutory responsibility towards people who are

homeless or threatened with homelessness.

- 7.2.2 The Homelessness (Priority Need for Accommodation) (England) Order 2002 extended the categories of those who may be considered to be in priority need in assessing entitlement to accommodation by the housing department. The categories now include, but are not limited to:
- 16 and 17 year old young people who are not relevant care leavers
 - Homeless 18-20 year olds who were in care at 16 or 17 except for those in higher residential or further education requiring vacation accommodation
 - Homeless people over the age of 21 who are vulnerable as a result of being in care in the past
- 7.2.3 The Council has a duty under Section 2 of the Care Act 2014 to provide or arrange for the provision of services, facilities or resources, or take other steps, which is considers will contribute towards preventing or delaying the development of adults in the area of needs for care and support and reduce the needs for care and support of adults in its area.
- 7.2.4 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply as there will be outgoing service providers. Strategic Housing has engaged with the providers to explore the initial implications. Strategic Housing will ensure all procurement decisions are taken in accordance with the Council's relevant policy and procedures relating to TUPE
- 7.2.5 The procurement process will be carried out in accordance with the Public Contracts Regulations 2015 and with the Council's Contract Procedure Rules.

7.3 Financial Implications

- 7.3.1 Both nationally and locally, it is evident that seeking to support Independent living through housing related support projects will be an increasingly important priority for local authorities in years to come, providing value for money. The pressure on services is rising, partly as a result of an ageing population and increased incidents of homelessness. It is vital that councils tackle the prevention agenda and develop their ability to keep people independent for longer.
- 7.3.2 The recurrent gross budget for the housing related support projects is £958,772.09 per year, a budget currently held by Adults, which will be transferred to Strategic Housing as soon as possible.
- 7.3.3 Initial market engagement has clearly indicated that potential providers are experiencing a period financial uncertainty in terms of short to medium terms business planning. As such, the preferred procurement plan, and to increase interest for potential providers, we are working towards a contract for a 3 year period, with options for an additional 2 years.

7.4 Equality Implications

- 7.4.1 The provision of housing related support has a direct impact on all residents of Cheshire East, who may or may not seek to access services. Therefore, a corporate Equality Impact Assessment has been completed (see 9.4).

7.5 Rural Community Implications

- 7.5.1 None

7.6 Human Resources Implications

- 7.6.1 There are no Human Resource implications for Cheshire East Council. However, as this report has outlined [5.11], there would be TUPE implications for current providers.

7.7 Public Health Implications

- 7.7.1 Strategic Housing has continually worked with Public Health commissioning managers in to ensure decisions are made with appropriate intelligence of need. To this extent, we have successfully jointly commissioned with Corporate Public Health a Recovery Project. This vital provision of support within the Borough has allowed us to redesign current and future housing related support with an improved focus on wider complexity of need.

7.8 Other Implications

- 7.8.1 To ensure procurement decisions are made effectively and in accordance with value for money, Strategic housing have also directly consulted with Children and Young People Services and Adult Social Care, detailing our planned procurement, whether there is a duplication of provision, or seek opportunities for possible joint commissioning.

8. Risk Management

- 8.1 Appropriate governance arrangements have been put in place to manage the procurement process, including a cross Directorate project team and led by Strategic Housing Manager.
- 8.2 A risk plan (see 9.5) has been devised to identify and mitigate a range of risks and is being monitored by the project team.

9. Access to information / Bibliography

- 9.1 [List of current projects and location](#)
- 9.2 [Single Point of Access \[Information\]](#)

9.3 [Project Plan](#)

9.4 [Equality Impact Assessment](#)

9.5 [Risk Management Assessment](#)

10. Contact information

Contact details for this report are as follows:-

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 12th July 2016
Report of: Chief Operating Officer
Subject/Title: Water Procurement
Portfolio Holder: Cllr Peter Groves - Finance and Assets

1.0 Report Summary

- 1.1 Cheshire East Council spends approximately £2 million per annum on water services across its Corporate and Schools portfolio. The existing regional supplier arrangement for water services is due to change in April 2017 and the English water market will be fully opened to competition.
- 1.2 The region supplier, United Utilities for the whole of Cheshire East, will continue to provide network and distribution services but the retail element will be subject to competitive tendering. Any contract awarded to a retail provider will also include the services provided by United Utilities as the cost of these services will be passed through by the retail provider.

2.0 Recommendations

- 2.1 Cabinet is requested to:
- i) Approve the procurement of water services via the Public Sector Water Strategy Group framework from April 2017.
 - ii) Delegate authority to the Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets, to enter into a contract with the successful provider, following a compliant procurement exercise conducted via the Public Sector Water Strategy Group framework, for an initial period of 2 years with the option to extend the contract for two further periods of 1 year (Total 4 years).
 - iii) Delegate authority to the Chief Operating Officer, in consultation with the Portfolio Holder for Finance and Assets, to determine whether to enter into individual Memorandum of Agreements with such Schools and Academies as indicate they wish to participate in the contract (subject to the Council's contract with the successful provider allowing such participation).

3.0 Reasons for Recommendations

- 3.1 The Public Sector Water Strategy Group (WSG) has been set up with the intention of creating a nationally accessible Framework for Water and Sewerage retail services from April 2017, for all Public and Third Sector organisations in England. The WSG is a group consisting of representatives from five Public Sector Buying Organisations; Yorkshire Purchasing Organisation (YPO), Eastern Shires Purchasing Organisation (ESPO), North East Procurement Organisation (NEPO), The Energy Consortium (TEC), West Mercia, and Crown Commercial Services, with support from the Ministry of Defence (MoD).
- 3.2 The English water market, previously restricted to business's using more than 5000 M³ a year, will be fully open to competition in April 2017. Many public sector customers will need to procure a compliant contract following the deregulation of the market in April 2017, in accordance with the Public Contract Regulations 2015 and avoid being allocated to out of contract rates.
- 3.3 Once the proposed provider is selected and if the frameworks' contract terms and conditions allow the Council will be purchasing on behalf of schools and Academies. All such educational establishments will be contacted during the course of the procurement process and their agreement to participate in the contract sought. When the Council enters into the contract with the provider, the Council will enter into Memorandum of Agreement with each of the educational establishments who already have expressed an interest to secure their involvement for the duration of the contract period.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 No significant policy implications

7.0 Financial Implications

- 7.1 Annual expenditure on water volumetric charges and Surface Water & Highways Drainage charges is approximately £2 million.
- 7.2 The Framework is not expected to deliver significant cashable savings to through discounted tariffs, due to the retailers only being able to influence 7% of the total delivered price, which in CEC's case will be £140,000 of its overall £2 million spend.

8.0 Legal Implications

- 8.1 In February 2014 a new EU Directive, Directive 2014/25, was adopted in relation to the procurement of water by entities including public bodies. That Directive has been transposed into the Utilities Contracts Regulations 2016 by the UK Government. These regulations are currently in their draft form but must be incorporated into UK law on 18 April 2016 (the deadline set by the EU in relation to a whole suite of procurement Directives adopted in 2014).
- 8.2 The regulations will apply to Utilities Contracts over £345,028 (for supplies and services).
- 8.2 The aggregate value of the Council's requirement for water services is such that these services must be procured in accordance with EU and National Legislation (so as to comply with the Council's Finance and Contract Procedure Rules) and will require a competitive tender exercise.
- 8.3 The Council has the option to carry out its own procurement exercise or it may make use of a compliantly competed contract put in place by a purchasing body on behalf of public sector bodies (such as a framework agreement).
- 8.4 A framework agreement enables the need for a particular service to be met for a set period of time. The Public Contracts Regulations 2015 allow local authorities to enter into framework agreements with a service provider following a competitive tendering process for a maximum period of four years.
- 8.5 The need to competitively procure water services is new and arises from the change in EU law. The WSG intend to put in place a framework agreement for water services for use by public bodies. Whilst the WSG have not yet published guidance, it is understood that the framework will be let in regional "lots" with several providers per lot. A public body will then enter into a mini-competition with providers on a lot in order to enter into a contract with one provider.
- 8.6 The letting of a contract via a compliantly procured framework agreement and following a mini-competition will satisfy the requirements of the EU regulations and the Council's own CPRs. The contract period (2 years plus the option to extend for two further years) will provide flexibility to withdraw from the contract if necessary.
- 8.7 The framework agreement and the contracts with the providers will be determined within the course of the procurement process put in place by WSG. If the terms of the agreements allow, the Council may be able to offer Schools and Academies the opportunity to participate in any contract the Council put in place with the successful provider. In which case the Council will enter into separate Memorandum of Agreement with each School/Academy MoA to evidence their commitment to participate for the potential duration of the contract (4 years) and so that their volumes can be taken into account.

9.0 Risk Management Overview of the Water Strategy Group

- 9.1 The financial benefit of this procurement exercise will be limited and a change of supplier could present a risk associated with transferring accounts i.e. completeness of data, account details, continuity of readings and general administration.
- 9.2 The benefits of obtaining a single supplier, electronic billing and consolidated invoicing has already been achieved.
- 9.3 There is a risk that limited experience and knowledge of procuring water and waste supplies could be represented in the tender documents, framework agreement and terms and conditions. WSG will mitigate this risk by carrying out in depth market research and on-going Customer and supplier engagement to determine how to structure and develop the tender documents, focusing on areas which are most important to customers.
- 9.4 Not all billing records are complete and CEC does not have access to all schools billing records particularly after conversion to academy status and they will need to be provided with regular reminders and guidance on how they should prepare for water competition when data is required for a tender process.
- 9.5 The English Public sector is considerably larger than the previously tested Scottish Public sector and some suppliers are concerned that if the majority of Public sectors go to tender at the same time this could limit the number of suppliers able to bid for the business. WSG have acknowledged these concerns and will structure one tender into attractive and manageable lots, or potentially look at one national framework which could be accessed via a further competition process and all suppliers meeting minimum requirements would be appointed. This risk will be managed as the Framework structure is decided by the WSG.

10.0 Background and Options

- 10.1 As stated previously the existing regional supplier arrangement for water services is due to change in April 2017 and the English water market will be fully opened to competition and all non-domestic customers in England will have the option to transfer their business to their chosen Water Retailer in accordance with complying by the Public Contract Regulations 2015. As public sector customers will need to procure a compliant contract following the deregulation of the market in April 2017, and avoid being allocated to out of contract rates, the WSG aims to provide a Framework which will provide Public Sector customers the opportunity to award to the most economically advantageous tender.
- 10.2 The Framework is not expected to initially deliver significant cashable savings to customers through discounted tariffs, due to the Retailers only being able to influence 7% of the total delivered price to the end user, with 93% of the delivered cost being made up of Wholesaler costs. OFWAT estimates that

savings to non-domestic customers is will be around 5% between 2015 and 2020. A collaborative public sector Framework will be able to maximise the delivery of these savings to customers, through shared knowledge, distribution of responsibilities and delivering an attractive Tender to Water retailers. Although savings in the competitive water market in England are likely to be limited initially, there is scope for the English retail margin to increase as competition embeds and the architecture of the market develops.

10.3 The key points for recommending that the procurement is conducted via the WSG Collaborative Public Sector Framework is that it is believed that the authority can take advantage of a number of other service offerings to facilitate savings through other means of efficiencies and added value services. Benefits which a collaborative procurement would be designed to deliver are:

- Transparency and accuracy in pricing
- Billing efficiencies – Single supplier billing, Electronic billing and consolidated invoicing
- Metering – Increased potential for economical fitting of AMR/smart metering and use of associated data.
- Improved customer service and account management
- Water Efficiencies – Competitive environment stimulating the development, availability and affordability of technologies and services to decrease water consumption.
- Provide national Public Sector with a quick, efficient and compliant route to market in a new and developing competitive market.

10.4 Another option would be a formal EU tendering process. Due to the level of spend on water services a re-tender of the contract will inevitably require a formal EU compliant tendering process to be undertaken. The council could go out to tender detailing specific requirements for Cheshire East, however, this is not recommended due to the cost of tendering, which would also be time consuming and extremely demanding on resources. It is considered that there would be no benefit in this approach over and above the collaborative options already available – the Council would be dealing with the same supply market and would not be able to leverage demand without the other Public Sector Bodies.

10.5 Recommendation

For Cheshire East Council to utilise the Public Sector Water Strategy Group framework which is a nationally accessible Framework for Water and Sewage retail services from April 2017.

That a contract be for a maximum period of 2 years with an option to extend by 2 further periods of 1 year each (maximum period 4 years).

11.0 Overview of Year One and Term One Issues

11.1 The contract will be managed by Procurement and Facilities Management.

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: 12th July 2016
Report of: Head of Communities/Head of Asset Management
Subject/Title: Asset Transfer Framework
Portfolio Holder: Councillor Don Stockton – Regeneration

1.0 Report Summary

- 1.1. On the 5th September 2011, Cabinet approved a list of asset transfers and principles of asset transfer to local Town and Parish Councils. The cabinet approved list of 49 assets as Appendix A for transfer; of these 36 have been transferred, 5 are pending and 8 are no longer proceeding for practical reasons. There was an Appendix B list of 24 Assets which required further consideration by the Council on a case by case basis before a Portfolio Holder decision would be required to approve a transfer. The Council has also received new proposals/requests for Asset transfers since the 2011 Cabinet decision.
- 1.2. This follow on report seeks to build on the success of the work undertaken to date and recommend how to effectively and efficiently deal with the pending cases and future asset transfer requests via the introduction of an Asset Transfer Framework and a Land and Property Lease/Disposal Framework. In addition to achieving this objective the framework will also set out the general approach taken by the Council when dealing with commercial property transactions.
- 1.3. As a Residents First Council, we wish to strengthen our commitment to asset transfers in supporting Town and Parish Councils and voluntary organisations to make improved use of Council assets in order to benefit local residents in the communities they reside. This approach will also make the Council's general approach to commercial property transactions clearer, aiding residents and those wishing to invest in the Borough.
- 1.4. Cheshire East Council, in adopting an Asset Transfer Framework and Land and Property Lease/Disposal Framework, will provide a clear and transparent process to fully assess, prioritise and progress transfer requests received to date. The introduction of a work programme will ensure cases are progressed in a priority order establishing a system, which can be integrated and embedded as a model of best practice within the Council.

2.0 Recommendations

- 2.1 That Cabinet approves the Asset Transfer Framework, and the Land, and Property Lease/Disposal Framework as presented in Appendix 1 and 2.
- 2.2 That Cabinet acknowledges and approves that all pending/new cases will be programmed and considered via the Asset Transfer Framework and be subject to the Land and Property Lease/Disposal Framework.
- 2.3 That authority is thereafter delegated to the Portfolio Holder for Regeneration and Assets to approve the terms for any further pending or new requests for transfer of assets, in consultation with the Portfolio Holder for the relevant service and the Executive Director – Place and authorise the legal completion of those asset transfers in accordance with the Council's Constitution.
- 2.4 That Cabinet approves the general approach set out for commercial property transactions.

3.0 Other Options Considered

- 3.1 The existing practices of dealing with asset transfer applications are reviewed on a case-by-case basis. The risk of this process is that the Council is open to challenge and scrutiny of how it prioritises and determines current caseloads and decides upon terms of transfer.
- 3.2 Not adopting this approach gives the Council greater flexibility. However, this also increases customer uncertainty and reduces the Council's capacity to progress through caseload in a systematic and prompt manner. Not adopting this approach will also reduce the Council's ability to progress efficiently through the required property transactions, increasing the burden on resources without necessarily changing the outcome for residents.

4.0 Reasons for Recommendations

- 4.1 The Asset Transfer Framework is underpinned by the following key principles:-
 - A transparent corporate process for community asset transfer and transfer of management, which includes a clear point of first contact, followed by a structured process.
 - In implementing its framework, the Council recognises that, with appropriate support, community led solutions can achieve better outcomes than central initiatives.

- The Council recognises the advantage of appropriate terms and of tenure, (with appropriate and proportionate safeguards and audits) to enable applicants to adapt and change over time in response to community needs.
- Recognising the wider community benefits derived from asset transfer applications.
- The Council will use the community asset framework as a means of enabling all Local Community Groups/Organisations to become sustainable on a long-term basis.
- Applicants must be able to demonstrate a detailed Business Case for the transfer and have the legal capacity to hold assets.
- To be successful, and minimise risk, the framework requires a long-term partnership commitment on the part of the Council and the Community Group/Organisation. A transfer must proceed on a cost neutral basis to the Local Authority.
- The asset be transferred in its current condition and applicants will be responsible for the management and day-to-day operation of the asset on transfer.
- Asset Transfers are a sub set of general property transactions that the Council undertakes. To avoid ambiguity and uncertainty for residents it makes practical sense also to define the general approach for commercial transactions within this report.
- This paper sets out the Council's general approach to property transactions and therefore generates increased certainty for third parties dealing with the Council. Appendix 3 provides a summary of these transactions.

4.2 The Land and Property Lease/Disposal Framework is underpinned by the following key principles:-

- Government Legislation in relation to best consideration, public open space, creation of new Town/Parish Councils, Allotments, restrictive covenants, state aid and Landlord and Tenant. This list is not exhaustive and the policy is intended to protect Cheshire East Council's fiduciary duty in exercising its powers and authority with regard to land and property transactions and considerations
- Consistent with the 2011 Cabinet paper, freehold transfers will continue to be at nominal value, subject to overage for 25 years for Civic Halls and Community Centres transferring to Town and Parish Councils. This framework does not change those principles.

- The principle of continuing to offer allotment land for transfer on long leases (125 years), to enable legal rights and responsibilities of either side to be set and in particular the permitted user clause to be restricted will also remain consistent with the 2011 cabinet paper.
- Newly created Town and Parish Councils by virtue of Government legislation will have allotments transferred freehold without overage as the legislation provides for them to automatically vest with that newly created Council upon its creation. Cheshire East Council are only able to put in place procedures to protect retained land, rights of access for retained land and to protect restrictive covenants for retained land.
- Transfers of markets and public conveniences to remain the same as the 2011 cabinet paper, upon agreement, dependant on the circumstances: if transferred freehold, to be at nominal value, subject to overage for 25 years, the same as the Civic Halls and Community Centres as detailed above.
- Any assets (excluding allotments) approved for transfer by leasehold only will now be on shorter lease terms: 30 years, to reflect legislative changes to covenant enforceability. In exceptional circumstances such as evidence of substantial capital investment or written requirements of an external funder a longer term of lease term will be considered. Reversionary terms to protect latent land value will be applied to those leases.
- Transferees will be wholly responsible for the asset costs and transfers to be cost neutral to Cheshire East Council.
- Any leasebacks to Cheshire East Council to be on service charge basis only, no rental to be charged to Cheshire East.
- Village green applications will follow its statutory and legislative process which is well established and separate to this asset framework.
- No parking to transfer unless essential to sustainable running of the facility authorised to transfer.

5.0 Background/Chronology

- 5.1 The Localism Act of 2011 sets out a series of measures with the potential to offer new rights and powers for voluntary organisations to be able to make decisions for themselves and take responsibility to benefit their local communities.

- 5.2 The Council supports strong and sustainable voluntary and community sector organisations as key partners in the delivery of services and is committed to working in partnership to support communities to address local priorities.
- 5.3 Encouraging asset transfers supports CEC's key community outcomes, by developing stronger communities, with devolved power to local communities, and empowering local people to take charge of local assets and services.
- 5.4 With reduced local government spending, transferring assets to Town and Parish Councils and other voluntary organisations offers a way of removing council costs to the benefit of allowing local communities to provide improved and sustainable services.
- 5.5 The Council has already successfully achieved asset transfers with a number of Council owned assets and the introduction of an asset transfer framework intendeds to improve the Councils responses to applicants and set clear objectives throughout the application process.
- 5.6 Adopting an Asset Transfer Framework has a range of benefits including:-
- A single gateway approach providing a clear point of contact at Cheshire East Council for applicants.
 - Notification to applicants and the appropriate Ward Member/s on the receipt of an asset transfer application.
 - A quick assessment to identify the priority of asset transfer application within an 8 to 10 week period of receiving the application.
 - The provision of a fair and accountable system and a clear decision making process based on strong evidence
 - Notification to the Town and Parish Council or voluntary organisation on the submission of the asset transfer request of a date when an initial decision will be made.
 - CEC departments working collectively to assess and prioritise asset transfer applications to ensure a holistic response is provided and the outcomes are linked to the Council's strategic outcomes.
 - Set criteria established at the outset for applicants to understand the roles and responsibilities of both parties.
 - A focus on internal and external communication, including information relating to expected timescales to completion.

- Supporting community groups with advice and information throughout the process and the development of a CEC website to assist applicants with the application process.

- 5.7 Cheshire East Council is leading the programme working closely with our partners to develop vibrant and strong communities which are shaped and developed by local communities, providing the right services in the right place, at the right times. The asset transfer framework takes account of those applications with direct links to this work and appropriately assesses the information provided against the 'Scoring Matrix'.
- 5.8 The introduction of an asset 'Scoring Matrix' will determine how the application meets criteria set by the Council and identify its priority against other applications received.
- 5.9 A number of Town and Parish Councils and voluntary organisations have been contacted as a result of their interest in acquiring council owned assets and assessments have been undertaken using the 'Scoring Matrix' which has assisted in determining their priority on a programme of work.
- 5.10 Outcomes of the 'Scoring Matrix' will form part of the information together with supporting evidence received from relevant CEC departments making up the Community Asset Group to decide whether an application is to progress to requiring a Business Case submission.
- 5.11 The asset transfer framework and governance arrangements supporting the application process has been established through close consultation between senior officers within Cheshire East Council. A copy of the Asset Transfer Framework Document accompanies this report and details of the Governance process is provided on separate pages at the end of this report.
- 5.12 As the Council also deals with commercial property transactions, it is appropriate to capture general property transactions in this report to avoid ambiguity.

6.0 Wards Affected and Local Ward Members

- 6.1 The recommendations relate to all wards and all members within Cheshire East.

7.0 Implications of Recommendation

7.1 Policy Implications

- 7.1.1 There are no policy implications. The Council has the ability to dispose of property as set out in the legal implications section below. This

approach allows a consistent approach to dealing with property transactions in general and specifically asset transfers, enabling the Council to achieve its existing aims, objectives and policies in the most efficient way possible.

7.2 Legal Implications

- 7.2.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers; however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
- 7.2.2 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue £2million or less, if the undervalue is higher than £2million consent to the disposal is required by the Secretary of State.
- 7.2.3 The Council has the power to grant a lease of the land pursuant to s123 of the Local Government act 1972 subject to any disposal for 7 years or more being the best consideration that can be reasonably obtained.
- 7.2.4 Notwithstanding the above powers the council has a fiduciary to the taxpayers and must fulfil this duty in a way which is accountable to local people.
- 7.2.5 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 £155,849.99 (as at 16th March 2016) (20,000 Euros) in state aid over a 3 year period than the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).
- 7.2.6 Based on the above, due consideration will need to be given separately to each transaction based on the spirit and the intendment of the commitments outlined in this paper and the aspirations, powers and obligations of the Council arising at the relevant time. If necessary, separate reports will have to be made for relevant Council authorities to be obtained.

7.3 Financial Implications

- 7.3.1 All expressions of interest received within the proposed Asset Transfer Framework will be met using existing staffing resource within CEC.
- 7.3.2 All The Asset Transfer Framework contains a condition that any transfer of assets must proceed on a cost neutral basis to Cheshire East Council.
- 7.3.3 Financial Implications of specific asset transfers need to be considered on a case-by-case basis and will be subject to separate Cabinet reports when the need arises.

7.4 Equality Implications

- 7.4.1 An Equality Impact Assessment has been completed and is available upon request.

7.5 Rural Community Implications

- 7.5.1 There are no specific implications on the rural community.

7.6 Human Resources Implications

- 7.6.1 The recommendations would be undertaken within existing Council budgets and resources.

7.7 Public Health Implications

- 7.7.1 There are no public health implications.

7.8 Other Implications (Please specify)

- 7.8.1 There are no other implications.

8.0 Risk Management

- 8.1 The processes included within the asset transfer framework mitigate against any areas of risk.

9.0 Access to Information/Bibliography

- 9.1 Access to more information is available by contacting the report writer.

10.0 Contact Information

Contact details for this report are as follows:

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Designation:	Impact Manager
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Email:	<u>richard.christopherson@cheshireeast.gov.uk</u>

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Community

Asset Transfer Framework

Cheshire East Council

1st April 2016 to be reviewed annually

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Community Asset Transfer Framework

1.0 Introduction

- 1.1 This Community Asset Transfer Framework is intended to provide a clear process for Cheshire East Council to address the transfer of assets to all Community Groups.

2.0 Purpose of the Community Asset Transfer Framework

- 2.1 The purpose of the Framework is to support community groups in being able to make improved use of Council assets in order to benefit the residents of the Borough. It is designed to set a transparent, positive and proactive process to enable asset transfers to occur from local organisations and a route to transfer the management of services to Community Groups/Organisations.
- 2.2 The Framework will be applied to all 'Expressions Of Interests' received. Each can be assessed appropriately ahead of where the transfer of land or property to a Community Group can be seen to address strategic priorities at corporate levels, and achieve service improvements, social benefit and financial efficiencies for the Council.
- 2.3 The term Community Group is defined in the Localism Act 2011 and refers to a number of organisations who may wish to apply for the acquisition of assets and examples of some of these groups have been listed below:-
- Town and Parish Councils,
Local voluntary and community groups
A Registered Charity
Democratic organisation independent of national or local government
- 2.4 The Framework will become integrated within Council practice and adopted to cater for approaches by all Community Groups/Organisations recognising the identification of under-utilised or surplus assets or by an approach by Community Groups/Organisations applying to take responsibility for a current Council Service.
- 2.5 The focus of the framework will be on supporting all Community Groups/Organisations in providing clear communication between both parties throughout the process.

3.0 Background

- 3.1 A key and well publicised Government policy is the establishment of a stronger voluntary and 'third or not for profit' sector with direct links to the Localism Agenda by providing communities with the ability and resources to tackle and resolve local problems at a local level within minimum bureaucracy. Within this context, it is proposed to develop and implement a Framework that enables both the Council and the wider community to safeguard valuable services and resources. It is important to note that a balance needs to be achieved between community asset transfer and the Council's need to generate capital receipts from its surplus property.
- 3.2 The Council has already successfully achieved asset transfers with a number of Council owned assets and the framework is intended to improve the Councils responses to applicants and set clear objectives throughout the application process.
- 3.3 The aim is to achieve a fair and accountable framework for asset transfers from Local Authorities to all Community Groups/Organisations.

4.0 Community Hubs

- 4.1 Cheshire East Council has undertaken work with the Statutory, Voluntary and Community Sectors to develop Community Networks and ensure all parties work better together to deliver joined up services and deliver a range of activities at a local level. The work involves recognising the potential use of local buildings and identifying the right blend of services are provided from the right venue, at the right times where local residents will benefit from them most.
- 4.2 The Community Asset Transfer Framework will assist in this process in determining those buildings which can be considered for asset transfer to enhance the facilities in a particular community.

5.0 Principles Underpinning the Council's Community Asset Framework

- 5.1 The Council's Framework is underpinned by the following principles:
- A transparent corporate process for community asset transfer and the devolution of services which includes a clear point of first contact followed by a structured process.
 - In implementing its framework, the Council recognises that, with appropriate support, community led solutions can achieve better outcomes than central initiatives.
 - The Council recognises the advantage of appropriate terms and of tenure, (with appropriate and proportionate safeguards and audits) to enable applicants to adapt and change over time in response to community needs.
 - Recognising the wider community benefits derived from asset transfer applications.
 - The Council will use the community asset framework as a means of enabling all Local Community Groups/Organisations to become sustainable on a long term basis.
 - Applicants must be able to demonstrate a detailed Business Case for the transfer and have the legal capacity to hold assets.
 - To be successful, the framework requires a long term partnership commitment on the part of the Council and the Community Group/Organisation and it is recognised that this is the best way of minimising risk.
 - A transfer must proceed on a cost neutral basis to the Local Authority.
 - The asset is transferred in its current condition and applicants will be responsible for the management and day to day operation of the asset on transfer.

6.0 Assessing Community Asset Transfer Applications

- 6.1 The framework will create a single gateway approach which provides a clear point of contact for Community Groups/Organisations with asset transfer enquiries, and will act as a conduit and a source of information and support.
- 6.2 The above will also apply to those expressions of interest received from applicants keen on delivering services at a local level which were previously the responsibility of the Council.
- 6.3 The framework will provide the applicant with an early response to their application to prevent the need to undertake substantial and expensive feasibility or business planning work. An

initial steer being provided by the Community Assets Officer Group will advise whether an asset could be made available for transfer.

- 6.4 The introduction of an *Asset Scoring Matrix* will determine how the 'Expression Of Interest' meets further criteria set by the Council and identify its priority against other applications received.

6.5 **Asset Scoring Matrix**

The Asset Scoring Matrix enables CEC to assess the initial 'Expression Of Interest' and mark applications on a case by case basis against the following criteria:-

- Evidence supporting local neighbourhood priorities
- Benefits to the wider community
- Council's aims and objectives
- Priorities linked to the local plan
- Demonstrates a cost neutral status to the Council
- Long term sustainability
- 8123 LGA
- The statutory duties and powers of the Council
- Councils requirement to retain an asset
- Statutory Compliance

- 6.6 Outcomes from the overall Matrix score will form part of the information assessed by the Community Asset Meeting Group.

- 6.7 Officers representing the relevant internal CEC departments making up the membership of the Community Asset Group will consider all the evidence and information provided and decide whether the application is to progress to requiring a Business Case submission.

7.0 **Business Case**

Critical to the success of any transfer is having a clear rationale backed by a robust business case from the applicant organisation demonstrating the ability of the recipient to manage the asset effectively thus reducing the risk to the Council.

The main elements of the business case required for assessment purposes can be presented under a number of headings directly related to the CEC overall strategic objectives which should include the categories below and also adhere to general disposal request consent.

Rationale – Community Benefits / Background

- How the need for proposed transfer and use of asset has been identified – what needs will the transfer meet? What are the aims and objectives of the organisation?

Rationale – Financial Benefits

- A strong financial rationale to be included to demonstrate how income is to be generated through the proposed use of the property, and how any consideration to the Council in connection with the transfer would be generated;

Relationships

- Where possible to obtain a view on the proposal from Community Hub/s

Outcomes & Targets

- Benefits case as a result of transfer – what will be different and how it will be measured – agreeing the outcomes that will be achieved;

Property Management Capacity

- Capacity of the Community Group/Organisation to acquire and manage the property asset effectively

Business Plan including Financial Model

- Business Plan for the future use of the asset e.g. cashflow forecasts, budget projections, historic accounts;

Transfer

- Type of transfer sought and why (e.g. freehold, leasehold, Management Transfer);

CEC Support

- Statement from sponsoring Council Service if supporting the proposal;

Contracts

- Terms of any Contractual Agreements with the sponsoring organisation or Council Service;

Future Planning

- Details of how the proposed use of the asset will be managed and monitored going forward, and details of 'fall back' arrangements should the transfer prove to be unsustainable.

The Council will consider the level of responsibility that is appropriate to be transferred to the third party for the repair and maintenance of the premises. The applicant is to be encouraged to take independent advice in order to understand its potential legal and financial liabilities before proceeding.

7.1 Asset transfers to the applicant will aim to create the widest public value and will be judged on the following criteria:

- The alternative use value of the property;
- The current use of the property and the need to retain the asset for existing or future Council use.
- What community benefits will be realised by the transfer;
- The value of any use and occupation charges to be payable to the Council;
- The priorities set out in the Neighbourhood Plan for the area in which the asset is located.
- How the interests of local people will be better served, including community involvement and capacity building of community members linked to the work within the Community Hub
- Building the capacity and encouraging greater organisational sustainability;
- The business plan and financial viability for the premises;
- Regeneration, social, environmental and economic (including the development of community enterprise activity);
- The views of other CEC Departments / particularly in respect of devolution of Service requests.
- How outcomes can be measured.

- Improvements to safeguarding or creating new local services / activities and how these are linked to the Community Hub.
- Supporting Council efficiency gains and co-location of service provision;

The decision to transfer an asset or devolve a service will not be considered as setting a precedent. Each asset transfer or service request will be judged on its own merits and the detail of the transfer arrangements will be arrived at through individual negotiation.

- 7.2 The Council will only consider using its asset transfer powers where the applicant has demonstrated the capacity to manage the building appropriately, although it is recognised that organisations may be able to develop this capacity and will be given the opportunity to do so if commitment and potential can be demonstrated. As much detail as possible in relation to the responsibilities and liabilities an organisation may be taking on in connection with the transfer of a building will be made explicit by the Council at all stages of the process.

8.0 The Asset Transfer Process

- 8.1 The Council will follow an agreed process to initially assess all applications and consider their suitability for progression.

9.0 Decisions Processes

- 9.1 Such decisions relating to the above will be delegated to the appropriate Portfolio Holder or Cabinet should it be determined the application is a Key decision.
- 9.2 Consultation will also be required to discuss individual applications with the appropriate Cheshire East Service and Ward Member/s at the initial stage of the process.



Asset Transfer Application Enquiry Form

If you want to express an interest in applying for an Asset (Building or Land) or transfer the management of services currently undertaken with Cheshire East Council. Please complete the details below and forward them to: partnerships@cheshireeast.gov.uk

Please refer to the guidance notes attached with this application providing further information in relation to the Asset Transfer Framework.

Please fill in all the sections of the form. Write 'not applicable' if you feel that a question does not apply to you. Please write clearly in BLOCK CAPITALS and use black ink.

PLEASE READ CAREFULLY **Data Protection Act 1988**

The details you provide on this form will only be used in connection with your expression of interest Asset Transfer enquiry. Your information will be shared with Elected Members, colleagues within Cheshire East Council and other Voluntary and Community Agencies.

Name and Address of Organisation	
Purpose of the Group	
Registered Status	
Position in organisation	

Asset Transfer: Summary of community benefits and scoring

Completing the table on this form will help facilitate a preliminary assessment of your application and establish if there is any benefit in working on a more detailed proposal. This will avoid incurring unnecessary costs in developing any proposals that the Council are unable to support either because they conflict with Council policy or there is a lack of clear outputs and benefits.

The table below is used to summarise how six key "Community Benefit" factors within asset transfer applications are addressed. Each factor should be allocated a score between 0 (low) and 5 (high) to reflect the extent to which that factor is addressed in the application. The total of the six scores can then be used to suggest the extent to which the proposal may be acceptable to Cheshire East Council.

Once the preliminary assessment has been completed you will be notified of the outcomes.

Attached for your assistance is supporting information providing you with a breakdown of the type of evidence required in each section and details of how the scoring system on the matrix is applied to each application received.



Name of Asset

Please Tick as appropriate – Leasehold for up to 25 years ☐Transfer of Management ☐

Key factor	Summary from application form	Rating (0-5)
How is it proposed that the asset will be used to address the priorities of the local neighbourhood?		
How will the asset be used to benefit the local community?		
How will use of the asset link to the priorities set out in the local plan?		
Demonstration that the use of the asset and responsibility for it can be managed, and will be cost-neutral from a Cheshire East Council's perspective		
Long-term sustainability of the asset under its proposed new ownership.		
Details of deadlines / timelines which would impact on outcomes.		
TOTAL		



Asset Management Scoring Matrix

The following asset scoring matrix is proposed to assess asset transfer proposals by all Community Groups. This system could also be used to evaluate proposals for shorter term leases, and if necessary be adapted on a case by case basis as appropriate.

Scoring

At submission stage for 'Expressions of Interest', the relevant service providers will assess the application based on the following criteria.

0-5	Evidence Supporting priorities in the local area, including the structure and viability of the organisation to act as a good steward of the asset for community benefit.
0-5	Information how the asset will benefit the local community.
0-5	Information linked to priorities in the Local Plan.
0-5	Information supporting the transfer to be cost neutral.
0-5	Information supporting the project to be sustainable.
0-5	Information relating to timescales / deadlines

Overall Score

The maximum overall score is 30.

The score determines the recommendation as follows:

- **6 or less** Proposal does not represent a case for consideration.
- **7 to 15** Proposal requires a significant improvement.
- **16 to 21** Proposal offers potential though requires minor improvements.
- **22 or over** Proposal offers an excellent opportunity to progress.

(Please note that if your organisation does not qualify or the Council need to retain the asset for its own purposes the application will not progress. Therefore it would be beneficial to contact the Council prior to submitting your application to confirm these points)



The table below provides a breakdown of the information required to complete the summary section of the application form.

Details of use and circumstances	Specify relevant details
Evidence supporting priorities in the local neighbourhood.	Add details including: <ul style="list-style-type: none"> • Information relating to the role of your organisation. • Opportunities to engage with the local neighbourhood. • Information of how your community group gathers views of the local community. • How your community group complements local services. • Fill gap in provision locally • Improvement to local services, including evidence of working in partnership.
Information how the asset be used to benefit the local community.	Add details including: <ul style="list-style-type: none"> • Main or subsidiary uses, any services, activities offered • level of use • Identity of user groups • Whether local or have a wider significance • Current condition and how it would improve • Network / Franchise / potential Franchise within the Community Hub. • Estimated costs of any repairs / maintenance. Identify how recent this information is, • Assessment of how the proposals will improve the economic and social offer in the locality • Funding associated with the asset where conditions on its user ownership may apply.

Information linked to the priorities set out in the Local Plan.	<p>Add details including:</p> <ul style="list-style-type: none"> • Assessment of how well the proposals contribute to CEC Corporate plan priorities/Themes/Objectives • Details of creating employment in the local economy • Improve skill levels for local people • Support the local economy
Demonstration that transfer will offer a cost neutral status to Cheshire East Council.	<p>Add details including:</p> <ul style="list-style-type: none"> • Any improvements required to the asset prior to transfer identified and accounted for financially. • Legal fees. • Ongoing maintenance, management within the expenditure of Community Group.
Long term sustainability	<p>Add details including:</p> <ul style="list-style-type: none"> • Existing contractual or financial obligations on the asset, covenants on the asset etc. • Community empowerment • Promoting a sustainable community and voluntary sector (supporting Community Hub evidence). • Information of any previous asset transfers to your group (case studies), • Plans to expand, volunteering opportunities. • Present an opportunity for a 'non-operational' asset to be used. Represent the best use of the asset particularly in the medium to long-term • Repair and maintenance budgets • Opportunity costs • Funding commitments – applications to support plans and receive financial support from other bodies. • Existing freehold/leasehold arrangements, other contractual arrangements or any. • Information relating to proposed term of lease with CEC.

Timescales / deadlines	Add details including: <ul style="list-style-type: none"> • Funding applications dependant on ownership • Planning application
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Community Asset Transfer Framework

Guidance Notes

What is Community Asset Transfer?

At its simplest level, community asset transfer is a change in management / responsibility and / or ownership of land or buildings, from public bodies, (most commonly local authorities), to communities, (community and voluntary sector groups, community enterprises, social enterprises). The spectrum of transfer options can vary widely, but communities typically take on the ownership or management of a community asset on either a freehold, long lease, shorter lease or a license to occupy basis. However, for most transfers, where grants or loans are required to develop the asset, the length of tenure will need to be long enough to secure external investment. Therefore, community asset transfer is usually taken to mean a long lease, of at least 25 years.

Who can apply?

The Framework applies to any voluntary or community body as defined in the Localism Act 2012. These are referred to as “Community Groups” in the following sections below. The definition is as follows:

- A body designated as a neighbourhood forum pursuant to sec 61(f) of the Town & Country Planning Act 1990:
- A Parish Council
- An unincorporated body, whose members include at least 21 individuals; and which does not distribute any surplus it makes to its members
- A charity
- A company limited by guarantee which does not distribute any surplus it makes to its members
- An industrial and provident society which does not distribute any surplus to its members
- A community interest company

What timescales can we expect?

Within the Community Asset Transfer Framework, the Council wish to progress at a pace which provides an initial decision to the applicant within a 8 to 10 week period. Those applications initially being recommended for progression will then require further examination and the submission of a business case will be necessary to identify the benefits to residents and outline to the council any costs and risks. A period of 18 – 24 weeks has been allocated to allow applicants to provide this information ahead of the case being presented to the appropriate Portfolio Holder. Subject to full Council approval, the Council’s Asset Management Service will instruct the Council’s Legal team to commence conveyancing procedures anticipated to take 16-20 weeks.

What does the term cost-neutral mean?

CEC are looking to ensure the successful party is responsible for the maintenance and upkeep of the asset at their own expense and for them to be responsible for all occupier liabilities during their tenure.

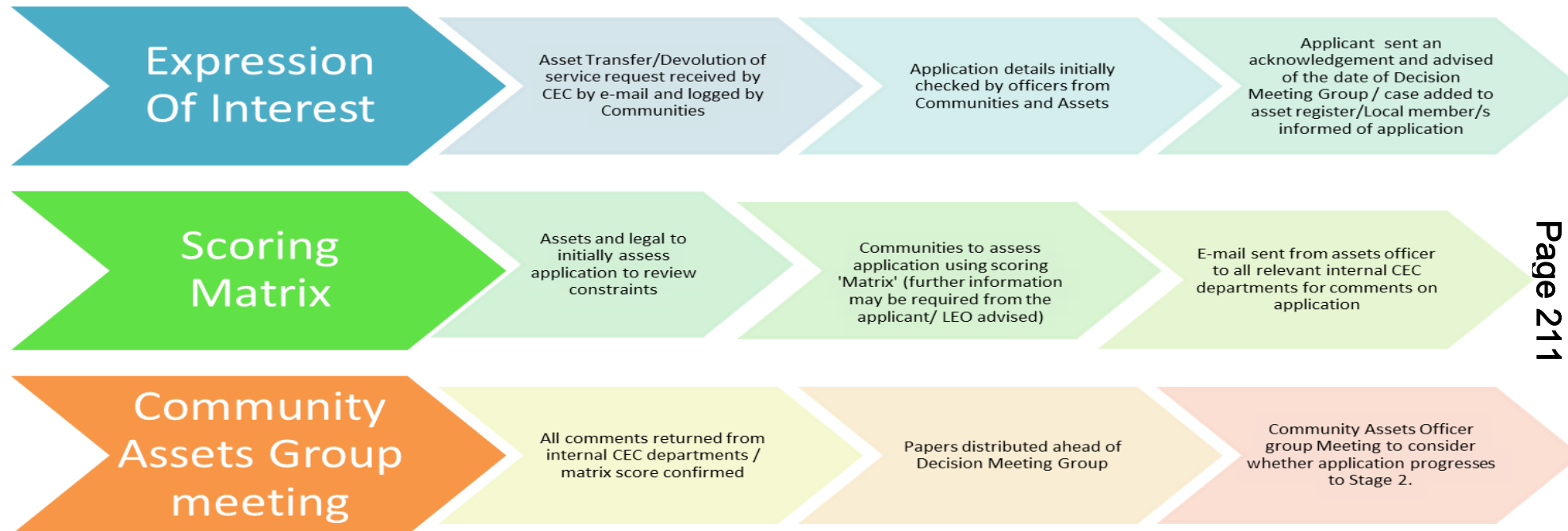
Tenure / agreement type	Number of Years	When is approach used by Council?	Basis and method of sale ¹	POS	Declare Surplus	Notes
Freehold	n/a	yes: if agreed in CR forward programme	MV: Auction / Tender Other if agreed in CR forward Programme	y	y	Agreed by way of Heads of Terms and offered subject to restrictions. ⁵
Long Leasehold	999 to 125	yes: if agreed in CR forward programme	MV: Auction / Tender Other if agreed in CR forward Programme	y	y	Agreed by way of Heads of Terms and offered subject to restrictions. ⁵
Long Leasehold	125 to 40	yes: if agreed in CR forward programme	MV: Auction / Tender Other if agreed in CR forward Programme	y	y	Agreed by way of Heads of Terms and offered subject to restrictions. ⁵
Leasehold	7 to 30	Devolution agenda ² , Investment Portfolio ³ .	MV: Informal Tender.	y	y	Agreed by way of Heads of Terms and offered subject to restrictions. ⁵
Tenancy	0 to 7	Investment Portfolio.	MV: Private Treaty. Tender where last unit is on estate. Tender may be used where there are a number of interested parties. Where applicable a service charge will also be applied.	y	n ⁴	Agreed by way of Heads of Terms and offered subject to restrictions. ⁵
Tenancy	month or less	Investment Portfolio.	MV: Private Treaty. Tender where last unit is on estate. Tender <i>may</i> be used where there are a number of interested parties. Where applicable a service charge will also be applied.	n	n	Agreed by way of Heads of Terms and offered subject to restrictions. ⁵
Easy in easy out' licence	month or less	Investment Portfolio.	N/A	n	n	The Council will migrate procedures to formal tenancy with similar terms.

Tenure / agreement type	Number of Years	When is approach used by Council?	Basis and method of sale¹	POS	Declare Surplus	Notes
Residential Tenancy		No: Only to be used to regularise existing occupations.	MV	n	n	The Council will not offer residential tenancies unless there is a specific case made on an asset by asset basis.
Agricultural Tenancy		Yes: Agricultural Portfolio	MV	n	n	Only offered on the Agricultural Portfolio
Grazing Licence		Yes: Agricultural Portfolio	MV	n	n	Only offered on the Agricultural Portfolio
Licence (short term)	less than 6 months		Can be offered at nil, providing the Council is the beneficiary of the works. Where the Council is not the beneficiary then MV is required.	n	n	Offered only to enable third party works on Council land. All relevant paperwork is to be submitted including indemnity and insurances.
Licence (long term)			MV. Where applicable a service charge will also be applied.	n	n	Offered only where a party has non exclusive possession of an asset. This will be offered on the basis of a defined term (for example when a contract is in place it will be co terminus with that contract).
Service Level Agreement						Used in conjunction with lease or similar arrangement where the Council requires a range of activities to be undertaken.

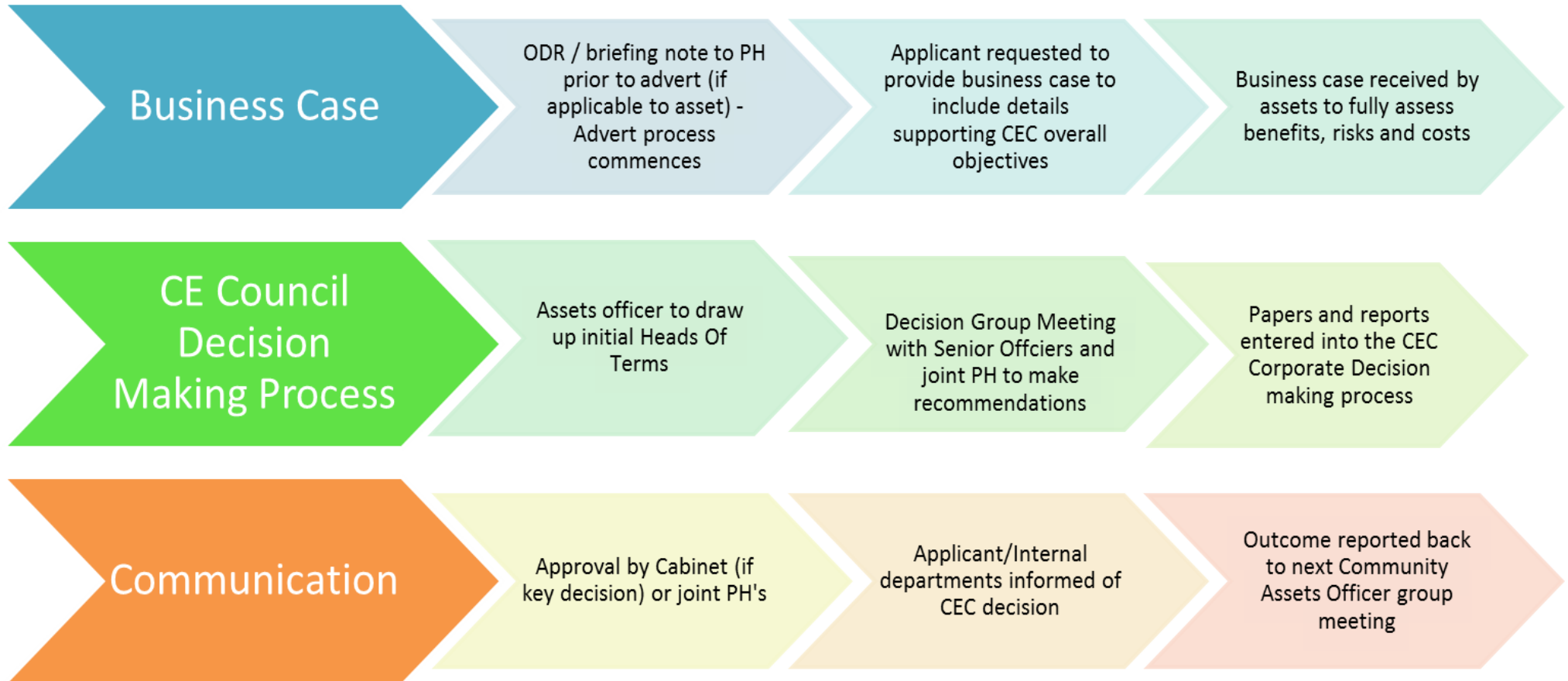
Garden Licence		No: only used to regularise existing occupation		n	n	The Council will not offer garden licences in the future on this basis. Should a garden licence be required this will be on a lease basis with the applicant picking up all costs. This will also require POS and other steps.
Notes						
1. The basis of the Council disposing of an asset will be on market value at all times. It will also recover its costs for the transaction.						
2. The reason for this is to protect the asset into the foreseeable future. Requests considered if Council has no operational (or commercial) requirement for the asset and offered only on basis that Council makes a saving on devolving the asset, with transfer being at least cost neutral.						
3. This will be only offered where there are similar leases in the adjoining assets.						
4. Investment portfolio only.						
5. There are a number of restrictions that the Council may apply on disposal of its assets. The reason for these to be applied will be to protect the						

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Asset Transfer – Initial Decision (8-10 weeks) – Phase One



Asset Transfer – Business Case and Corporate Decision Process (18 - 24 weeks) – Phase 2



CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	12 th July 2016
Report of:	Chief Operating Officer
Subject/Title:	Treasury Management Annual Report 2015/16
Portfolio Holder:	Councillor Peter Groves, Finance and Assets

1.0 Report Summary

- 1.1 The Treasury Management Policy requires an annual report on the performance of the Council's treasury management operation. This report contains details of the activities in 2015/16 for Cheshire East Borough Council.

2.0 Recommendation

- 2.1 To receive the Treasury Management Annual Report for 2015/16 as detailed in Appendix A.

3.0 Other Options Considered

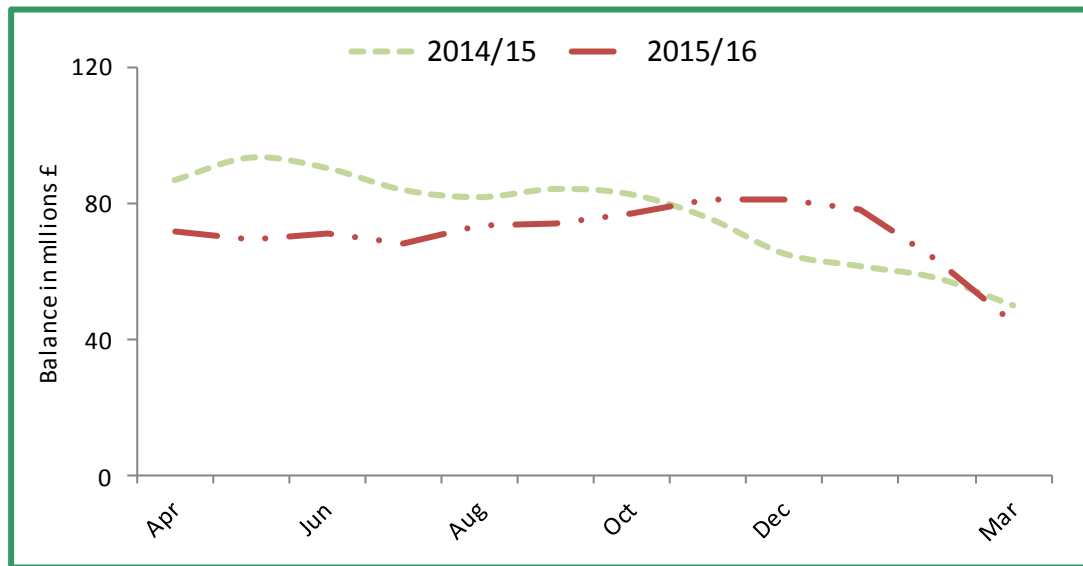
- 3.1 None.

4.0 Reasons for Recommendations

- 4.1 To meet the requirements of the CIPFA Code of Practice for Treasury Management in the Public Services and the Prudential Code for Capital Finance in Local Authorities.

5.0 Background

- 5.1 The Treasury Management Strategy for 2015/16 was approved by Council on 26th February 2015. Progress reports have been provided to Cabinet throughout the year as part of the Quarterly Financial and Performance Update Reports.
- 5.2 The Council complied with its legislative and regulatory requirements and remained within all of its Prudential Indicators during the year, further details are provided in Annex 1.
- 5.3 With current interest rates offering low investment returns relative to the cost of raising new long term loans the Council has maintained its overall strategy of using existing cash balances to fund the 2015/16 capital programme.
- 5.4 Cash balances remained stable throughout the year. The average lend position (the 'cash balance') for 2015/16 was £71m, (£76.3m in 2014/15).

Chart 1 – Average monthly cash balances available for investment

Source: Cheshire East Finance

- 5.5 Actual capital expenditure totalled £90.6m compared to the revised in-year budget of £122.8m. Some of the planned spending for 2015/16 has been re-profiled into 2016/17 and future years to ensure the Council maximises external investment and capital receipts opportunities; thereby reducing the level of the borrowing requirement in the future and the impact on the revenue budget.
- 5.6 The Council continues to reduce its overall level of external debt as no new external borrowing was undertaken and PWLB loans of £8.5m were repaid in year. Three interest free loans amounting to £3.3m were received from Salix for specific highway projects.
- 5.7 Other key points to note for 2015/16 are:
- The UK Bank Rate was maintained at 0.5% through the year. Short term money market rates also remained at consistently low levels.
 - During 2015/16 the Council invested a further £2.5m in the CCLA property fund bringing the total amount invested up to £7.5m.
 - The end of bank bail-outs, the introduction of bail-ins, and the preference being given to large numbers of depositors other than local authorities means that the risks of making unsecured deposits continues to be elevated relative to other investment options. The Council, therefore, increasingly favoured secured investment options or diversified alternatives such as covered bonds, non-bank investments and pooled funds over unsecured bank and building society deposits. Of the £34.0m invested at 31st March 2016, £19.1m was placed in these type of investments. These tend to be of a medium to longer term nature so

these types of investments are limited by liquidity requirements bearing in mind predicted future cash flows and market availability.

5.8 This annual treasury report, detailed in Appendix A covers the:

- Council's capital expenditure and financing during the year;
- Impact of this activity on the Council's underlying Capital Financing Requirement (CFR);
- Treasury position at 31st March 2016 identifying how the Council has borrowed in relation to the CFR and the impact on investment balances;
- Economic factors;
- Detailed investment and debt activity;
- Reporting of the required prudential and treasury indicators.

6.0 Wards Affected and Local Ward Members

6.1 Not applicable

7.0 Implications of Recommendation

7.1 Policy Implications

7.1.1 None

7.2 Legal Implications

7.2.1 As noted in paragraph C47 of the Finance and Contract Procedure Rules in the Council's Constitution, the Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities* as this is recognised as the accepted standard for this area. C47 to C52 provide further information relating to treasury management practice, and the Code itself will have been developed and based upon relevant legislation and best practice. This report is presented to Cabinet under rule C52.

7.3 Financial Implications

7.3.1 Contained within the report.

7.4 Equality Implications

7.4.1 None.

7.5 Rural Community Implications

7.5.1 None.

7.6 Human Resources Implications

7.6.1 None.

7.7 Public Health Implications

7.7.1 None.

7.8 Other Implications

7.8.1 None.

8.0 Risk Management

8.1 The Council operates its treasury management activity within the approved Treasury Management Code of Practice and associated guidance.

8.2 The Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk are therefore central to the Authority's treasury management strategy as no treasury management activity is without risk. The aim is to operate in an environment where risk is clearly identified and managed.

8.3 To reduce the risk that the Council will suffer a loss as a result of its treasury management activities down to an acceptable level a number of risk management procedures have been put in place. The procedures cover liquidity risk, credit and counterparty risk, re-financing risk, legal and regulatory risk, and fraud, error and corruption risk. These are referred to within the borrowing and investment strategies, prudential indicators and the Treasury Management Practices Principles and Schedules.

8.4 The arrangements for the identification, monitoring and controlling of risk will be reported on a regular basis in accordance with the Strategy.

9.0 Access to Information

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

Name:	Joanne Wilcox
Designation:	Corporate Finance Manager
Tel No:	01270 685869
Email:	joanne.wilcox@cheshireeast.gov.uk

10.0 Contact Information

Contact details for this report are as follows:

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Treasury Management Annual Report 2015/16



Introduction

Treasury management is defined as: “The management of the local authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

1. Treasury Year End Position

The amount of investments outstanding at 31st March 2016 was £34.0m (compared to £47.7m as at 31 March 2015) as follows:

	31/03/15	31/03/16
	£m	£m
GOVERNMENT		
Lancashire County Council	-	2.0
Gloucester Police Crime Commissioner	-	2.0
UK BANKS		
Bank of Scotland (Covered Bond)	-	4.0
Close Bros	-	3.0
Barclays Bank	5.2	0.5
Lloyds TSB	2.0	-
FOREIGN BANKS		
Toronto Dominion (Canada)	-	1.5
Deutsche Bank (Germany)	6.0	-
Svenska Handelsbanken (Sweden)	5.0	-
BUILDING SOCIETIES		
National Counties Building Society	-	1.0
Nationwide Building Society	5.0	-
Yorkshire BS (Covered Bond)	5.0	-
Coventry Building Society	1.0	-
Cumberland Building Society	1.0	-
Leeds Building Society	1.0	-
MONEY MARKET FUNDS		
Federated Investors	3.9	5.2
Standard Life (formerly IGNIS)	2.5	3.2
CCLA	-	0.5
Morgan Stanley	3.5	-
Aberdeen Asset (formerly Scottish Widows)	1.6	-
CORPORATE BONDS		
Volkswagon Financial Services	-	3.0
Rolls Royce plc	-	0.6
MANAGED FUNDS		
Property Funds	5.0	7.5
TOTAL	47.7	34.0

There has been a change in the types of investment since last year with more diversification introduced into the portfolio. The property fund, government bodies, covered bonds and most corporate bonds are exempt from the new bank bail-in arrangements.

The net investment income received in 2015/2016 after allowing for fees and interest due to the Growing Places and Local Growth Funds was £0.9m.

The overall average rate of interest on all investments in 2015/16 was 1.09% compared to the benchmark 7 day LIBID average return of 0.45% and our own performance target of 1.00% (Bas Rate + 0.50%). The base rate remained at 0.50% for the full year.

Investment income forms part of the capital financing budget, which also includes the amount charged in respect of the repayment of outstanding debt and the amount of interest payable on the Council's portfolio of long term loans. The capital financing budget for 2015/16 was £14m which accounts for 6% of the Council's net revenue budget.

We will continue to monitor performance during 2016/17 through the benchmarking service provided by the Council's Treasury Management Advisors, Arlingclose Ltd.

2. Interest Rates and Prospects for 2015/16

The Councils' treasury advisors, as part of their service assisted in formulating a view on interest rates. However, there has been no change to the bank base rate since March 2009.

3. Compliance with Treasury Limits

During the financial year the Councils' operated within the treasury limits and Prudential Indicators set out in the Councils' Treasury Policy Statement and annual Treasury Strategy Statement (see section 7).

4. Investment Strategy for 2015/16

The Council had regard to the DCLG Guidance on Local Government Investments ("the Guidance") issued in March 2004 (revised in 2010) and the revised CIPFA Treasury Management Code and the revised Prudential Code ("the CIPFA TM Code").

Investment instruments identified for use in the financial year are set through the Councils' Treasury Management Strategy Statement and Investment Strategy. Different limits apply to counterparties based on a range of credit criteria which governs the maximum amount and the maximum maturity periods of any investments. This is kept under continual review with institutions added or removed from our list of counterparties during the year dependent on their qualification according to the credit criteria measures.

Investment Objectives

All investments were in sterling. The general policy objective of the Council was the prudent investment of its treasury balances. The Guidance on Local Government

Investments in England gives priority to security and liquidity and the Authority's aim is to achieve a yield commensurate with these principles.

Credit Risk

Counterparty credit quality was assessed and monitored with reference to credit ratings; credit default swaps; GDP of the country in which the institution operates; the country's net debt as a percentage of GDP; any potential support mechanisms and share price.

The maximum amount that can be invested with any one organisation is set in the Treasury Management Strategy Report. For named UK banks and credit rated building societies this has been set at a maximum value of £5m (now revised to £6m). These limits apply to the banking group that each bank belongs to.

Limits for each Money Market fund have been set at a maximum value of £10m (now revised to £12m) per fund. There is also a maximum that can be invested in all Money Market Funds at any one time of 50% of the value of all investments (now revised to £50m in total). Due to their smaller size, unrated Building Societies have a limit of £1m each.

Counterparty update

The transposition of two European Union directives into UK legislation placed the burden of rescuing failing EU banks disproportionately onto unsecured institutional investors which include local authorities and pension funds. During the year, all three credit ratings agencies reviewed their ratings to reflect the loss of government support and the potential for loss given default as a result of new bail-in regimes in many countries. Despite reductions in government support, many institutions saw upgrades due to an improvement in their underlying strength and an assessment that the level of loss given default is low.

In December the Bank of England released the results of its latest stress tests on the seven largest UK banks and building societies which showed that the Royal Bank of Scotland and Standard Chartered Bank were the weakest performers. However, the regulator did not require either bank to submit revised capital plans, since both firms had already improved their ratios over the year.

The end of bank bail-outs, the introduction of bail-ins, and the preference being given to large numbers of depositors other than local authorities means that the risks of making unsecured deposits continues to be elevated relative to other investment options. The Authority, therefore, increasingly favoured secured investment options or diversified alternatives such as covered bonds, non-bank investments and pooled funds over unsecured bank and building society deposits. Of the £34.0m invested at 31st March 2016, £19.1m was placed in these type of investments. These tend to be of a medium to longer term nature so these types of investments are limited by liquidity requirements bearing in mind predicted future cash flows and market availability.

Liquidity

In keeping with the CLG's Guidance on Investments, the Council maintained a sufficient level of liquidity through the use of Money Market Funds, overnight deposits and the use of call accounts. The Council's cash resources have an annual cycle dipping in March but with known receipts then due in April. The Council has avoided the need for any new long term borrowing by utilising existing cash resources which has led to lower cash balances. In order to maintain quality of investments throughout March, temporary borrowing of £12m was taken in March for repayment in April.

Yield

The Council sought to optimise returns commensurate with its objectives of security and liquidity. The UK Bank Rate was maintained at 0.5% through the year. Short term money market rates also remained at very low levels which continue to have an impact on investment income.

Use of External Fund Managers

During 2015/16 the Council invested a further £2.5m in the CCLA property fund bringing the total amount invested up to £7.5m. This fund is a diversified commercial and industrial property portfolio available to all local authorities. It is suitable where long term funds are available to invest to achieve an attractive income and capital growth over time.

At 31st March 2016 the value (sale price) of the fund was £7,638,711. The fund has steadily increased since the investments were made over and above the costs of investment which is represented by a difference between the purchase price and sale price. Any changes in the underlying capital value of the fund will only be realised when the investments are sold.

The fund pays dividends on a quarterly basis which have averaged 4.97% return on the sum invested during 2015/16. This compares to the rest of the Council's investments, where the average return was 0.67%. The continued use of this fund is being kept under review particularly in light of diminishing cash resources.

CCLA also manage a Public Sector Deposit Fund (PSDF) which the Council uses as an instant access account with returns of around 0.4%.

5. Borrowing strategy

At the end of the year 2015/16 the Council had debt outstanding of £121.2m. Of this £88.9m represented loans from the PWLB, £17m represented loans raised from commercial banks, £12m represented temporary borrowing repaid in April 2016 whilst £3.3m represents interest free loans from Salix repayable within the next 4 years.

The Council's capital financing requirement (CFR) currently exceeds the amounts actually borrowed with the shortfall being funded from cash balances.

In accordance with the Treasury Management Strategy the Council sought to finance its capital expenditure through the use of its own existing cash balances rather than through the raising of long term loans. The benefits of this are twofold; firstly by reducing the amount of cash balances held by the Council it reduces the credit risk and secondly, the interest foregone on the cash balances use to finance capital

expenditure payments was less than the amount of interest payable on any new loans that would have been raised.

6. Economic events of 2015/16

Growth, Inflation, Employment: The UK economy slowed in 2015 with GDP growth falling to 2.3% from a robust 3.0% the year before. CPI inflation hovered around 0.0% through 2015 with deflationary spells in April, September and October. The prolonged spell of low inflation was attributed to the continued collapse in the price of oil from \$67 a barrel in May 2015 to just under \$28 a barrel in January 2016, the appreciation of sterling since 2013 pushing down import prices and weaker than anticipated wage growth resulting in subdued unit labour costs. CPI picked up to 0.3% year/year in February, but this was still well below the Bank of England's 2% inflation target. The labour market continued to improve through 2015 and in Q1 2016, the latest figures (Jan 2016) showing the employment rate at 74.1% (the highest rate since comparable records began in 1971) and the unemployment rate at a 12 year low of 5.1%. Wage growth has however remained modest at around 2.2% excluding bonuses, but after a long period of negative real wage growth (i.e. after inflation) real earnings were positive and growing at their fastest rate in eight years, boosting consumers' spending power.

Global influences: The slowdown in the Chinese economy became the largest threat to the South East Asian region, particularly on economies with a large trade dependency on China and also to prospects for global growth as a whole. The effect of the Chinese authorities' intervention in their currency and equity markets was temporary and led to high market volatility as a consequence. There were falls in prices of equities and risky assets and a widening in corporate credit spreads. As the global economy entered 2016 there was high uncertainty about growth, the outcome of the US presidential election and the consequences of June's referendum on whether the UK is to remain in the EU. Between February and March 2016 sterling had depreciated by around 3%, a significant proportion of the decline reflecting the uncertainty surrounding the referendum result.

UK Monetary Policy: The Bank of England's MPC (Monetary Policy Committee) made no change to policy, maintaining the Bank Rate at 0.5% (in March it entered its eighth year at 0.5%) and asset purchases (Quantitative Easing) at £375bn. In its *Inflation Reports* and monthly monetary policy meeting minutes, the Bank was at pains to stress and reiterate that when interest rates do begin to rise they were expected to do so more gradually and to a lower level than in recent cycles.

Improvement in household spending, business fixed investment, a strong housing sector and solid employment gains in the US allowed the Federal Reserve to raise rates in December 2015 for the first time in nine years to take the new Federal funds range to 0.25%-0.50%. Despite signalling four further rate hikes in 2016, the Fed chose not to increase rates further in Q1 and markets pared back expectations to no more than two further hikes this year.

However central bankers in the Eurozone, Switzerland, Sweden and Japan were forced to take policy rates into negative territory. The European Central Bank also announced a range of measures to inject sustained economic recovery and boost domestic inflation which included an increase in asset purchases (Quantitative Easing).

Market reaction: From June 2015 gilt yields were driven lower by the a weakening in Chinese growth, the knock-on effects of the fall in its stock market, the continuing fall in the price of oil and commodities and acceptance of diminishing effectiveness of central bankers' unconventional policy actions. Added to this was the heightened uncertainty surrounding the outcome of the UK referendum on its continued membership of the EU as well as the US presidential elections which culminated in significant volatility in equities and corporate bond yields.

7. Prudential Indicators 2015/16

The Council can confirm that it has complied with its Prudential Indicators for 2015/16, approved on 25th February 2015 as part of the Council's Treasury Management Strategy Statement. Details can be found in Annex 1.

In compliance with the requirements of the CIPFA Code of Practice this report provides members with a summary report of the treasury management activity during 2015/16. None of the Prudential Indicators have been breached and a prudent approach has been taking in relation to investment activity with priority being given to security and liquidity over yield.

Annex 1**Prudential Indicators 2015/16 and revisions to 2016/17 – 2018/19****1. Background:**

There is a requirement under the Local Government Act 2003 for local authorities to have regard to CIPFA's Prudential Code for Capital Finance in Local Authorities (the "CIPFA Prudential Code") when setting and reviewing their Prudential Indicators.

2. Gross Debt and the Capital Financing Requirement:

This is a key indicator of prudence. In order to ensure that over the medium term debt will only be for a capital purpose, the local authority should ensure that debt does not, except in the short term, exceed the total of capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and next two financial years.

If in any of these years there is a reduction in the capital financing requirement, this reduction is ignored in estimating the cumulative increase in the capital financing requirement which is used for comparison with **gross** external debt.

The Chief Operating Officer reports that the Authority had no difficulty meeting this requirement in 2015/16, nor are there any difficulties envisaged for future years. This view takes into account current commitments, existing plans and the proposals in the approved budget.

3. Capital Expenditure:

- 3.1 This indicator is set to ensure that the level of proposed capital expenditure remains within sustainable limits and, in particular, to consider the impact on Council Tax.

Capital Expenditure	2015/2016	2016/2017	2017/2018	2018/19	Future years
	Actual £m	Estimate £m	Estimate £m	Estimate £m	Estimate £m
Total	90.6	201.2	138.8	93.5	72.9

Source: Cheshire East Finance

3.2 Capital expenditure has been and will be financed or funded as follows:

Capital Financing	2015/2016 Actual £m	2016/2017 Estimate £m	2017/2018 Estimate £m	2018/19 Estimate £m	Future years Estimate £m
Capital receipts	18.4	23.0	24.0	20.0	20.0
Government Grants	27.9	53.5	55.6	69.7	17.5
External Contributions	8.6	9.9	12.5	3.7	35.1
Revenue Contributions	2.1	1.9	0.0	0.0	0.0
Total Financing	57.0	88.3	92.1	93.5	72.6
Prudential Borrowing	33.6	112.9	46.7	0.0	0.3
Total Funding	33.6	112.9	46.7	0.0	0.3
Total Financing and Funding	90.6	201.2	138.8	93.5	72.9

Source: Cheshire East Finance

4. Ratio of Financing Costs to Net Revenue Stream:

4.1 This is an indicator of affordability and highlights the revenue implications of existing and proposed capital expenditure by identifying the proportion of the revenue budget required to meet financing costs. The definition of financing costs is set out in the Prudential Code.

4.2 The ratio is based on costs net of investment income.

Ratio of Financing Costs to Net Revenue Stream	2015/2016 Actual %	2016/2017 Estimate %	2017/2018 Estimate %	2018/2019 Estimate %
Total	5.68	5.25	5.54	5.83

Source: Cheshire East Finance

6. Actual External Debt:

6.1 This indicator is obtained directly from the Council's balance sheet. It is the closing balance for actual gross borrowing plus other long-term liabilities. This Indicator is measured in a manner consistent for comparison with the Operational Boundary and Authorised Limit.

Actual External Debt as at 31/03/2016	£m
Borrowing	121
Other Long-term Liabilities	41
Total	162

Source: Cheshire East Finance

7. Incremental Impact of Capital Investment Decisions:

- 7.1 This is an indicator of affordability that shows the impact of capital investment decisions on Council Tax levels. The incremental impact is calculated by comparing the total revenue budget requirement of the current approved capital programme with an equivalent calculation of the revenue budget requirement arising from the proposed capital programme.

Incremental Impact of Capital Investment Decisions	2016/2017 Estimate	2017/2018 Estimate	2018/2019 Estimate
	£	£	£
Band D Council Tax	23.51	26.72	34.63

Source: Cheshire East Finance

8. Authorised Limit and Operational Boundary for External Debt:

- 8.1 The Authority has an integrated treasury management strategy and manages its treasury position in accordance with its approved strategy and practice. Overall borrowing will therefore arise as a consequence of all the financial transactions of the Authority and not just those arising from capital spending reflected in the CFR.
- 8.2 The **Authorised Limit** sets the maximum level of external debt on a gross basis (i.e. excluding investments) for the Authority. It is measured on a daily basis against all external debt items on the Balance Sheet (i.e. long and short term borrowing, overdrawn bank balances and long term liabilities). This Prudential Indicator separately identifies borrowing from other long term liabilities such as finance leases. It is consistent with the Authority's existing commitments, its proposals for capital expenditure and financing and its approved treasury management policy statement and practices.
- 8.3 The Authorised Limit is the statutory limit determined under Section 3(1) of the Local Government Act 2003 (referred to in the legislation as the Affordable Limit).
- 8.4 The Operational Boundary has been set on the estimate of the most likely, i.e. prudent but not worst case scenario with sufficient headroom over and above this to allow for unusual cash movements.
- 8.5 The Operational Boundary links directly to the Authority's estimates of the CFR and estimates of other cash flow requirements. This indicator is based on the same estimates as the Authorised Limit reflecting the most likely, prudent but not

worst case scenario but without the additional headroom included within the Authorised Limit.

	2015/2016	2016/2017	2017/2018	2018/2019
	Actual	Estimate	Estimate	Estimate
	£m	£m	£m	£m
Authorised Limit for Borrowing	265	290	355	425
Authorised Limit for Other Long-Term Liabilities	30	39	38	36
Authorised Limit for External Debt	295	329	393	461
Operational Boundary for Borrowing	255	280	345	415
Operational Boundary for Other Long-Term Liabilities	30	28	27	25
Operational Boundary for External Debt	285	308	372	440

Source: Cheshire East Finance

9. Adoption of the CIPFA Treasury Management Code:

9.1 This indicator demonstrates that the Authority has adopted the principles of best practice.

Adoption of the CIPFA Code of Practice in Treasury Management

The Council approved the adoption of the CIPFA Treasury Management Code at its Council meeting on 23rd February 2012

The Authority has incorporated the changes from the revised CIPFA Code of Practice into its treasury policies, procedures and practices.

10. Upper Limits for Fixed Interest Rate Exposure and Variable Interest Rate Exposure:

10.1 These indicators allow the Authority to manage the extent to which it is exposed to changes in interest rates. This Authority calculates these limits on net principal outstanding sums, (i.e. fixed rate debt net of fixed rate investments).

10.2 The upper limit for variable rate exposure has been set to ensure that the Authority is not exposed to interest rate rises which could adversely impact on

the revenue budget. The limit allows for the use of variable rate debt to offset exposure to changes in short-term rates on investments

	Existing level (or Benchmark level) at 31/03/2016	2015/2016 Approved	2015/2016 Revised	2016/2017 Estimate	2017/2018 Estimate	2018/2019 Estimate
		%	%	%	%	%
Upper Limit for Fixed Interest Rate Exposure	100%	100%	100%	100%	100%	100%
Upper Limit for Variable Interest Rate Exposure	0%	100%	100%	100%	100%	100%

Source: Cheshire East Finance

- 10.3 The limits above provide the necessary flexibility within which decisions will be made for drawing down new loans on a fixed or variable rate basis; the decisions will ultimately be determined by expectations of anticipated interest rate movements as set out in the Authority's treasury management strategy.

11. Maturity Structure of Fixed Rate borrowing:

- 11.1 This indicator highlights the existence of any large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates and is designed to protect against excessive exposures to interest rate changes in any one period, in particular in the course of the next ten years.
- 11.2 It is calculated as the amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate. The maturity of borrowing is determined by reference to the earliest date on which the lender can require payment.
- 11.3 LOBOs are classified as maturing on the next call date i.e. the earliest date that the lender can require repayment. As all LOBOs are can be called within 12 months the upper limit for borrowing maturing within 12 months is relatively high to allow for the value of LOBOs and any potential short term borrowing that could be undertaken in 2016/17.

12. Credit Risk:

- 12.1 The Authority considers security, liquidity and yield, in that order, when making investment decisions.
- 12.2 Credit ratings remain an important element of assessing credit risk, but they are not a sole feature in the Authority's assessment of counterparty credit risk.
- 12.3 The Authority also considers alternative assessments of credit strength, and information on corporate developments of and market sentiment towards counterparties. The following key tools are used to assess credit risk:

- Published credit ratings of the financial institution (minimum A- or equivalent) and its sovereign (minimum AA+ or equivalent for non-UK sovereigns);
- Sovereign support mechanisms;
- Credit default swaps (where quoted);
- Share prices (where available);
- Economic fundamentals, such as a country's net debt as a percentage of its GDP);
- Corporate developments, news, articles, markets sentiment and momentum;
- Subjective overlay.

12.4 The only indicators with prescriptive values remain to be credit ratings. Other indicators of creditworthiness are considered in relative rather than absolute terms.

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	12 th July 2016
Report of:	Chief Operating Officer (Section 151 Officer)
Subject/Title:	2015/16 Final Outturn Review of Performance
Portfolio Holder:	Cllr Peter Groves, Finance and Assets Cllr Paul Findlow, Corporate Policy and Legal Services

1. Report Summary

- 1.1. This report sets out the Council's financial and non-financial performance at the final outturn stage of 2015/16 and highlights the latest progress towards achieving the Council's Residents First Outcomes as described in the Council's three year plan 2013 to 2016.
- 1.2. The final outturn review shows how the Council has continued to build on the positions achieved in the last two years, which demonstrate that the overall financial health, performance, resilience and value for money at Cheshire East Council is strong despite taking £70m out of its cost base since 2011, and having frozen Council Tax for five consecutive years. Savings have been consistently achieved through permanent savings of £5m in management costs, efficiency, removing any duplication of effort, and a planned programme of asset disposals. This approach has protected funding provided to front line services. The Council's strong financial position reflects its enhanced governance, innovative delivery arrangements and effective stewardship of public money.
- 1.3. At the final outturn, the Council's reserves strategy remains effective, with an underspend of £0.5m being reported. This represents a variance of only 0.2% against a net budget of £246.6m. This is the 4th consecutive year that a favourable forecast position to budget has been reported for the Council. In achieving this position the Council is mitigating rising costs in social care. Nationally caseloads are increasing and this is also being seen in Cheshire East. Controlling in-year costs as well as accurate budget setting have made this pressure affordable in 2015/16. The ongoing impact of this pressure is also reflected in the Council's Medium Term Financial Strategy.
- 1.4. Cheshire East is the third largest Council in the Northwest of England, responsible for over 500 services, supporting over 370,000 local people. Gross annual spending is over £750m, with a balanced net budget for 2015/16 of £246.6m. In quarter four, examples of good performance were:

- Improving the percentage of primary and secondary schools judged good or outstanding
- Achieving a recycling rate which continues to be in the top 10% of all local authorities
- Producing amended Local Plan Strategy, approved at Full Council in February 2016

1.5. The attached report, **Annex 1**, sets out further details of how the Council has performed in 2015/16. It is structured into three sections:

Section 1 Summary of Council Performance - brings together the positive impact that service performance and financial performance have had on the 5 Residents First Outcomes during the year.

Section 2 Financial Stability - provides an update on the Council's overall financial position. It demonstrates how spending in 2015/16 has been funded, including the positions on overall service budgets, grants, council tax and business rates, treasury management, centrally held budgets and the management of the Council's reserves.

Section 3 Workforce Development - provides a summary of the key issues relating to the Council's workforce development plan.

2. Recommendations

2.1 Cabinet is asked to consider and comment on the final outturn review of 2015/16 performance, in relation to the following issues:

- the summary of performance against the Council's 5 Residents First Outcomes (**Section 1**);
- the final service revenue and capital outturn positions, overall financial stability of the Council, and the impact on the Council's reserves position (**Section 2**);
- the delivery of the overall capital programme (**Section 2, paragraphs 211 to 225 and Appendix 4**);
- fully funded supplementary capital estimates and virements up to £250,000 approved in accordance with Finance Procedure Rules (**Appendix 5**);
- changes to Capital Budgets made in accordance with the Finance Procedure Rules (**Appendix 8**);
- treasury management investments and performance (**Appendix 9**);
- management of invoiced debt (**Appendix 11**);
- use of earmarked reserves (**Appendix 12**);
- update on workforce development and staffing (**Section 3**).

2.2 Cabinet is asked to approve:

- fully funded supplementary capital estimates and virements above £250,000 in accordance with Finance Procedure Rules (**Appendix 6**);
- supplementary revenue estimates to be funded by additional specific grant (**Appendix 10**);
- that the council enter into grant agreements with Academies, Foundation, Voluntary Aided and Free schools receiving funding allocations or who are allocated in-year allocations during 2016/17 and for named schemes within the existing 2015/16 Schools Capital Programme.

2.3 Cabinet is asked to recommend that Council approve:

- fully funded supplementary capital estimates and virements above £1,000,000 in accordance with Finance Procedure Rules (**Appendix 7**);
- The establishment of earmarked reserves for Transforming Services and the Royal Arcade (**Appendix 12**).

3. Other Options Considered

3.1. None.

4. Reasons for Recommendations

- 4.1. The Council monitors in-year expenditure through a quarterly reporting cycle. The cycle concludes each financial year with an outturn report that reflects financial and operational performance and provides any requirements to note, approve or recommend changes in line with the Council's Financial Procedure Rules.
- 4.2. The overall process for managing the Council's budget focuses on value for money and good governance and stewardship. Changes that become necessary during the year must be properly authorised and this report sets out those areas where any further approvals are now required.

5. Background/Chronology

- 5.1. The Council's quarterly reporting structure provides forecasts of a potential year-end outturn. The details in this report highlight achievements against outcomes and the successful management of potential risks during the year.
- 5.2. At final outturn, the Council's reserves strategy remains effective with a modest underspend of £0.5m (0.2%) against a budget of £246.6m.

6. Wards Affected and Local Ward Members

6.1. All

7. Implications of Recommendations

7.1. Policy Implications

7.1.1. Performance management supports delivery of all Council policies. The final outturn position, ongoing considerations for future years, and the impact on general reserves will be fed into the assumptions underpinning the 2017/20 medium term financial strategy.

7.2. Legal Implications

7.2.1. The legal implications surrounding the process of setting the 2013 to 2016 medium term financial strategy were dealt with in the reports relating to that process. The purpose of this paper is to provide a progress report at the final outturn stage in 2015/16. That is done as a matter of prudential good practice, notwithstanding the abolition of centrally imposed reporting requirements under the former National Indicator Set.

7.2.2. Currently the Constitution does not provide for decisions to award grants to be made by officers and so in order for grant agreements to be entered into a Cabinet decision is required. Going forward, changes to the Council's Finance Procedure Rules are being proposed to include an exception so that grant agreements can be authorised under the powers, duties and functions under the Education Acts currently delegated to the Director of Children's Services.

7.2.3. The approval to enter into grant agreements requested relates to those Academies, Foundation, Voluntary Aided and Free schools included within the existing financially approved 2015-16 Schools Capital Programme, allocations within the 2016-17 Schools Capital Programme (included in the main body of this report) and any 2016-17 in year allocations.

7.2.4. The only other implications arising directly from this report relate to the internal processes of approving supplementary capital estimates and virements referred to above which are correctly dealt with through the Finance Procedure Rules as discussed.

7.2.5. Legal implications that arise when such other activities funded from the budgets that this report deals with are undertaken, but those implications will be dealt with in the individual reports to Members or Officer Decision Records that relate.

7.3. Financial Implications

- 7.3.1. The Council's financial resources are aligned to the achievement of stated outcomes for local residents and communities. Monitoring and managing performance helps to ensure that resources are used effectively and that business planning and financial decision making are made in the right context of performance – to achieve better outcomes from an appropriate cost base.

7.4. Equality Implications

- 7.4.1. This report is a backward look at Council activities in 2015/16. Any equality implications that arose from activities funded by the budgets that this report deals with will have been dealt with in the individual reports to Members or Officer Decision Records that relate.

7.5. Rural Community Implications

- 7.5.1. The report provides details of service provision across the borough.

7.6. Human Resources Implications

- 7.6.1. This report is a backward look at Council activities in 2015/16. Any HR implications that arose from activities funded by the budgets that this report deals with will have been dealt with in the individual reports to Members or Officer Decision Records that relate.

7.7. Public Health Implications

- 7.7.1. This report is a backward look at Council activities in 2015/16. Any public health implications that arose from activities funded by the budgets that this report deals with will have been dealt with in the individual reports to Members or Officer Decision Records that relate.

7.8. Other Implications (Please Specify)

- 7.8.1. None

8. Risk Management

- 8.1. Performance and risk management are part of the management processes of the Authority. Risks are captured both in terms of the risk of underperforming and risks to the Council in not delivering its objectives for its residents, businesses, partners and other stakeholders. Risks identified

in this report are used to inform the overall financial control risk contained in the Corporate Risk Register.

- 8.2. Financial risks are assessed and reported on a regular basis, and remedial action taken if and when required. Risks associated with the achievement of the 2015/16 budget - and the level of general reserves – were factored into the 2016/17 financial scenario, budget and reserves strategy.

9. Access to Information/Bibliography

The following are links to key background documents:

[2015/16 Three Quarter Review of Performance](#) Cabinet 9/2/16 Item 94

[2015/16 Mid Year Review of Performance](#) Cabinet 10/11/15 Item 63

[2015/16 First Quarter Review of Performance](#) Cabinet 29/9/15 Item 34

[Budget Book 2015/16](#)

[Medium Term Financial Strategy 2015/18](#)

10. Contact Information

Contact details for this report are as follows:

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Final Outturn Review of Performance 2015/16

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July 2016

This report receives scrutiny and approval from Members of Cheshire East Council. As a public report, anyone can provide feedback to the information contained here.

Anyone wanting to comment can contact the Council at:

shapingourservices@cheshireeast.gov.uk



Introduction

Financial & Non-Financial performance at Cheshire East Council is strong. It is the third largest Council in the Northwest of England, supporting over 370,000 local people with annual spending of over £720m. The Council continues to achieve improvements in the area, putting residents first in the provision of over 500 services delivering more for less.

A commitment across the public sector to contribute to reducing the high levels of national debt means that local government is going through a period of unprecedented change and financial challenge. Cheshire East Council's response continues to be based on innovation and creativity. The Council is relentless in its pursuit of greater efficiency and productivity, and minimising bureaucracy to enable it to deliver a high level of sustainable, quality services for a lower overall cost.

Our 'Best Fit' approach, to commissioning services, develops better ways to achieve the Council's five stated outcomes by using a mix of delivery mechanisms. The Council's philosophy is about much more than simply reducing costs through arranging cheaper provision or about traditional outsourcing. In 2013/14 the Council completed significant reviews of management structures to divert spending to front line services.

At final outturn, the Council's reserves strategy remains effective, with a modest reported underspend of £0.5m (0.2%) against a budget of £246.6m. This is the 4th consecutive year that a favourable outturn position has been reported for the Council.

To support openness and transparency the report has three main sections, to provide background and context, and then twelve supporting appendices with detailed information about allocation and management of public money during 2015/16:

Section 1 provides a summary of Council performance and brings together service achievement highlights against the 5 Residents First Outcomes in the Council's three year plan.

Section 2 provides information on the overall financial stability and resilience of the Council. It demonstrates how spending in 2015/16 is being funded, including the positions on overall service budgets, grants, council tax and business rates, treasury management, centrally held budgets and the management of the Council's reserves.

Section 3 provides a summary of the issues relating to the Council's workforce development plan.

- **Appendix 1** shows the Three Year Council Plan.
- **Appendix 2** explains Budget changes since Three Quarter Review.
- **Appendix 3** shows the latest position for Corporate Grants.
- **Appendix 4** shows the revised Capital Programme expenditure.
- **Appendix 5** lists approved Supplementary Capital Estimates and Virements up to £250,000.
- **Appendix 6** lists requests for Supplementary Capital Estimates and Virements over £250,000 for Cabinet approval.
- **Appendix 7** lists requests for Supplementary Capital Estimates and Virements over £1,000,000 for Council approval.
- **Appendix 8** lists Capital Budget reductions.
- **Appendix 9** provides details of Treasury Management investments.
- **Appendix 10** lists requests for allocation of additional Grant funding.
- **Appendix 11** analyses the position on Outstanding Debt.
- **Appendix 12** lists details of Earmarked Reserves.

Peter Bates CPFA CIPD MBA

Chief Operating Officer (Section 151 Officer)

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2015/16 Final Outturn - Financial Position

2015/16 Final Outturn (GROSS Revenue Budget £611.0m)	Revised Budget (NET)	Final Outturn Position	Over / (Underspend)	Change from TQR	For further information please see the following sections
	£m	£m	£m	£m	
Children & Families	43.1	45.0	1.9	0.8	Section 1 - Paragraphs 90 - 97
Adult Social Care & Independent Living	95.4	94.9	-0.5	-1.4	Section 1 - Paragraphs 163 - 168
Public Health	0.0	0.0	0.0	0.0	Section 1 - Paragraph 169
Economic Growth & Prosperity	6.6	6.3	-0.3	-0.3	Section 1 - Paragraphs 53 - 58
Chief Operating Officer:					
Commissioning Services:					
Building Control etc	1.7	1.7	0.0	-0.1	Section 1 - Paragraph 102
Environmental (incl Bereavement)	27.3	27.9	0.6	0.3	Section 1 - Paragraphs 118 - 120
Highways	11.2	10.6	-0.6	-0.6	Section 1 - Paragraph 66 - 67
Leisure	2.2	2.4	0.2	0.1	Section 1 - Paragraphs 151 - 152
Transport	14.6	14.9	0.3	0.1	Section 1 - Paragraphs 68
Shared Services	0.0	1.2	1.2	1.2	Section 1 - Paragraph 177
Communities	9.2	8.7	-0.5	-0.5	Section 1 - Paragraphs 44 - 49
Other (e.g Finance, ICT, Legal, Facilities)	39.3	36.6	-2.7	0.3	Section 1 - Paragraphs 170 - 176
Total Services Net Budget	250.6	250.2	-0.4	-0.1	
CENTRAL BUDGETS					
Specific Grants	-19.2	-19.4	-0.2	-0.2	Section 2 - Paragraphs 182 - 190
Capital Financing	13.9	13.9	0.0	0.0	Section 2 - Paragraphs 226 - 230
Transfer to Earmarked Reserves	0.2	2.0	1.8	1.8	Section 2 - Paragraph 238
Transfer from Earmarked Reserves (to balances)	0.0	-1.5	-1.5	-1.5	Section 2 - Paragraph 239
Corporate Contributions / Central Budgets	1.1	0.9	-0.2	-0.2	Section 2 - Paragraphs 236 - 237
Total Central Budgets	-4.0	-4.1	-0.1	-0.1	
TOTAL NET BUDGET	246.6	246.1	-0.5	-0.2	
Planned Contribution 2015/16 £m		Actual Quarter 4 £m	Variance £m	Impact on reserves Final Outturn £m	
Impact on Reserves	-2.2 *		0.5	-1.7	
*Increased from £1.7m by in-year transfers to earmarked reserves					
General Reserves Balance	2015/16 Budget (estimated) £m	2015/16 Actual £m			
Opening Balance April 2015	14.2	14.7			
2015/16 Impact on Reserves (see above)	-1.7	-1.7			
Closing Balance March 2016	12.5	13.0			Section 2 - Paragraphs 243 - 248

Overview of Performance ~ Putting Residents First

ACHIEVING THE COUNCIL'S FIVE OUTCOMES

Cheshire East Council provides more than 500 services, supporting over 370,000 residents, and over 17,500 businesses.

Cheshire East has again been recognised as one of the best places to live in the Northwest

1 ~ Our local communities are strong and supportive

- Awarding a total of £178,263 in Community Grants to 114 organisations
- Providing litter picking packs for 'Clean for The Queen', involving almost 2,000 people in community activity through litter picking in local areas
- Refurbishing Congleton, Holmes Chapel, Knutsford, Nantwich, Poynton, and Sandbach libraries and introducing Wi-Fi at all libraries
- Migrating Council Tax calls to the contact centre, reducing waiting times by 59% and a 16% reduction in recovery documents issued
- Working in partnership to deliver an award winning, sector-defining digital platform

2 ~ Cheshire East has a strong and resilient economy

- Engaging with nearly 200 high growth small to medium enterprises in the Science, Energy and Technology sectors
- Securing £940,000 of grant funding for local businesses
- Continuing to make strong progress on the Council's major transport schemes
- Providing fibre broadband to more than 85,000 homes and businesses across Cheshire, Halton & Warrington via Connecting Cheshire
- Continuing to work with businesses to improve Food Hygiene Ratings, with 92% of rated businesses scoring a 3 ('generally satisfactory') or above, and support being provided to improve scores where required

3 ~ People have the life skills and education they need in order to thrive

- Improving the percentage of primary (now 93%) and secondary (now 86%) schools judged good or outstanding
- Maintaining low NEET figures at 2.8%
- Increasing the percentage of eligible children taking up the two year old offer of free childcare, now 5% above the national rate
- Outperforming statistical neighbours for the second year running in 5+ A*- C GCSEs (including English and maths). Reducing the gap in GCSE attainment between cared for children and their peers, achieving 10% above the national average

4 ~ Cheshire East is a green and sustainable place

- Local Plan Strategy, approved by Council
- Improving turnaround of Major and Minor planning applications
- Achieving a 56% recycling rate which continues to be in the top 10% of all local authorities and well above the national target of 50%
- Realising savings of £1.5m for residents through the Fairerpower scheme, which secured over 5,000 customers in its first full year

5 ~ People live well and for longer

- Delivering over 1,800 home adaptations for older and/or disabled residents (ahead of target of 1,700) to support independent living
- Delivering 360 affordable homes (ahead of target of 300)
- Working in partnership through the winter months to protect vulnerable people and reduce excess winter deaths
- Increasing usage of Leisure Services facilities
- Working to deliver the children and young people's improvement plan to meet recommendations from Ofsted's inspection

FINANCIAL STABILITY

Cheshire East Council is achieving outcomes based on sound financial management. In 2015/16 the Council operated on an annual budget of more than £720m.

- At final outturn an **underspend of £0.5m** is being reported against the Council's net revenue budget of £246.6m
- This is the 4th consecutive year that a favourable outturn position has been reported
- **Service Budgets** – an underspend of £0.4m is reported
- **Central Budgets** – have underspent by £0.1m
- The Council is among the top third of Unitary Councils in terms of **Council Tax collection**. Over 99% of Council Tax and Business Rates are collected within three years
- **Council Tax was frozen** for the fifth consecutive year in 2015/16
- Additional **Investment income** and lower external interest charges have largely contributed to a £2.2m underspend on capital financing to be reserved for funding future capital expenditure. The average rate earned on investments (1.09%) is higher than the London Inter Bank 3 month rate
- **General Reserves** - the robust reserves strategy assesses risk at the beginning of the year, and protects the Council against potential overspending. The underspend has had the effect of increasing general reserves above the risk assessed minimum level at £13.0m
- **Capital Programme** - The Council has completed spending of over £90m in the year. Again there has been no requirement for additional external borrowing this financial year
- Outstanding **Debt** (excluding local taxation) is £5.6m. Debt over 6 months old is £2.7m (around 4% of total debt raised annually) and this is covered by provisions to meet potential write-offs

1. Summary of Council Performance

Introduction

1. Cheshire East Council is responsible for delivering more than 500 local public services across an area of over 1,100km² for over 370,000 residents. The budget to deliver these services in the period April 2015 to March 2016 is over £720m, which is raised from a combination of local taxes, national taxes (in the form of Government Grants) and payments direct from service users. In terms of spending power per head, Government figures highlight the impact of different levels and sources of funding on total Council spending:

Spending Power per Head Comparisons 2015/16			
	Cheshire East £	Rural East Riding of Yorkshire £	Urban Liverpool £
Grants	335	391	838
Council Tax	453	387	252
Total	788	778	1,090

2. The Council's Three Year plan, which was agreed by Council on 28th February 2013, has five Residents First Outcomes that will focus service delivery in the medium term (see **Appendix 1**). This section of the report highlights progress towards achieving each of the five outcomes, in addition to inward-facing work undertaken during 2015/16 to support the delivery of a responsible, effective and efficient organisation.

3. This report reflects activity that has taken place in the period April 2015 to March 2016. Commentary is also provided on the financial impacts (both revenue and capital) of this activity.

1 ~ Our local communities are strong and supportive

Mutual Respect & Personal Responsibility

4. Data recently published in relation to first time entrants to the youth justice system show that these numbers are continuing on a downward trajectory, reducing gradually from 127 at September 2014 to 111 at September 2015. In October 2015, the 'Divert' programme was introduced across Cheshire East; numbers are therefore expected to reduce further in the next quarter.
5. The Regulatory Services and Health Team successfully prosecuted a local business man for accepting and burning waste material on his land. The defendant pleaded guilty to offences under the Environmental Protection Act 1990 and was given a conditional discharge for two years and ordered to pay fines totalling £550.
6. As part of Operation Henry 2, a national initiative to combat illicit tobacco, the Trading Standards Investigations team raided seven premises in Crewe which intelligence suggested were a source of local sales. The operation was also supported by Cheshire Police and HMRC. On the day 20,000 cigarettes were seized along with 5kg of rolling tobacco worth an estimated £9,000. Items were found within dummy cupboards and a freezer.

7. At the end of March a local farmer was imprisoned for non-payment of his Proceeds of Crime confiscation totalling £42,500. This followed a lengthy Animal Health Team investigation and a conviction for animal disease offences.
8. The Trading Standards Investigations Team issued a formal caution and forfeiture for selling counterfeit car parts on e-Bay, including brands such as Bentley and Ferrari.
9. The CCTV camera network was instrumental in dealing with on average 1,200 incidents a month, of which on average 13 were drug-related, giving Police the necessary information to be able to pursue the offenders, resulting in arrests and convictions. CCTV has proved instrumental in both drug crime prevention and detection.
10. The CCTV Service continues to help the Police with the on-going 'Guiding' operation in Crewe town centre, by obtaining images/descriptions of youngsters causing anti social behaviour.
11. 'Live' images from Tipkinder skate park, Crewe can be viewed 24/7 in the control room following the completion of the project by the CCTV Technicians. This area has suffered in the past from drug misuse and anti social behaviour.
12. Civil Enforcement Officers have revised their routine beat patrols in order to direct resources at areas with new Traffic Regulation Orders such as the Macclesfield Forest area in order to educate visitors to the area about the new parking restrictions which enable a sensible and responsible approach to parking alongside the ability to keep the highway clear for access by emergency vehicles. The team have worked closely with Highways and the Open Spaces department so as to be able to intelligently deploy officers at the busiest times such as Bank Holidays and weekends.
13. Civil Enforcement Officers have been undertaking evening patrol visits to target the 'night time economy' of certain towns and villages subject to illegal and irresponsible parking. Drivers have been given appropriate advice about sensible parking, issued with warnings and 'moved on' when parking irresponsibly (such as taking up disabled spaces etc) and where legal and necessary, they have been issued with Penalty Charge Notices.
14. In 2015/16 a total of 16,820 Penalty Charge Notices were issued for parking offences.
15. Channel Panel was established to provide a multi-agency proactive approach to preventing radicalisation occurring within the borough. Key partners are providing a multi-agency approach to the management of individual case work where vulnerability and risk of radicalisation are agreed through the Channel Panel.
16. Following on from a number of Anti Social Behaviour (ASB) reports in and around Congleton Town Centre, via a Multi Agency Action group nomination the ASB team alongside the Police prepared and submitted a file to Crewe Magistrates court containing an application for a Criminal Behaviour Order to target the main ringleader of this behaviour. On attending court, this application was successful and, as the young person had turned 18, the order was granted for three years and the individual was also given a custodial sentence of three months in prison for the offence for which they attended court (related to the application).
17. A working group was set up by the ASB Team for Crewe town centre anti social behaviour. As a result of this, a good working relationship has been established with two main premises in the town centre, who now receive visits from the team, communicate well and inform of incidents much more effectively. They have also agreed to 'design out' some of the areas of their premises which

were attracting the ASB. Both businesses have praised the ASB team for their interaction with them. Figures have gone down dramatically in relation to the Police operation that was run which over its timespan led to over 300 letters home to parents and a number of Acceptable Behaviour Discussions and Acceptable Behaviour Contracts.

18. Youth Notifications and letters sent to parents this year have again been high with a great impact on the rate of those young people that do not return to the team again. Over the entire year 1,182 notifications were inputted, which generated 1,099 letters home to parents/guardians.
19. 66 Acceptable Behaviour Discussions were held, and 29 Acceptable Behaviour Contracts were signed. The ASB Team dealt with 151 cases over this year, of which 129 were closed within this time.
20. ASB Community Questionnaires were delivered across 12 different areas, reaching 331 properties.
21. Training has been undertaken by team members on “SMART Survey”, and six electronic tablets have been purchased to allow the team to more efficiently and effectively survey communities, businesses and members of the community via the tablets/online with reference to upcoming work on:
 - Public Space Protection Orders (PSPO) consultations
 - Fly tipping and side waste work
 - Dog fouling
 - Street safe/ASB Questionnaire work
22. Work on PSPOs is continuing and another area has been identified for action (Macclesfield Forest) around dog control.

23. Funding has been agreed for two additional Community Enforcement Officers to assist and run a side waste/fly tipping programme of work around hotspot areas in Crewe to address increasing issues around bin management and side waste. Recruitment will take place next year and will allow a programme of work to run for 12 months with a view to engage, educate and enforce in the agreed hotspot areas. SMART survey will play a big part in this piece of work.

24. Training has been rolled out to Local Policing Unit Beat managers following on from the success of the training given to Police Community Support Officers in quarter 3. A plan is in place to dedicate a full day of training to ASB based on positive feedback from beat managers who attended the training.

25. 69 Fixed Penalty Notices have been issued addressing littering and dog fouling offences during this year.

Communities

26. The final round of Community Grants for 2015/16 awarded £58,513 to 32 organisations, with projects varying from musical productions to upscaling facilities for those living with dementia.
27. The community grant scheme awarded a total of £178,263 to 114 organisations across all four rounds throughout 2015/16. This has enabled £1,645,622 worth of projects to take place across the Borough, which have involved over 3,000 volunteers and benefitted nearly 300,000 members of the Cheshire East Community.
28. Clean for The Queen saw 100 litter picking packs purchased to support the National clean-up campaign. Due to such high demand an additional 24 packs were purchased enabling 67 groups to get

involved in the campaign. Almost 2,000 people were involved which has generated ongoing interest in community activity and litter picking in local areas.

29. Support for Infrastructure Organisations has ensured that volunteering registrations and opportunities have been made available across Cheshire East and in rural areas via groups and initiatives such as community agents. 314 organisations have been supported with their development through 1,193 advice sessions.
30. Back in Spring 2015, the Citizens' Panel Survey showed that the percentage of residents feeling very or fairly well informed about what to do in the event of a large scale emergency had decreased from 22% in 2013 to 17% in 2015. Consequently, the Joint Cheshire Emergency Planning Team worked with partners throughout 2015/16 to ensure that public awareness levels in Cheshire East and the rest of Cheshire are as high as possible. Examples of this work included a Joint Police/ Fire Open Day at Police HQ in May 2015 where Cheshire Resilience Forum deployed an awareness raising stand, allowing partners to pass on key messages and distribute several hundred Emergency Pocket Leaflets to the public, helping them to prepare for, and respond safely to, potential future major incidents such as severe weather and flooding. Additionally, the Cheshire Resilience Forum website (www.cheshireresilience.org.uk/) has continued to provide an enhanced platform providing information and advice on a range of preparedness subjects including severe weather, flooding and, ahead of the summer, tips on how to stay cool during a heatwave. Most importantly, it helps our residents to be as prepared as possible so that they can help to look after themselves, their families, colleagues and neighbours, leaving the responding agencies free to look after the most vulnerable within our community.
31. Community Recovery work in Bosley continues based on a new approach developed with the community to Disaster Recovery. Action plans are based on the Community Impact Assessment, which is being adopted by other areas. Positive feedback has been received from those affected about the support received, and those who are ready to work again are now in new jobs.
32. The Delivering Differently in Neighbourhoods pilot was successfully implemented and developed a positive relationship with DCLG. The 12-month programme of activities started in February and the pilot is successfully engaging local residents in activities and allowing volunteers to shape and lead the delivery of future services.
33. There are currently eight Town partnerships in place with a possible ninth in development.
34. 21 Community Right to Bid nominations were submitted by nominating groups in total since 2013. 11 of those submitted were in 2015.
35. Two Rural Summits were held; Rural Connectivity and Digital Inclusion (July 2015) and Rural Tourism and Connectivity (March 2016) with an average of 35 stakeholders in attendance at each.
36. Crewe Cohesion Group agreed an action plan and development of Multi Cultural Forum.
37. The Welcome Café community consultation was launched in January 2016 to establish best ways of communicating with residents and improve service delivery.
38. Social Café at Dean Row opened in late Spring, providing a space for 50+ to socialise and a point for agencies to provide additional support and signposting.

39. Twista projects started in Alsager High, The Oakes Academy Crewe and Eaton Bank Congleton. Twista is a teen mentoring scheme supported by local businesses and agencies.
40. The Council published its Sustainable Libraries Strategy in 2014 and set the ambition to broaden the role of its libraries to appeal to a wider audience and buck the national trend of declining library usage. It also set the challenge to realise £1m permanent savings by the end of 2015/16, which have been achieved. The number of visitors to our libraries was down 4% compared with 2014/15 but a number of libraries were closed for short periods of refurbishment, and visitor numbers have increased notably at some of the libraries following refurbishment, in particular Nantwich and Poynton. Some of the key developments during 2015/16 to broaden the appeal of our libraries were:
 - Refurbishment of Congleton, Holmes Chapel, Knutsford, Nantwich, Poynton, and Sandbach libraries
 - The move of Nantwich Citizens Advice Bureaux into the newly refurbished library
 - Introduction of new Mobile Library vehicle
 - Introduction of Wi-Fi at all libraries and start of PC renewal programme for the People's Network
 - Another record breaking year for the Summer Reading Challenge
 - Opening of new library within the Crewe Lifestyle Centre
41. The key development for customers contacting the Council during 2015/16 has been the migration of Council Tax calls into the Contact Centre. This change re-opened Council Tax lines from four half-days a week to be consistent with the opening hours for all other services (Monday to Friday 08.30-17.00) and removed the complicated IVR system to make it much easier for residents to talk to a Customer Service Advisor. Since the change we have seen a 77% increase in call volumes compared to the same period last year, but a 59% reduction in wait times for customers. We have also seen an unexpected benefit of a 16% reduction in recovery documents (e.g. reminders; summons) issued as customers have been able to resolve their issues more quickly, and a 93% reduction in complaints relating to telephone wait times for Council Tax.
42. There was a 5% reduction in website visits compared with the previous year; however, this should not be considered a negative trend. It is not a like-for-like comparison as some of the Council's ASDV's introduced their own websites during 2014 and 2015, which diverts visits away from the Council's website, in particular Everybody.org.uk.
43. The Council is working in partnership with PwC to deliver an award winning, sector-defining digital platform, designed to put residents first; creating a trusted and reliable digital experience that residents choose as their first choice route into the Council, and that connects communities to support each other to reduce dependency on public services. We recognise, however, that not all residents will be able to or choose to use the new digital services and so we are also designing assisted digital services to provide a safety net for more vulnerable users through face to face and phone assistance where required. The new digital platform will be introduced as the new Beta website for Cheshire East Council during 2016, initially providing access to high demand universal services including Council Tax, Benefits, Waste and Recycling, and Highways. This will increase service quality and improve customer experience as residents will be able to access services on demand, and reduce costs of delivering services by increasing automation and shifting residents to utilise less expensive contact channels.
44. Communities have an under spend of £0.5m at the end of 2015/16 against a budget of £9.2m.

45. Income forecasts for car parking were understated by £0.2m in 2015/16. This related to increased income from pay and display plus additional income from annual and quarterly car park permits over budget levels.
 46. Pressures of £0.1m continued for costs of vehicle testing for taxi licensing. There is ongoing work in this area to overhaul the policy surrounding taxi licensing and a growth item was included in the 2016/17 budgets.
 47. There was also a pressure of £0.1m relating to the 2015/16 business planning proposals for Pest Control and Trading Standards Investigations. These were not met fully in year due to the one-off cost of redundancies and a delay in implementing the pest control proposal.
 48. These pressures within Regulatory Services & Health have been offset by savings from delays filling vacancies, small savings in supplies and services across the full service and increased income from Animal Health and Taxi Licensing. These savings have resulted in an overall underspend of £0.1m for Regulatory Services & Health.
 49. Partnerships and Communities have generated an under spend of £0.1m during 2015/16. This is as a result of delays filling vacancies, reductions in supplies and services spend and additional income generated from CCTV.
- 2 ~ Cheshire East has a strong and resilient economy**
- Business and Visitor Economy**
50. Year-end results for Business Engagement were positive with the service supporting the creation of 723 new jobs. This includes major investments at Autoliv, Sanofi and Jodrell Bank.
 51. The service engaged with nearly 200 high growth small to medium enterprises in the Science, Energy and Technology sectors.
 52. The service has secured £0.94m of grant funding for businesses in Cheshire and referred 109 businesses to specialised support programmes to improve their productivity and increase their competitiveness. This is expected to lead to an increase in Gross Value Added of £65m.
 53. The 2015/16 full year outturn for Economic Growth and Prosperity is a favourable position, with final net costs of £6.3m showing a £0.3m favourable variance against budget.
 54. Significant asset disposal activity has been undertaken this year within the Growth and Regeneration Service, which has helped to generate a favourable outturn position due to the capitalisation of costs associated with asset disposals. Rental income levels were also higher than anticipated, partly due to the collection of rent arrears.
 55. This position has facilitated the creation of a £0.5m reserve which will be used to meet an increase in the level of repairs and maintenance required within the Assets service area in the future.
 56. The Strategic and Economic Planning Service outturn was a balanced position for 2015/16.
 57. This service area has incurred additional costs of £1.1m due to the significant work undertaken on the Local Plan and the need to respond to an increase in the number of planning appeals. These

costs have been met partially by the Planning Reserve but also by an increase in the expected level of Planning Advice and Application fees, which were £0.4m better than budget.

58. The Investment Service outturn was £0.2m underspend versus Budget. This was in line with the forecast at Third Quarter and largely due to vacancy management within this area.

Workforce

59. The governance structure for the new University Technical College (UTC) continues to be strengthened ahead of the planned opening in September 2016. Work on the Crewe site continues to progress with the intention to open the UTC within the previous Oakley Centre whilst the other buildings are demolished and rebuilt under Phase 2. The Council continues to facilitate ongoing liaison between existing schools and the UTC leadership to promote these positive working relationships.

Infrastructure

60. The Strategic Highways Infrastructure Team continues to make strong progress on the Council's major transport schemes by planning, developing and delivering major highway and transport infrastructure improvements, in conjunction with partner organisations. Current Delivery Schemes include:
- Poynton Relief Road - Work is now progressing to submit a planning application in July 2016. Public consultation took place in October 2015 and a number of exhibitions were also held. The level of positive feedback received was exceptional for a highways scheme.
 - Congleton Link Road – The planning application was successfully made on the 30th September 2015 and an addendum to the planning application was submitted on 2nd

March 2016. The planning application is to be determined shortly by Strategic Planning and work continues to be progressed on this scheme in order to successfully deliver the next phase of work.

- Sydney Road Bridge – Work is rapidly progressing with Network Rail and their contractor, Murphy's, to develop and finalise design options in order to determine a final preferred option. Landowner consultations are taking place throughout May and preparation is underway for the planning application.
- The A6 SEMMMS scheme is currently under construction with road/rail bridge interfaces underway at Styal Road. The construction of A6 bridge is progressing and access routes to other bridge sites ongoing. Works on A34 north and south of the A555 are ongoing.
- A500 J16 Pinch Point Scheme – This scheme has been implemented to alleviate congestion on the A500 at junction 16 of the M6 through the addition of a lane to make the section a dual carriageway. Works are now complete at junction 16 and work continues to close this project out and address final payments.
- A556 Knutsford to Bowden (Highways England scheme) – This scheme allows for the construction of a new 4.5 mile dual carriageway between M6 junction 19 (near Knutsford) and the M56 junction 7 (near Bowdon). Construction started in November 2014, is progressing well and the scheme is due to complete in 2017.
- Crewe Green Roundabout – Work has started with option studies currently underway. Crewe Green is a five-arm signalised roundabout, forming a major confluence of roads to the east of Crewe. Peak period congestion is severe and traffic modelling shows the opening of Crewe Green Link Road (South) will add approximately 15% more traffic to the junction. A scheme has been developed to manage the revised traffic flows by remodelling the junction and the diversion of one arm of the

roundabout. A Cabinet report is due to be submitted in July 2016.

- Leighton West Spine Road - Due to the development of Leighton West, new infrastructure is required to enable the additional demands on the network to be handled. Therefore there is a need for the Spine Road to be developed and built. Work is underway to assess the options around the proposed site. Next steps include engaging with key stakeholders, supporting the production of the Bentley Masterplan A and subsequent planning application, in addition to supporting the application for planning permission for Leighton West by Engine of the North.
- Middlewich Bypass – The Feasibility Stage has run to programme and is being used for the DfT funding bid. Progress was reported early to Cabinet to enable wider public and stakeholder consultation on a Transport Plan for the whole Town of which the By-Pass will be a major part.
- Macclesfield Movement Strategy – A package of transport schemes which look to support growth and regeneration within Macclesfield. Work is underway in preparing a bid to the Local Growth Fund for future funding.

61. In addition to the major schemes currently being delivered, the Council is developing an ambitious pipeline of highway and transport infrastructure schemes for future delivery. The schemes under development include Crewe Bus Station, Congleton Public Realm Scheme, M6 Junction 16-19 SMART Motorway (Highways England scheme), and A500 Dualling.
62. In November, Chancellor George Osborne announced that the HS2 line to Crewe will be delivered six years earlier than planned. It was also announced that £5bn of additional investment will be made available to ensure the high speed railway from London to Crewe is open to passengers by 2027. This will bring huge benefits

to Crewe and now makes the location of a HS2 hub station at Crewe a near certainty.

63. HS2 and the location of a hub station at Crewe would help create more than 120,000 jobs by 2040 and inject £10bn a year into the wider region's economy. Seven trains an hour are expected to run from Crewe by 2027, with journey times to London reduced by 45 minutes. The final section of the line to Manchester will be completed by 2033.
64. Connecting Cheshire - Take-up growth continues to remain strong with fibre broadband being provided to more than 85,000 homes and businesses across Cheshire, Halton & Warrington. Connecting Cheshire has one of the highest and fastest take-ups in the UK.
65. Strategic Infrastructure net costs are £0.3m higher than budget at the year end. Higher than anticipated external contract costs as a result of development and planning activity were partially offset through high levels of Section 38 fees from developers and capitalisation of staff costs.
66. Highways has an overall underspend of £0.6m against a net budget of £11.2m. This is a significant improvement on third quarter review due to a variety of factors.
67. These include lower than anticipated costs on the Cheshire East Highways contracts with reduced spend on winter service and salt usage due to the particularly mild winter and reduced flood management costs resulting from recruitment difficulties in this growing service area. There was also an improved position on other fees and charges and a positive movement on the bad debt provision.

68. The final outturn for the Transport commissioning service is £0.3m, a slight increase on that reported at third quarter review. The overspend, as previously reported, relates to non-achievement of £0.15m of commissioner led savings related to Available Walking Routes and increased demand in Special Educational Needs (SEN) of £0.1m.

Inward Investment

69. The Business Engagement & Inward Investment service has had strategic engagements with 41 of the Top 100 accounts in the Cheshire East area. This has led to a significant pipeline of investment opportunities that could lead to the creation of over 500 quality jobs in the area. Total investment for the year will result in an increase in rateable value of £415,000 with a potential increase in floor space of 77,199sqm.
70. Major inward investments include WEX Europe who consolidated their back office operations in the Crewe area creating 60 new high value jobs.
71. Alderley Park secured Enterprise Zone status to provide rate relief for companies relocating or expanding on the site. Alderley Park was also announced as a regional centre for the Precision Medical Catapult project. The GM & Cheshire Lifesciences Investment Fund success continues with a £3m investment in Blueberry Therapeutics announced.

Responsible Business

72. Regulatory business satisfaction remains high with 100% of all businesses who returned a questionnaire stating that they were satisfied with the service they had received.

73. At the end of 2015/16 72% of local food businesses (2,582) were part of the Food Hygiene Rating Scheme. Of these, 92% scored a 3 ('generally satisfactory') or above. The Food Safety service continues to work with and support businesses to improve their scores. The Food Safety Service also undertook over 300 inspections/ interventions of low risk food businesses as part of its focused project in this area.

74. 88% of all high risk Food Standards inspections and 100% of high risk animal health inspections were completed in year.

3 ~ People have the life skills & education they need in order to thrive

Securing the Best Start in Life

75. 2016 data around the Early Years Foundation stage will be finalised during the summer term; Cheshire East has been supporting schools undertaking moderation processes to ensure valid data is secured for all learners. The 'Making a Big Difference' programme for early years has focussed on closing the achievement gap for our most disadvantaged children. This programme supports schools and settings with a focus on monitoring the progress of the children and providing appropriate support and strategies. The percentage of eligible children taking up the two year old offer of free childcare has increased to 77% at quarter 4, up from 71% at the same time last year, and 5% above the national rate.
76. Work around closing the gap between disadvantaged learners and their peers in primary schools continued during quarter 4. Working through their clusters, most schools have focussed on maths programmes to address the dip in performance in 2014/15. Support for schools has involved funded cluster networks as well as lead conferences using Maths Hub resources/expertise. Quarter 1

of 2016/17 will see the evaluation of these initiatives and impact on overall school performance.

77. Validated data for end of Key Stage 4 was published in quarter 4. In terms of narrowing the gaps for disadvantaged learners and their peers, the validated data showed an increase in overall performance of disadvantaged learners by 2.1 percentage points (ppts) and the closure of the gap to national by 2 ppts. However, Cheshire East's performance in is line with last year; the closure of gaps over the last 12 months between Cheshire East and national is mainly due to lower performance at a national level. In addition, Cheshire East has improved national rankings for disadvantaged young people achieving 5 A*-C (including English and Maths). Whilst positive progress, expectations were for improved outcomes in 2015; the performance of 3-4 schools significantly affected overall performance. The priorities at key stage 4 going forward include further narrowing of the gap for disadvantaged learners in drawing upon the best practice both nationally and locally. The initiatives put in place are already making a difference and these need embedding especially at key stage 3 in literacy and numeracy skills. Performance in maths is also a priority for all learners in responding to the national drop in outcomes.
78. At quarter 4 primary school persistent absences stood at 2.2% (0.5% lower than the national average of 2.7%). Secondary school persistent absences were at 5.6%, slightly higher than national average of 5.5%, and an increase from 5.1% in 2014-15. Cheshire East will continue to ensure that schools accurately record those learners who are receiving alternative provision, as well as working closely with schools whose attendance rates are below the Cheshire averages.

Highest Achievements for All Learners

79. There is strong performance across the Borough for key stage 1 phonics, with 81% of learners achieving the required standard at the end of Year 1. This rises to 92% by the end of Year 2. At Level 2 and above in reading and maths, overall performance has remained the same as last year, but in writing it has dropped by 1 ppt. At key stage 1 Cheshire East ranked equal first for mathematics compared to our statistical neighbours. The priorities moving forward are to ensure that the percentage of children meeting the phonics standard at the end of year 2 is at least maintained and to halt the dip in writing, even though only by 1 ppt.
80. At key stage 2 a total of 82% of learners achieved Level 4 and above in reading, writing and maths combined. This is 2 ppts down on the previous year, but is 2 ppts above national. Cheshire East performance at Level 5 and above for the combined indicator is 3 ppts above national. In terms of expected progress, Cheshire East learners perform above national averages in reading, writing and mathematics. When ranked against our statistical neighbours, Cheshire East is equal first for mathematics, equal second for reading and equal sixth for writing. The priorities at Key Stage 2 are to further narrow the achievement gaps between disadvantaged learners and the rest so that the gap is less than the national.
81. Following a small rise of 0.4 ppts in the national 5+A*-C (including English and maths) measure in 2015, Cheshire East's results improved by 1.8 ppts, significantly above the average for England. Cheshire East stands at 63.3%. This remains above the National figure which is 57.1%. This places the authority first against its statistical neighbours for the second year running. A further positive improvement has been seen in the expected rate of

progress in maths; there was a national improvement of 1.4 ppts across England, whereas Cheshire East schools improved the rates of progress by 3.8 ppts. Expected rates of progress in English - whilst there has been a slight reduction on 2014 data of 0.8 ppts, the local authority has improved its ranking against statistical neighbours by one place leaving us equal second. Both rates are still above the national, as was the case last year.

82. The percentage of primary and secondary schools judged good or outstanding by the end of 2015-16 has improved over the year. 86.4% of secondary and 92.7% of primary schools were judged good or outstanding by Ofsted in quarter 4, compared to 76.2% and 88.7% respectively, in the same period last year.

Achieve Aspirations

83. Quarter 4 saw figures remain consistent for young people not in education, employment and training (NEET) and, those whose destination is 'not known', remains extremely low at 0.2 %, which is still best in the North West.
84. NEET figures are still being worked on (currently holding at the lowest level of 2.8%). A specific NEET project has been set up with partner agencies and is being delivered in Crewe through Catch 22. Although this is only a small number, (5/6 young people) outcomes are looking positive.
85. We are starting the process of September Guarantee monitoring for 2016 leavers.

Inclusion

86. Further work is planned to ensure that vulnerable young people with special educational needs and disabilities (SEND) are

supported in achieving their aspirations and maximising their learning outcomes. It is planned to establish a 0-25 SEND Partnership Board in 2016/17 to improve good quality local provision for children with SEND and support for their families. This includes the development of a 'Sufficiency Statement' to identify and address gaps in local provision. This is expected to increase in-Borough provision and reduce the reliance on expensive out of area placements and transport costs.

87. Another key area of work underway is an in-depth review of the identification, assessment and planning processes for children and young people with SEND. This will further develop the person-centred approach associated with the new statutory assessment process and provide greater rigour and consistency in decision making.
88. The gap in GCSE attainment between cared for children and their peers reduced last year; the percentage of children gaining 5A*-C (including English and maths) was 10% above the national average. However, the Virtual School is committed to continuous improvement and so all current year 11 pupils are being supported to gain the best possible GCSE grades and qualifications. All these children have a school place and additional support is being provided through tuition, mentors and developing employability skills.
89. The number of post-16 cared for and care leavers has risen slightly during quarter 4, but the level of engagement with education, employment and training (EET) has remained static for 16-17 year olds at 71%; for older care leavers (age 18 years and above) the level of EET is 50%. Work is ongoing with these young people, including support into apprenticeships. This includes ensuring that all year 10 and 11 pupils are registered on the Apprenticeship website and all those without firm further education plans are

supported to make applications and participate in additional work experience. It is proposed to expand the 'Cygnet' programme in 2016/17 to include work placements outside the local authority to support these young people in traineeships. A dedicated PA has been employed within Children's Social Care to monitor and support care leavers into positive activities and an improved tracking system will enable the PA to identify quickly young people who become NEET and provide support needed.

90. Children and Families forecast an overspend of £1.1m at third-quarter. At outturn this has moved to an overspend of £1.9m.
91. Changes to the assumptions surrounding the use of balances held on earmarked reserves and Dedicated Schools Grant (DSG) have impacted the Directorate's outturn position by £2.3m. Earlier assumptions legitimately included a contribution from DSG to partly meet costs of educating children in care. However, following a review, it was determined that a reduced contribution was ultimately required.
92. This change has been offset by improvements totalling £1.5m around reduced placement costs (£0.5m), additional funding from Public Health (£0.5m) for early help and protection activities and a number of smaller improvements such as reduced licence costs.
93. The overspend is caused by the underlying pressure within Children's Services around the numbers of Children in Care, and the limit to how effectively this can be mitigated against via in year activity.
94. The budget for Children in Care in 2015/16 was set in anticipation of further reductions to this cohort (based on the reduction experienced during both 2013/14 and 2014/15). However the actual numbers have risen over the past twelve months by 8% to

their current level of 387 and admissions to care have risen in the year by 13%. In addition, increasing gatekeeping in the service has resulted in the cases which are coming through being more complex. This directly correlates with the increased costs being incurred by the service.

95. The overspend on care costs is £3.8m (after removal of the DSG contribution of £1.5m factored in at third quarter). The service continues to seek better value for money placements that provide the necessary support for vulnerable children but also reduce cost on an individual basis. Moves of this nature are inevitably resource intensive and time consuming and follow on from more intensive packages of care that are needed at the outset. The financial impact of this work is yet to be seen in the accounts.
96. Following the Ofsted inspection, the department has now reviewed all of its commitments and has clear plans to pare down the level of additional temporary support that was put in place to deliver the requirements of the Improvement Plan, where appropriate to do so.
97. Use of agency staff remains an issue and the service continues to work proactively to permanently recruit Social Workers and Social Work Managers. This is a critical element of our Ofsted improvement plan, and extensive efforts have been made to increase stability in the children's social work teams. Consequently, there has been a significant improvement with only 11% of posts covered by agency social workers.

4 ~ Cheshire East is a green and sustainable place

Development Management

98. Following 12 months of intensive work and receipt of the Inspector's Interim views in December 2015, the amended Local Plan Strategy was approved at Full Council on 26th February 2016. Activity in 2016/17 will involve an extensive consultation exercise, with conclusions and revisions sent to the Inspector in July in advance of anticipated further hearings in September/ October 2016. This will be followed by publication of the main modifications to the Plan and its adoption, which the Council anticipates to be in early 2017.
99. 2015/16 performance relating to turnaround of planning applications within timescales were:
- Major applications within 13 weeks – 62% (target of 60%)
 - Minor applications within 8 weeks – 62% (target of 65%)
 - Other Applications – 75% (target of 80%)
100. Overall performance has been maintained at similar levels to that of 2014/15. Performance in dealing with major applications continues to improve overall from a low point in 2013/14 and exceeds the national target of 60%; with minor applications performance has improved overall from 2014/15 and is on track to achieve the national target of 65%; and with other applications performance is maintained at 75% overall for the year against a target of 80%. High workloads for both applications and appeals have continued but in addition the Service has struggled to recruit experienced staff. While recruitment remains a challenge the introduction of new staff should gradually deliver improved performance over the first half of 2015/16.
101. A review of the registration, validation and allocation process for applications with Civicance has resulted in 95% of planning applications being validated within five working days compared with only 3% in 2014/15 and more information being available to customers about what stage an application is at.

102. The Building Control, Land Charges and Planning Administration commissioning service had a year end net nil position against a net budget of £1.7m.

Waste Management

103. **Reduce** – the waste prevention volunteers and our schools waste prevention officer continue to do invaluable work across the Borough.
104. **Reuse** – the Council continues to work with its third sector partner to divert as much waste as possible from landfill and instead to see it refurbished and reused for local residents. Over 1,000 tonnes of materials have been reused this year.
105. **Recycle** – Cheshire East Council's recycling rate continues to be in the top 10% of all local authorities and well above the national target of 50%. Draft figures suggest we have a recycling rate of around 56%.
106. A procurement to enable the authority to collect food waste as part of the garden waste collection has now begun with pre-qualification questionnaires going to contractors by the end of May and preferred bidders being identified by the end of the year. The procurement in two lots would either give access to a suitable processing facility outside Cheshire East or allow the authority to enter in to a 15-year design build and operate contract for a new facility utilising Dry Anaerobic Digestion or similar technology.
107. **Disposal** – reliance on landfilling continues to decline as waste from the north of the Borough is sent to the 'energy from waste' plant in Stoke-on-Trent. The Environmental Hub project at Cledford Lane is progressing well.

- 108. The construction contract for the Environmental Hub has now been signed with work onsite scheduled for the end of May, completing in spring 2017. The Council has set up a liaison meeting and is working with town councillors to minimise disruption during the construction period.
- 109. The task and finish group, set up via the Environmental Overview and Scrutiny Committee to review fly tipping across Cheshire East, continues to seek to address fly tipping and side waste issues. Funding has been secured for additional resource in the Crewe area to tackle persistent issues. New staff are being employed and surveys of the pilot areas are being carried out.

Environmental Management

- 110. Seven 'Green Flags' (a scheme recognising and rewarding the very best green spaces) were achieved in 2015/16: Sandbach Park; Bollington Recreation Ground; The Moor, Knutsford; Congleton Park; Tegg's Nose Country Park; Brereton Heath Local Nature Reserve; and Tatton Park.
- 111. 89% of the scheduled Environmental Permitting Regulations inspections for 2015/16 were completed – the reduction on the planned 100% is due to a reduced staffing resource and reactive demands on the service.
- 112. Actions within the Air Quality Strategy continue to be undertaken although a great deal of the year has been focussed towards the implementation of the electric vehicle infrastructure work and the development of a Low Emissions Strategy.

Sustainable Energy

- 113. The plan to gain energy from the recycling of food and garden waste through the Organic Waste Treatment project is progressing well. Market engagement was completed and the outputs helped

inform the preparation of a tendering process to procure a preferred bidder and proposal by the end of the year.

- 114. The Fairerpower scheme has secured over 5,000 customers in its first full year, realising savings of £1.5m for residents within the Borough. We continue to have interest from other authorities in the scheme.
- 115. Cheshire East Energy Limited has been established to oversee the development of our Energy Framework. Its shadow board has decided to defer commencement of the creation of the formal alternative service delivery vehicle (ASDV). Alongside this, we are in the process of finalising a bid for ELENA funding from the European Investment Bank which will enable further investigation of an energy service company for Cheshire East.
- 116. Cabinet approved a recommendation for a new Joint Venture Partnership with Engie, called Cheshire Energy Networks Ltd, which will seek to progress the deep Geothermal project and district heating schemes across the Borough. Department of Energy and Climate Change funding has been secured for detailed project development in Macclesfield.
- 117. The construction of the Environmental Hub has led to a re-profiling of the savings associated with the re-letting of the waste disposal contract that was to be delivered in 2015/16 through the existing Crewe Depot. The reprofiling of savings has been fully mitigated by improvements on the household waste recycling centre contract, including non-requirement of planned inflationary growth and an increased bonus.
- 118. Overall, Environmental Operations, including Bereavement reported a £0.6m overspend for 2015/16 against a net £27.3m

budget, which was an increase from the £0.3m overspend reported at third quarter review.

119. There has been a shortfall in markets income of £0.1m. This continues the trend of a gradual decline in income over the last few years, specifically in Macclesfield, where low rents of vacant shops and a major trader leaving have contributed to the shortfall. Negotiations over the projected transfer of Crewe Markets to Crewe Town Council are continuing.
120. Within Bereavement Services there was a realignment of the original proposed income growth over a period of five years to gradually build market share. This has contributed £0.1m to the overall overspend. Within year, there was a shortfall of core bereavement income of £0.1m against a £2.4m income target. The shortfall is primarily due to a reduced service as a result of the contract refurbishment at Crewe Crematorium between July and December 2015.

5 ~ People live well and for longer

Facilitating people to live independent, healthier and more fulfilled lives

121. 1,831 home adaptations for older and/or disabled residents were delivered in 2015/16 (ahead of our target of 1,700) to support independent living.
122. 360 affordable homes were delivered (against target of 300), and 83 long-term empty homes brought back into use against a target of 70.

123. A training proposal package has now been received based upon the Wigan Deal and this is to be tested and evaluated to determine if it is appropriate for our purposes. An allocation has been set aside as part of the Better Care Fund to invest in the training of the health and care workforce.
124. **Children and Young People's Mental Health** - The Annual Public Health Report 2015 was published in December 2015 and focussed on 'Supporting the Mental Health of Children and Young People in Cheshire East'. The recommendations from this were translated into a strategy to support Outcome 3 of the Children and Young People's Plan. These were presented and approved at the Health and Wellbeing Board (HWB) and Children's Trust in February and April 2016.
125. One of the key priorities is to 'Put front-line mental health care and support into every community' and many of the actions focus on the Emotionally Healthy Schools Programme. The pilot started in January and six secondary schools have developed and started to implement plans. Actions in the plans include: a review of the Personal, Social and Health Education curriculum, universal form tutor sessions, staff training, joint sessions between schools and NHS services, targeted groups with at risk children to support resilience, parent groups and development of systematic processes to identify and respond to mental health needs. The six pilot Emotionally Healthy Schools have been working with Child and Adolescent Mental Health Services (CAMHS) and the CAMHS young advisors on a self-harm pathway. Funding has been identified from the Council and the two Clinical Commissioning Groups to support Emotionally Healthy Schools and the HWB supported this investment. The aim is to quickly expand the programme to all secondary schools, primary schools, colleges and private schools. Preliminary conversations have started with primary schools.

126. Integration work between Public Health, Children's Services and Wirral Community Trust (0-19 provider) is ongoing through the development of the 'Parenting Journey'. This will allow systematic assessment of families needs at regular intervals from pregnancy through to age four, including assessment of maternal mental health and child mental health. Four workshops were held with frontline staff from Children's Services and Wirral Community Trust and development of pathways for maternal mental health and child mental health were identified as two priorities. A draft plan has been written to support this development and two working groups of volunteers from the workshops have been identified to develop the assessments and the pathway for those identified with additional need.
127. Ongoing support is being provided to the CCG to further develop the Local Transformation Plan including investment for 2016/17.
128. The Better Care Fund Plan for 2016/17 has been successfully signed off with a pooled budget of over £25m agreed for investment in schemes that reduce demand on hospitals and increase rates of discharge.
129. The Integrated Sexual Health service, provided by East Cheshire NHS Trust, commenced on 1st October 2015. The service is delivered from two "hubs" which deliver the full range of contraception and genito urinary medicine based at Macclesfield Hospital and a newly refurbished site at Eagle Bridge Health and Wellbeing service in Crewe and is supplemented by community clinics at various locations throughout the Borough and targeted outreach services.
130. In the first six months of the service new referral pathways have been developed (around abortion, HIV treatment, psychosexual counselling, fertility awareness and substance misuse services), a new online booking service has been introduced and work has begun to develop a c-card scheme which will improve access to condoms for young people.
131. The past 12 months has seen an increase in the number of young people aged between 15-24 screened for chlamydia. This has resulted in an increase in chlamydia diagnoses to the extent that the authority now exceeds the Public Health England target for chlamydia diagnoses (2,300 per 100,000 of the 15-24 population). This indicates that we are targeting the right population, which will raise awareness, support containment and ultimately benefit longer term prevention.
132. **0-19 Healthy Child Service** – The new 0-19 Healthy Child Service, (incorporating Health Visiting, School Nursing, Breastfeeding support, Family Nurse Partnership and National Child Measurement Programme) commenced on 1st October 2015.
133. The new provider, Wirral Community NHS Trust, has undergone a staffing consultation and restructure which places staff in locality teams and includes the appointment of Professional Leads for the Health Visiting and School Health elements of the service. A new IT system, SystemOne has also been introduced and rolled out to staff.
134. A key ambition of the new service is to integrate with Children's Services and jointly deliver the newly launched parenting journey. All relevant staff have received training on the parenting journey and have jointly developed four key priorities for the services moving forward. These are maternal mental health, transition to parenthood, early intervention in safeguarding and emotional health and wellbeing of children and young people. Scoping work to relocate Health staff into the de-designated children's centres is underway. This will enhance service delivery integration and streamline services for children and their families.

135. **Footpaths to fitness (Public Rights of Way)** – Two local circular routes were made accessible in Maw Green and Coppenhall in the north of Crewe through footpath modifications and signposting. Routes were marketed to local communities to encourage physical activity through a large-scale campaign. 13 ranger-led walks have been undertaken, with 93 individuals participating.
136. **Staying Home (Royal Voluntary Service)** – This project involved the use of Home Library staff to perform ‘safe warm and well’ checks with service users who were largely housebound; as well as a telephone befriending service. 1,892 volunteer hours were committed to the project, and 518 personal emergency plans issued. 17,318 separate interactions were made with members of the public.
137. **Diagnose Cancer Early (NHS SCCH)** – The aim was to run a campaign targeted at areas of Crewe where the incidence of lung cancer is currently at its highest and health inequalities the most prevalent. 80 community champions were recruited and trained, and the number of patients able to receive effective treatment for lung cancer rather than support care has increased from 71% to 75% since the inception of the project. There has also been a reduction from 21% to 13% of people diagnosed with lung cancer following emergency admission.
138. **Cheshire Living Well, Dying Well (End of Life Partnership)** – The End of Life Partnership has been named as one of eight pathfinders by Public Health England (PHE) and the National Council of Palliative Care as pioneers of a public health approach to end of life. The work of the team has featured as good practice in two recent PHE reports. 842 individuals have been given training at workshops to promote awareness of end of life planning, with 41 workshops/events held.
139. **Food Dudes in Our Schools** – This project achieved the expected outcomes of offering interventions to a number of classes at schools to promote healthy eating.
140. **My Choice (Catch 22)** – 279 young people participated in a primary school sexual health programme, 548 participated in a secondary school programme, and 295 young people were supported in drop-in sessions.
141. **Stop Smoking Service 2015/16** – The demand for Stop Smoking Services has reduced in recent years, due to a downturn in smoking rates and the related significant increase in the use of electronic cigarettes. However, despite a difficult climate the local service has performed well. To date they have achieved 1,199 4-week quits.
142. We have also seen an improvement in the smoking in pregnancy rates. The final Cheshire East rate is not yet available but Mid Cheshire Hospitals Trust’s (MCHFT) Leighton Maternity Unit has seen a reduction from 17.5% in 2014/15 to 15% in 2015/16. East Cheshire NHS Trust (ECT) have continued to perform well with an end of February rate of 9%.
143. **Cancer** – In response to a recognised need to improve cancer outcomes in the South of the Borough, where one-year survival amongst those diagnosed with cancer is poor, a targeted cancer project focussed on prevention and early diagnosis of cancer has been commissioned. This project will build on the previous success and learning from the Every Breath You Take project which was focussed on early detection of lung cancer and was a previous Public Health Transformation Project. Included within this project is a social marketing campaign aimed at earlier presentation to primary care with signs and symptoms of cancer and will involve

the recruitment of community champions. This will form a key part of a new Cancer Strategy, currently in development, for South Cheshire.

Early Intervention, Help & Prevention

144. The Alcohol Harm Reduction Position Statement and Forward Plan is drafted. Consultation and engagement will begin in quarter 2 2016/17. Work is ongoing with East Cheshire and Mid Cheshire Trusts and the Police to initiate the Cardiff Model of data sharing.
145. The Winter Wellbeing Partnership worked through the winter months to facilitate activity to protect vulnerable people and reduce excess winter deaths.
146. Public Health are working together with the Communities Directorate to prepare the Council's response to the Syrian Vulnerable People Relocation Scheme / Unaccompanied Syrian Children. A multi-agency working group has been established to co-ordinate this work with statutory bodies and the voluntary and faith communities.
147. **Substance Misuse** – The Stepping Stones Substance Misuse Service is an 'all age' service, supporting Young People and Adults. Catch22 are subcontracted to deliver support to Young People via the Stepping Stones (CWP) contract. 'Admissions for Alcohol-specific conditions among under 18 year olds' is one of the Incentive Indicators within the Stepping Stones contract. Therefore a Development Plan has been co-produced by PH Commissioners and Catch22 to improve Pathways and relationships between A&E and the Substance Misuse Service.
148. The Housing Options Team undertook a Peer Review as part of the Homelessness Gold Standard Accreditation Scheme achieving 68%

(over the required level of 60%) which is recognised nationally as a high score. The team will now progress to the next stage of the process.

Accessible Services

149. Usage of Leisure Services facilities increased, achieving a year-end total of 2.83 million (against a targeted increase to 2.73 million).
150. Bikeability level 2 or 3 cycle training was delivered to an increasing number of young people aged 8-18 years in the Borough, with training delivered to 6,162 young people (against a target of 3,872).
151. The Leisure commissioning service had a year end net nil position, in respect of base budget spend on client and management fee costs, against a net £2.2m budget.
152. Two one-off payments contributed to an overall £0.2m overspend. As reported at third quarter review, a compensation event of £0.1m was paid to the Leisure Trust, being the loss of income and additional costs due under the contract for the early surrender of the Oakley Centre lease to enable access for the University Technical College project. There was also a one-off Cost of Investment payment to the Trust to cover voluntary severance/efficiency retirement of £0.1m. This will enable an annual saving to the Council of £0.1m.
153. The Connecting Care Programme now has a new care model regarding the integrated teams that are to be established across South Cheshire and Vale Royal. Plans for implementation are being progressed.

154. **Passport to Health** – After an extensive procurement exercise, a total of 126 organisations have now been awarded contracts for Health Checks, Sexual Health, Smoking and Alcohol services. Delivery would begin from 1st April 2016. In addition to this, Peaks and Plains have been awarded the contract to manage the assessment and outreach required for Passport to Health, and to offer the Specialist Smoking Service. The awards will see services delivered at a community level allowing local people to access services in places and at times convenient to them to high standards of quality.

Public Protection and Safeguarding

155. Public Health are working with the Communities Directorate to respond to the Prevent & Channel Duties for this council. Channel Panel is established and work on the Panel's collective practice is underway, with a Training Strategy and Prevent Action Plan also informing work. A pan-Cheshire Chairs' meeting is also in place to share best practice and coordinate developments across the Police Force footprint.
156. **Infection Prevention and Control** - Cheshire East Council Public Health have the responsibility for commissioning local Infection Prevention and Control Services, and have recently undertaken a tender process for the service, which provides specialist advice on the prevention and control of infection to the general public (residents, patients, carers, and others) and to non-acute providers of health and social care services across Cheshire East. The contract was awarded to Staffordshire and Stoke-on-Trent Partnership NHS Trust in January 2016 to 'go live' on 1st April 2016.
157. Work has continued in quarter 4 around delivering the children and young people's improvement plan to meet the recommendations from Ofsted's inspection of children's services. Whilst the majority of actions within the plan have been completed and there have been some areas of improvement, in particular around the voice of the child, overall there is still a need to improve the quality of practice to provide good services for our most vulnerable children and young people. The plan is subject to regular internal and external scrutiny and challenge, including by the Health and Wellbeing Board, the accountable body for progress of the plan.
158. The Local Safeguarding Children Board (LSCB) also continues to monitor the effectiveness of safeguarding in Cheshire East through implementation of its business plan and quality assurance framework. Work is underway on completing the annual report for 2015/16 that sets out progress and impact against the priorities within the business plan. The Board has also scrutinised progress against the children and young people's improvement plan to address the recommendations from Ofsted's inspection in July 2015.
159. Quarter 4 data for Cheshire East cared for children and young people placed at a distance from the Borough has improved slightly since quarter 3 and is relatively stable when compared to the 2014/15 year end position. A recent decision by Cheshire East Cabinet to a redesign of residential provision will see our internal provision increase in capacity and flexibility, which should help to accommodate more of our children with complex needs within Cheshire East.
160. Data around the percentage of cases taking 45 days or less from the start of the combined assessment continue to be above target (of 85%+) reporting an indicative year end position of 87%; a considerable improvement on 70% for the year in 2014/15. Systematic challenge and focus around timeliness of assessment is continuing to show improved overall completion rates.

161. Child participation and wishes and feelings being incorporated into child protection plans continues to improve and is evident in over 90% of cases on average. In March 2016 a change was implemented to the case management system to capture the participation at child protection conferences under the same criteria that is used for cared for children involvement in reviews. This will allow a much better understanding of how individuals are choosing to participate and, more importantly, understand reasons why individuals may not chose to attend a child protection conference or express a view.
162. Eighteen children were adopted in 2015/16 and there were 31 children with an adoption plan as at the end of quarter 4. There were seven adoption orders granted in quarter 4, with the average number of days between entering care and being placed for adoption being 545 days. This is above the government target of 426 days, but relates to a small cohort of young people which has a significant impact if one is out of timescale for a period, as was the case in quarter 4. The average days between a placement order and match with an adoptive family in Cheshire East was 99 days in quarter 4, better than the government target of 121 days, which is positive.
163. Adults Social Care has a produced a positive outturn result for the 3rd year running, which is a major achievement when considering the demographic demand being faced both in terms of an ageing population and also, the complexity and cost of younger people coming through transition to Adult services.
164. The improvement in the final outturn position to an underspend of just over £0.5m compared to the small overspend projected at Third Quarter Review is due to a number of factors:
 165. Firstly, negotiations with providers regarding fee levels have led to less being paid out than previously anticipated. As part of the fee level process providers were pragmatic about prioritising fee increases from April 2016 onwards (which have now been implemented) over back-dating in the vast majority of cases. Any back-dating has therefore been agreed as being subjected to an open book accounting exercise, with only one provider to date formally submitting their books.
 166. Secondly, there was a small residual balance on the annual accrual for care costs which has been factored into the outturn position. Income levels have remained buoyant, higher than projected, which is an early cause for optimism when looking at the finances for 2016/17. It should be noted that certain savings targets are still to be delivered and have been covered by one-off remedial measures during 2015/16 which cannot be repeated in 2016/17.
 167. In addition, the outturn for Adult Social Care also masks the current pressure in the Health and Social Care economy, both locally in Cheshire East and the wider position nationally. Demand remains high and Health colleagues are already reporting deficits in 2016/17. Integration work-streams are moving forward with one of the key aims being to reduce the financial gap which is projected to grow going forward to the end of the current parliament.
 168. Locally, Adult Social Care has some very challenging targets in 2016/17 with, for example, the work of the temporary task team who are undertaking reviews being crucial in maintaining a balanced financial position going forward. Investment is needed in a number of key areas, not only the review team, in order to drive the business forward. The First Quarter Review will contain a full update of the latest position and will detail any shortfalls on the savings targets. In addition, work continues with Health colleagues around the ongoing funding issues surrounding some of the

complex service users. Therefore whilst the final outturn for 2015/16 is a resounding success, given the factors that sit behind it, there is still further work to be done to maintain this position going forward and deliver the new financial challenges being faced.

169. Public Health have delivered a balanced budget for 2015/16 as demonstrated by the fact that there is no material change to their ring-fenced reserve of £1.9m. Behind this overall headline there are a number of important factors to be taken into account. The first of these is the 2015/16 in-year reduction of grant imposed on all Public Health functions within Local Government. This reduction was £1m for Cheshire East Council and the successful delivery of this reduction involved extensive remodelling of expenditure plans. Responsibility was taken over part way through the year (1st October 2015) in terms of Commissioning services from 0 - 5 years olds with full year responsibility commencing in 2016/17. Extensive developments have taken place during 2015/16, for example, the setting up of an Integrated Wellness Service which will further improve delivery of Outcome 5 and Joint Strategic Needs Assessment targets going forward and allows residents to take more control over their own personal wellbeing. The development of the Emotionally Healthy Schools programme working alongside both key internal partners such as Children's Services alongside external partners such as Health is another major achievement. These investments alongside existing contractual commitment will ensure that the 2016/17 grant monies are fully utilised. These investments sit alongside the delivery of statutory functions which transferred with the service when it came over from the Health sector three years ago.

6 ~ A Responsible, Effective and Efficient Organisation

170. The budget for Chief Operating Officer Services was underspent overall by £2.7m. The expected underspend at TQR (£3m) is

reduced by service manager requests to carry forward budget to 2016/17 amounting to £0.4m.

171. Corporate Resources & Stewardship underspent by £2.3m at outturn (£2.6m underspend at TQR). Of this total underspend, £2.0m was within Facilities Management where energy was underspent by £0.8m, National Non-Domestic Rates by £0.5m primarily due to successful rating appeals, and Repairs & Maintenance by £0.1m. The remainder of Facilities Management underspend came from within the departmental and cleaning budgets. In the remainder of Corporate Resources and Stewardship, underspending due to staff vacancies was partially offset by spending on the reintegration of CoSocius and an under-recovery against an income budget for procurement savings; whilst savings were made, not all savings were recouped from other departments' budgets.
172. The HR department underspent by £141,000 at outturn (£264,000 underspend at TQR). This position includes carrying forward £208,000 underspend to fund 2016/17 costs resulting from the restructure of Workforce Development. The underspend primarily resulted from reduced team capacity to develop and take forward a leadership development strategy and an agreed deferral of the Council's staff survey from January 2016 to June 2016. Reductions and adjustments in budgets have been made in 2016/17.
173. Legal Services underspent by £10,000 at outturn (net-nil forecast at TQR). Income from general fees and charges was higher than budgeted but this was offset by increased spend on the supplies and services budget, mainly due to additional costs of external legal advice.
174. The Governance & Democratic service underspent by £81,000 at outturn (net-nil forecast at TQR). The main reason for the

underspend was the achievement of greater income in the Registration Service due to a sustained marketing effort on a regional and national stage and innovative partnership working with Approved Premises. Early indications are that Registration income again looks set to be buoyant in 2016/17. The supplies and transport budgets within Democratic Services also came in under budget due to in year efficiencies made. The total underspend was partly offset by the employees budget being overspent by £57,000. This was due to additional non-funded staff. This has been rectified for 2016/17 with the overall staffing budgets being re-aligned to more accurately reflect staffing establishment.

maintained. The decision was taken in October 2015 to move the services provided back in house, and a comprehensive cost reduction programme has been actioned. This will bring costs in 2016/17 in line with available budgets. The net company overspend is shared with Cheshire West and once adjustments are made to unwind share capital the net cost to Cheshire East is £1.1m.

175. Communications underspent by £74,000 (£20,000 underspend forecast at TQR). Staffing was underspent by £29,000 due to vacancies throughout the year, and income was also £30,000 higher than budgeted due to salary recharges being made to various projects and services as a result of the development and implementation of a new communications business model. The budget has been restructured for 2016/17 to achieve required Business Planning Proposals and better reflect anticipated expenditure.
176. The Strategic Commissioning service underspent by £122,000 at outturn (£87,000 at TQR). The underspend is mainly due to staffing vacancies throughout the year, partially offset by an overspending on supplies and services due to one-off costs relating to systems and reports. The budget has been restructured for 2016/17 to better reflect anticipated expenditure.
177. CoSocius Ltd, which is jointly owned with Cheshire West and Chester, reported a year end overspend of £2.58m. The overspend was caused primarily by a failure of the company to generate new business and income and an overreliance on expensive contractors to fill posts to enable routine services to both Councils to be

2. Financial Stability

Introduction

178. Financial performance has continued to improve compared to previous financial years. Improvements in financial planning, governance and stewardship are having a clear impact on the Council's ability to manage its budget and create greater confidence in the medium term plans.
179. Applying the best fit approach towards commissioning means the Council now wholly owns several supplier companies as well as maintaining relationships with private sector suppliers, charitable trusts and voluntary sector organisations. The financial position of the wholly owned companies has a direct effect on the financial performance of the Council and the Council's share of ongoing surpluses are currently held in the Trading earmarked reserve.
180. **Table 1** provides a service summary of financial performance for 2015/16. For further details please see Section 1 and the notes below the table. Changes to service net budgets since Third Quarter Review are analysed in **Appendix 2**.

Table 1 - Service Final Revenue Outturn Position 2015/16

	Revised Net Budget	Final Outturn Position	Over / Underspend)	Change from Quarter 3	Outcome Number 1 - 5
	£000	£000	£000	£000	
Children & Families	43,055	44,996	1,941	804	3,5
Adult Social Care & Independent Living	95,358	94,852	-506	-1,393	5
Public Health	0	0	0	0	5
Economic Growth & Prosperity	6,582	6,322	-260	-219	2
Chief Operating Officer					
Commissioning Services:					
Bldg Control, Land Chges & Planning Support	1,693	1,655	-38	-109	2,4,5
Environmental (incl Bereavement)	27,287	27,848	561	298	2,4,5
Highways	11,214	10,648	-566	-566	2,4,5
Leisure	2,240	2,470	230	90	2,4,5
Transport	14,585	14,882	297	43	2,4,5
Shared Services	0	1,165	1,165	1,165	
Communities	9,248	8,726	-522	-549	1,2
Other (e.g Finance, ICT, Legal, Facilities)	39,304	36,576	-2,728	289	
TOTAL SERVICE OUTTURN	250,566	250,140	-426	-147	

181. The impact of the final service outturn position is to increase balances by £0.4m. Further items impacting on the level of the Council's balances are detailed in the paragraphs below on centrally held budgets.

Government Grant Funding of Local Expenditure

182. Cheshire East Council receives two main types of Government grants; specific use grants and general purpose grants. The overall total of Government grant budgeted for in 2015/16 was £366.8m.
183. In 2015/16 Cheshire East Council's specific use grants held within the services was budgeted to be £270.6m based on Government announcements to February 2015. This figure has now been reduced to £256.7m.
184. A £4.3m decrease in grant during the last quarter has arisen due to schools having converted to academy status.
185. Spending in relation to specific use grants must be in line with the purpose for which it is provided.
186. Where additional non-ringfenced grant funding is received, services wishing to increase their expenditure budgets are required by Finance Procedure Rules to seek approval to use this additional funding. Additional general purpose grants totalling £518,000 were received during the final quarter of 2015/16. Services are seeking approval to use £320,000 of this additional funding, and this has been transferred to an earmarked reserve.
187. These grants were received too late in 2015/16 to seek approval to spend in year, and therefore this report seeks approval to services' requests to incur expenditure of £320,000 in 2016/17 fully funded by the additional grants. Details of the allocations are contained in **Appendix 10**.
188. Business Rates Retention compensation grants of £4.0m have also been received during 2015/16 to reimburse billing authorities for the extra discounts offered to businesses as announced in the 2013 and 2014 Autumn Statements. This includes the doubling of Small Business Rate relief for a further year and the continuation of the Retail Relief discount. These grants have been transferred to the Collection Fund Management earmarked reserve.
189. Services general purpose grant was originally budgeted at £96.2m. Net additional grant of £5.4m has been received during the year. £0.8m of additional grant has been allocated to services during the year. After allowing for the transfer of £4.4m to earmarked reserves, the net outturn variance is a £0.2m underspend against budget.
190. **Table 2** provides a summary of the updated budget position for all grants in 2015/16. A full list is provided at **Appendix 3**.

Table 2 – Summary of Grants to date

	2015/16 Original Budget £m	2015/16 Revised Forecast TQR £m	2015/16 Final Outturn £m	2015/16 Change from TQR £m
SPECIFIC USE				
Held within Services	270.6	261.0	256.7	-4.3
GENERAL PURPOSE				
Central Funding	77.8	77.8	77.8	0.0
Service Funding:				
Children and Families	0.5	1.1	1.1	0.0
Adult Social Care and Independent Living	3.5	3.3	3.3	0.0
Economic Growth and Prosperity	0.6	1.0	1.3	0.3
Chief Operating Officer: Commissioning	2.2	2.3	2.3	0.0
Chief Operating Officer: Other	11.6	11.6	15.8	4.3
Total Service Funding	18.4	19.3	23.8	4.6
TOTAL GENERAL PURPOSE	96.2	97.0	101.6	4.6
Total Grant Funding	366.8	358.0	358.3	0.3

Collecting Local Taxes for Local Expenditure

191. Cheshire East Council collects Council Tax and Non Domestic Rates for use locally and nationally.

Council Tax

192. Council Tax is set locally and retained for spending locally. Council Tax was frozen for 2015/16 at £1,216.34 for a Band D property. This is applied to the taxbase.

193. The taxbase for Cheshire East reflects the equivalent number of domestic properties in Band D that the Council is able to collect Council Tax from (after adjustments for relevant discounts, exemptions and an element of non-collection). The taxbase for 2015/16 was agreed at 138,764.49 which, when multiplied by the Band D charge, means that the expected income for the year is £168.8m.

194. In addition to this, Cheshire East Council collects Council Tax on behalf of the Cheshire Police and Crime Commissioner, the Cheshire Fire Authority and Parish Councils. **Table 3** shows these amounts separately, giving a total budgeted collectable amount of £205.8m.

Table 3 – Cheshire East Council collects Council Tax on behalf of other precepting authorities

	£m
Cheshire East Council	168.8
Cheshire Police and Crime Commissioner	21.7
Cheshire Fire Authority	9.8
Town and Parish Councils	5.5
Total	205.8

195. This figure is based on the assumption that the Council will collect at least 98.75% of the amount billed. However, the Council will always pursue 100% collection, and therefore the actual amount billed will be more than the budget.
196. This figure may also vary during the year to take account of changes to Council Tax Support payments, the granting of discounts and exemptions, and changes in numbers and value of properties. The amount billed was £210.8m.
197. **Table 4** shows collection rates for the last three years, and demonstrates that 99% collection is on target to be achieved within this period.

Table 4 – Over 99% of Council Tax is collected within three years

Financial Year	CEC Cumulative		
	2013/14	2014/15	2015/16
	%	%	%
After 1 year	98.1	97.9	98.1
After 2 years	99.0	98.9	**
After 3 years	99.2	**	**

**data not yet available

198. The Council Tax in-year collection rate for 2015/16 at 98.1% is up on last year's rate of 97.9%.
199. Council Tax support payments (including Police and Fire) were budgeted at £18.6m for 2015/16 and at the end of the year the total council tax support awarded was £14.9m. The Council Tax Support caseload has reduced since April 2014 and there have been more reductions in the Council Tax Support awards in the year than increased or new awards.
200. Consultation on changes to the Council Tax Support Scheme for 2016/17 was launched in August 2015, with the final scheme agreed by full Council in February.
201. Council Tax discounts awarded are £19.2m which is broadly in line with the same period in 2014/15.
202. Council Tax exemptions currently awarded total £3.7m which is broadly in line with the same period in 2014/15.

Non-Domestic Rates (NDR)

203. NDR is collected from businesses in Cheshire East based on commercial rateable property values and a nationally set multiplier. The multiplier changes annually in line with inflation and takes account of the costs of small business rate relief. This is the second year that the multiplier increase was capped by the Government at 2%.
204. The small business multiplier applied to businesses which qualify for the small business relief was set at 48.0p in 2015/16. The non-domestic multiplier was set at 49.3p in the pound for 2015/16.
205. Cheshire East Council has entered into a pooling arrangement with the Greater Manchester (GM) Authorities for the purposes of Business Rates Retention. The purpose of the pool is to maximise the retention of locally generated business rates to further support the economic regeneration of Greater Manchester and Cheshire East Councils. As a pool the members will be entitled to retain the levy charge on growth that would normally be paid over to Central Government. Cheshire East will retain 50% of this levy charge locally before paying the remainder over to the pool.
206. The Cheshire East and GM Pool are also taking part in a pilot scheme where the pool is now able to retain locally the 50% of “additional growth” in business rates which in the usual Business Rates Retention Scheme would be paid directly to DCLG.
207. Part of this arrangement means that the baseline for which growth in rates is set against has been reset to match the estimated rates to be collected as reported in January 2015. This level is £139.5m.
208. In year analysis has shown successful appeals have been awarded at a higher level than have currently been provided for. This issue

has been resolved at year end with the business rates retention earmarked reserve being utilised to cover this increased pressure.

209. **Table 5** demonstrates how collection continues to improve even after year end. The table shows how over 99% of non-domestic rates are collected within three years.

Table 5 – Over 99% of Business Rates are collected within three years

Financial Year	CEC Cumulative		
	2013/14	2014/15	2015/16
	%	%	%
After 1 year	98.2	98.1	98.4
After 2 years	99.2	99.3	**
After 3 years	99.5	**	**

**data not yet available

210. The business rates in-year collection rate for 2015/16 has increased to 98.4% compared to 98.1% in 2014/15.

Capital Programme 2016/19

211. Since the Third Quarter Review the overall programme forecast budget has increased by £12.3m to £468.4m, as shown in **Table 6**.

Table 6 – Summary Capital Programme

	Revised Total Forecast Budget TQR 2015/19 £m	Amendments to Outturn Forecast Budget 2015/19 £m	Amended Outturn Forecast Budget 2015/19 £m	Budget Reductions £m	SCE's £m	Revised Total Forecast Budget 2015/19 £m
Children & Families	43.3	-0.9	42.4	-0.2	0.2	42.4
Adult Social Care & Independent Living	2.8	0.2	3.0	-1.6	0.0	1.4
Economic Growth & Prosperity	251.8	0.6	252.4	0.0	11.4	263.8
Chief Operating Officer - Commissioning	120.9	0.5	121.4	-0.1	1.9	123.2
Chief Operating Officer - Other	37.3	0.3	37.6	0.0	0.0	37.6
	456.1	0.7	456.8	-1.9	13.5	468.4

212. The amendments since TQR of £13.5m are mainly within the Economic Growth and Prosperity Directorate and relate to a £10.9m Supplementary Capital Estimate for the Congleton Relief Road Scheme. This increase represents the full cost of the scheme from construction through to opening of the new road.

213. There have also been a number of other Supplementary Capital Estimates within the Highways Service totalling £1.661m. These relate to the release of the Community Investment Reserve to fund Highways expenditure in year (£0.542m), additional funding of £0.534m from the Pothole Action Fund and £0.585m from the Government's Incentive Scheme.

214. There have also been a number of budget reductions totalling £1.9m which includes the reduction in the Adults Social Care Grant that has been previously reported for future years but has now ceased as of 2016/17 and will no longer be payable to Cheshire East Council.

215. The revised programme is funded from both direct income (grants, external contributions) and the Council's own resources (prudential borrowing, revenue contributions, capital reserve). A funding summary is shown in **Table 7**.

Table 7 – Capital Funding Sources

	TQR Total Forecast Budget £m	Outturn Total Forecast Budget £m	Variance £m
Grants	201.3	198.4	-2.9
External Contributions	54.0	63.9	9.9
Cheshire East Resources	200.8	206.1	5.3
	456.1	468.4	12.3

Capital Budget 2015/16

216. At the Outturn stage the Council had spent £90.6m in 2015/16 against an Approved in-year Budget of £122.8m. The Council has contributed expenditure of £9.2m for the SEMMMS relief road with matched grant funding from the Greater Manchester Combined Authority. The new relief road straddles Stockport MBC and Manchester City Council boundaries as well as Cheshire East. As the host council, Stockport MBC includes the full costs within their capital programme.

217. Since the start of 2015/16 slippage on the capital programme has been measured on schemes that are at the Gateway 2 stage and are classed as committed schemes as these schemes should have commenced prior to or during 2015/16 and have a detailed forecast expenditure plan in place. **Table 8** below shows the actual

expenditure incurred on those schemes against the revised Outturn Budget.

Table 8 – 2015/16 Actual Expenditure compared to Revised Budget

Committed Schemes	Revised TQR Budget	Revised Outturn Budget	Outturn Expenditure	(Over/ Underspend)
	£m	£m	£m	£m
Children & Families	10.2	9.9	7.2	-2.7
Adult Social Care & Independent Living	0.8	0.6	0.4	-0.2
Economic Growth & Prosperity	26.8	28.6	20.9	-7.7
Chief Operating Officer - Commissioning	43.8	44.0	35.9	-8.1
Chief Operating Officer - Other	14.7	14.7	8.4	-6.3
Total Committed Schemes	96.3	97.8	72.8	-25.0

218. During 2015/16 a number of major projects have either completed or got under way including Crewe Green Link Road £9.0m, Crewe Lifestyle Centre £8.6m, Lighting Column Replacement scheme £4.8m, Schools Improvement Programme £7.9m and the Highways Investment Programme £6.5m.

219. However there has been slippage of £25.0m across several schemes:-

- ICT Projects across the programme have slipped by £6.8m, including the new Care Act Phase two projects.
- Schemes within the Growth and Prosperity Directorate have slipped £8.5m, including the Gypsy Traveller site, Housing Innovation Fund and the Farms Strategy.

- Within Environmental Services schemes have slipped £2.3m including the Waste Hub and the Queens Park Path project.
- Highways services have slipped £3.1m, mainly due to the Alderley Edge Bypass project where the Council is still in the process of settling Part One claims and expenditure was not as high as predicted in 2015/16 based on previous financial years' demands.
- Children and Families Directorate has slippage of £3.1m which is due to the progress of the building works on the schools projects and delays in starting the projects later in the year than had been originally intended.

220. **Appendix 5** details requests of Supplementary Capital Estimates and Virements up to and including £250,000 approved by delegated decision which are included for noting purposes only.

221. **Appendix 6** details requests for three supplementary capital estimates:-

- £542,403 funded by the Community Investment Revenue Reserve and to fund a number of community led Highways schemes and forms part of the Highways Maintenance Minor Works Programme.
- £534,000 is additional funding that has been received to support the Highways Investment Programme to reduce the number of potholes on the borough's highways.
- £585,000 relates to additional funds as part of the Government's Incentive scheme.

222. There are also virements of £450,000 for Disley Primary School expansion funded by the Basic Need Grant block allocation already approved in the capital programme and £425,000 transferred from the central block allocation for supporting strategic projects to

Economic Growth and Prosperity to fund the Investment in Heritage Buildings Programme.

223. **Appendix 7** details a Supplementary Capital Estimate request of £10.9m to increase the Congleton Relief Road project to bring the approved budget in line with the full costs to deliver the scheme. A separate more detailed report on the project will be discussed at the 12th July Cabinet meeting also.
224. There are also four virements of over £1m requiring Full Council approval which relate to the allocation of block provisions for major capital schemes in schools.
225. **Appendix 8** lists details of reductions in Approved Budgets where schemes are completed and surpluses can now be removed. These are for noting purposes only.

Central Adjustments

Capital Financing Costs and Treasury Management

226. The capital financing budget includes the amount charged in respect of the repayment of outstanding debt and the amount of interest payable on the Council's portfolio of long term loans. These costs are partly offset by the interest the Council earns from temporary investment of its cash balances during the year. The capital financing budget of £14m accounts for 6% of the Council's net revenue budget.
227. Cash balances remained stable throughout the year, and no additional external borrowing was undertaken as the Council continued its policy of 'internally' borrowing to finance the capital programme. As a result external interest charges have continued to decrease as external loans are repaid and not replaced.

228. Investment income for 2015/16 is £891,000 which is higher than the budgeted income of £200,000. The average level of cash balances in the year was higher than forecast although market interest rates remained relatively flat. However, investments in the CCLA Investment Management Ltd property fund, longer dated investments and use of corporate bonds has contributed to higher rates of interest earned on investments.

- The average lend position (the 'cash balance') including the property fund during the year was £71m.
- The average annualised interest rate received on in house investments during the year was 0.67%.
- The average annualised interest rate received on the externally managed property fund during the year was 4.97%.

229. The Council's total average interest rate received in the year was 1.09%. The returns continue to exceed our benchmark, the London Inter-bank Bid Rate for 7 days at 0.45%, and our own performance target of 1.00% (Base Rate + 0.50%).

Table 9 – Interest Rate Comparison

Comparator	Average Rate
Cheshire East	1.09%
LIBID 7 Day Rate	0.45%
LIBID 3 Month Rate	0.54%
Base Rate	0.50%
Target Rate	1.00%

230. As a result of additional investment income and lower external interest charges overall the budget has underspent by a total of £2.2m. This has been transferred to an earmarked reserve to fund future capital expenditure from revenue contributions. The budget is therefore reporting a net nil variance at outturn.
231. All investments are made in accordance with the parameters set out in the Treasury Management Strategy Statement approved by Council on 26th February 2015. Further details of counterparty limits and current investments are given in **Appendix 9**.
232. During 2015/16 a further investment of £2.5m was made in the CCLA managed property fund bringing our total investment to £7.5m. This property fund continues to grow and has demonstrated consistently high returns over the last few years with underlying capital growth being maintained. However, this fund should be judged over a 5 to 6 year period as returns and the underlying capital value of the fund can be volatile.
233. Over the last year, regulations concerning the security of funds at banks and financial institutions have changed. The effect is that although Government support has been removed, the risk of failure has decreased due to increased capital requirements but the effects of failure to Local Authority investments are more serious due to bail-in requirements. The Council has therefore placed more investments which are outside of the bail-in requirements. This is being achieved through the use of Covered Bonds and Corporate Bonds with maturity dates to tie in with our cash flow forecasts.
234. Covered Bonds provide security as they are backed up by collateral and still provide a good level of return. The Council has two investments in covered bonds totalling £4m due to mature in November 2016.

235. Corporate Bonds are not protected by collateral but are generally exempt from any bail-in requirements. Investment in Corporate Bonds are only made on advice from our Treasury Management advisors who review the company, the market and country in which they operate, the ranking of the bond and the credit worthiness assigned to it. As at 31st March 2016 the Council had investments in two Corporate bonds totalling £3.6m. Full details are shown in **Appendix 9**.

Central Contingencies and Contributions

236. A budget of £1.1m is held centrally to meet past service Employer Pension contributions relating to staff transferred to the new supplier companies. After allowing for the drawdown of the Pensions earmarked reserve, there is a small overspend of £0.1m against the budget.
237. This has been offset by miscellaneous income and reduction in central bad debt provisions of £0.3m.
238. Following a review of balances on earmarked reserves, £1.5m has been returned to central balances. This happens when specific projects are completed or when the requirement for additional earmarked funding is no longer appropriate.
239. This, together with the favourable outturn position, has allowed the transfer of £1.8m from general balances to specific earmarked reserves to provide for additional costs likely to arise on Insurances and to provide funds to support the further transformation of services within the Council.

Debt Management

240. The balance of outstanding debt has decreased by £0.6m since Third Quarter Review. Balances remain within forecast levels and adequate provisions have been made. Details of the Council's debt position are contained in **Appendix 11**.

Outturn Impact

241. The impact of the final service outturn position is to increase balances by £0.4m as reported above (**para 181**).
242. Taken into account with the central budget items detailed above and the approved use of general reserves below (**paras 245-247**), the financial impact described in this report has resulted in an reduction in balances of £1.7m as summarised in **Table 10**.

Table 10 – Impact on Balances

	£m
Service Net Budget Outturn	0.4
Central Budgets Outturn	0.1
Use of Reserves approved by Council	-2.2
Total	-1.7

Management of Council Reserves

243. The Council's Reserves Strategy 2015-18 states that the Council will maintain reserves to protect against risk and support investment. The Strategy forecast that the risk assessed level of reserves is likely to remain at £12.5m throughout the medium term.

244. The opening balance at 1st April 2015 in the Council's General Reserves was £14.7m as published in the Council's Statement of Accounts for 2014/15.
245. At the February 2015 meeting, Council approved the use of £1.7m of general reserves in 2015/16, to be transferred to earmarked reserves to meet additional planning costs, potential increased insurance claims, and to support investment in sustainability.
246. At First Quarter Review, Council approved that £0.5m be transferred from balances to an earmarked reserve for Early Intervention initiatives.
247. The overall impact of service budgets, central budgets and Council decisions is identified in **Table 10** above. **Table 11** shows how this impacts on the forecast closing balance of general reserves.

Table 11 – Change in Reserves Position

	£m
Opening Balance at 1 st April 2015	14.7
Impact on Balances at Final Outturn	-1.7
Closing Balance at March 2016	13.0

248. The balance of £13.0m reflects the fact that risks associated with budget achievement in 2015/16 did not actually materialise due to managed remedial actions and this is slightly above the level planned in the 2015/18 Reserves Strategy. Overall the Council remains in a strong financial position given the major challenges across the public sector.

249. The Council also maintains Earmarked Revenue reserves for specific purposes. At 31st March 2015 balances on these reserves stood at £49.1m, excluding balances held by Schools. A contribution of £0.2m to the Emergency Assistance earmarked reserve was approved as part of the 2015/16 budget. Council also approved the transfer of a further £1.7m from general reserves into earmarked reserves in 2015/16 to provide for additional costs in Planning, and on Insurances, and to support investment in sustainability. These items brought the earmarked reserves balance available in 2015/16 to £51.0m. At First Quarter Review, Council approved the transfer of £0.5m to an earmarked reserve for Early Intervention Initiatives.

250. During 2015/16, expenditure drawn down from earmarked reserves has been applied to fund service expenditure specifically provided for. Service outturn positions take account of this expenditure and funding, together with further contributions to earmarked reserves for future spending.

251. Services have made provisions within their outturns to reflect slippage in spending plans, carry forward of grant backed initiatives and provision for specific liabilities. It is proposed that this expenditure be met from carry forward via the service manager earmarked reserve under Finance Procedure Rule A 40, as listed in **Table 12** below.

252. A full list of earmarked reserves and movement in 2015/16 is contained in **Appendix 12**. Cabinet are asked to recommend that Council approve the creation of two new earmarked reserves for Transforming Services and Royal Arcade Crewe as detailed in the appendix.

253. Subject to this approval, the balance on earmarked reserves at 31st March 2016 is £53.0m.

Table 12 – Service Manager Carry Forward Earmarked Reserve

Service	Description	Amount £000	Total £000
Children & Families	Duke of Edinburgh Award	14	48
	Clerking & Governance Team	34	
Adult Social Care & Independent Living	Social Care Bill implementation	383	1,582
	Respite Placements Review	89	
	Learning Disability / Fees Review	96	
	Adult Integrated Care	158	
	Commissioning Reviews	251	
	Better Care Fund	605	
Environmental	Bereavement	40	462
	New Delivery Model	393	
	Mapping Maintained Assets for Routing	29	
Highways	Flood Management	80	214
	Highways Contract	84	
	NRSWA Permits	50	
Communities	Local Community Services	190	285
	Car Park Strategy	9	
	Licensing Enforcement	24	
	Delivering Differently in Neighbourhoods	62	
Economic Growth & Prosperity	Lifelong Learning	532	592
	Housing - Choice Based Lettings	39	
	Cultural	21	
Chief Operating Officer	Scrutiny / Training	3	3
GRAND TOTAL			3,186

3. Workforce Development

254. This section sets out the Council’s activities and progress in relation to HR, Organisational Development, Health and Safety and Workforce Development plans and changes during 2015/16.

Culture and Values

255. Work has continued to embed the Councils FIRST values. To encourage greater innovation and creativity, a network of “creative facilitators” was established during 2015/16. Following a short training programme the creative facilitators are equipped to help individuals and small groups to define an idea / issue clearly and develop creative solutions. Early feedback has been good with creative breakthroughs on issues being found. This programme will continue during 2016/17.

256. A number of employee engagement events took place through 2015/16 including a series of Big Events for staff, a range of Directorate specific conferences and a programme of four “an audience with” engagement events. Feedback from these events has been positive providing opportunity for staff to gain insights and make connections with colleagues and senior management.

Building Capability and Capacity

257. The Corporate Training programme and Continuous Professional Development Portfolios ensure that the Council creates a workforce which is safe, knowledgeable and competent in performing their duties to the highest possible standard, providing the best quality services to the residents and businesses.

258. Over 19,864 reservations were successfully arranged for CEC employees to attend a range of regulatory and mandatory learning and development opportunities during 2015/16. With a further 21 employees successfully securing funding approval via the Learning and Development Panel for role specific development, seeing £45,254 investment.

259. Developing management capability at all levels has continued to be a primary focus during 2015/16 with further management development programmes to take place during 2016/17 following CEC executive leadership team approval.

260. The Workforce Development Team continues to work closely with numerous regulatory and professional bodies and link into several local universities and colleges to ensure academia and research based theories are inherent in everything we do, establishing teaching partnerships with Keel University and local FE colleges too. As a recognised centre of excellence, quality assurance measures ensure that all employees and apprentices receive up to date training and surpass expectations of external verification and examination boards and feel fully supported throughout all stages of their career.

Resourcing and Talent

261. The Council has provided more than 240 work experience sessions for young adults and school children and arranged more than 51 apprenticeship pathways for school and college leavers in employment, introducing a six month work readiness traineeship

programme developed for cared-for young people, entitled the Cygnet Pathway programme.

262. The Council continues to offer Graduate Internships with over 60 applications received and a Graduate Development Programme nominated for several awards during the year. This programme includes both permanent staff, recent graduates and graduate interns and recognises the importance of early career development by providing opportunities to build networks, gain skills and obtain wider insights.

Reward and Recognition

263. The national pay award (often referred to as the cost of living rise) has recently been agreed. The pay increase to be applied is 1% for both 2016/17 and 2017/18 for all staff. Linked to the pay award, the Council introduced a local Living Wage for colleagues on lower pay scales which came into effect on 1st November 2015, ahead of the national Living Wage and pay negotiations.
264. The Council's Making a Difference employee recognition scheme has seen more than 1,360 colleagues being recognised in different ways for Putting Residents First in 2015. The Council's "Making a Difference" recognition scheme celebrates and recognises those people who role model the Council's FIRST values and through this have made a positive impact on their team, colleagues or wider community.

Education HR Consultancy

265. The Education HR consultancy have continued to offer and provide two levels of service Gold and Silver, with the Silver Service having a limit on the amount of time that can be spent providing on-site support to schools and academies. Total buy back during 2015/16

equated to 89.4% of Schools and Academies which represents a slight reduction on last year due to a number of Schools joining Multi Academy Trusts which provide their own / alternative HR support.

Health and Safety

266. The Council has recently received two awards; the first is a fourth (consecutive) Gold Royal Society for the Prevention of Accidents (RoSPA) Award for Health & Safety and the second is a Commended Award in the RoSPA Public Service and Local Government competitive sector. The latter award recognises that the Council achieved third place from all portfolios submitted in this sector. This RoSPA award gave us an opportunity to prove our ongoing commitment to raising health and safety standards and means we are part of a long running and highly respected occupational safety awards programme.

Staffing Changes

267. As shown in **Tables 13** and **14**, Cheshire East's employee headcount decreased almost by 6% between March 2015 and March 2016.

Table 13: March 2015 headcount and FTE figures

Directorate/Service	Employee FTE Mar-15	Employee Headcount Mar-15
Public Health	19.3	22
Media (Communications and PR)	8	8
Strategic Commissioning	2,053.2	2,845
Adults Social Care & Independent Living	871.3	1,148
Children's Services	742.1	1,169
Commissioning and Client Support	25.8	27
Communities	413	500
Chief Operating Officer	489.8	604
Commissioning	47.2	52
Corporate Resources and Stewardship	254.2	317
Democratic Services and Governance	57.1	92
Legal Services	33.7	38
People and OD	53.7	60
Apprentices	43	44
Economic Growth & Prosperity	325.3	407
Assets	28	29
Investment	79.8	88
Strategic and Economic Planning	100.1	109
Strategic Infrastructure	9.5	10
Visitor Economy, Culture and Tatton Park	103.2	166
Cheshire East Council Total	2,896.6	3,875

Note: in tables 13 and 14 employees with multiple assignments across services will appear in the headcount figures for each service, but will be counted only once in the total (CE) headcount figure. The Chief Executive has not been included in any of the Directorate/Service information, but is counted in the overall Cheshire East Council headcount and FTE figures; similarly Executive/Directors will not appear in the "Service" totals but will appear in the overall "Directorate" figures.

Table 14: March 2016 headcount and FTE figures

Directorate/Service	Employee FTE Mar-16	Employee Headcount Mar-16
Public Health	22.6	25
Adults Social Care & Independent Living	769.8	992
Children's Services	788.9	1195
Chief Operating Officer	905.2	1095
Commissioning	39	41
Corporate Resources and Stewardship	299.4	365
Democratic Services and Governance	55.4	83
Legal Services	28	34
Media (Communications and PR)	8.7	9
Commissioning and Client Support	31.4	33
Communities	404.2	489
Apprentices	38.2	40
Economic Growth & Prosperity	282.9	359
Growth and Regeneration	79.3	86
Crewe – High Growth City	3	3
Investment	29.4	31
Planning and Sustainable Development	62.2	70
Strategic Infrastructure	9.5	10
Countryside, Culture and Visitor	94.5	154
Economy		
Cheshire East Council Total	2770.3	3,655

Absence

268. As shown in **Table 15**, absence levels were lower in 2015/16 than in 2014/15 and 2013/14. Proactive management of sickness absence levels will continue through 2016/17.

Table 15: Average days lost to sickness (per FTE employee) per annum since 2013/14

	2013/14	2014/15	2015/16
Cheshire East (excluding Schools)	11.33	11.97	11.14
Whole Year Target	12.03	11.00	11.97

Voluntary Redundancies

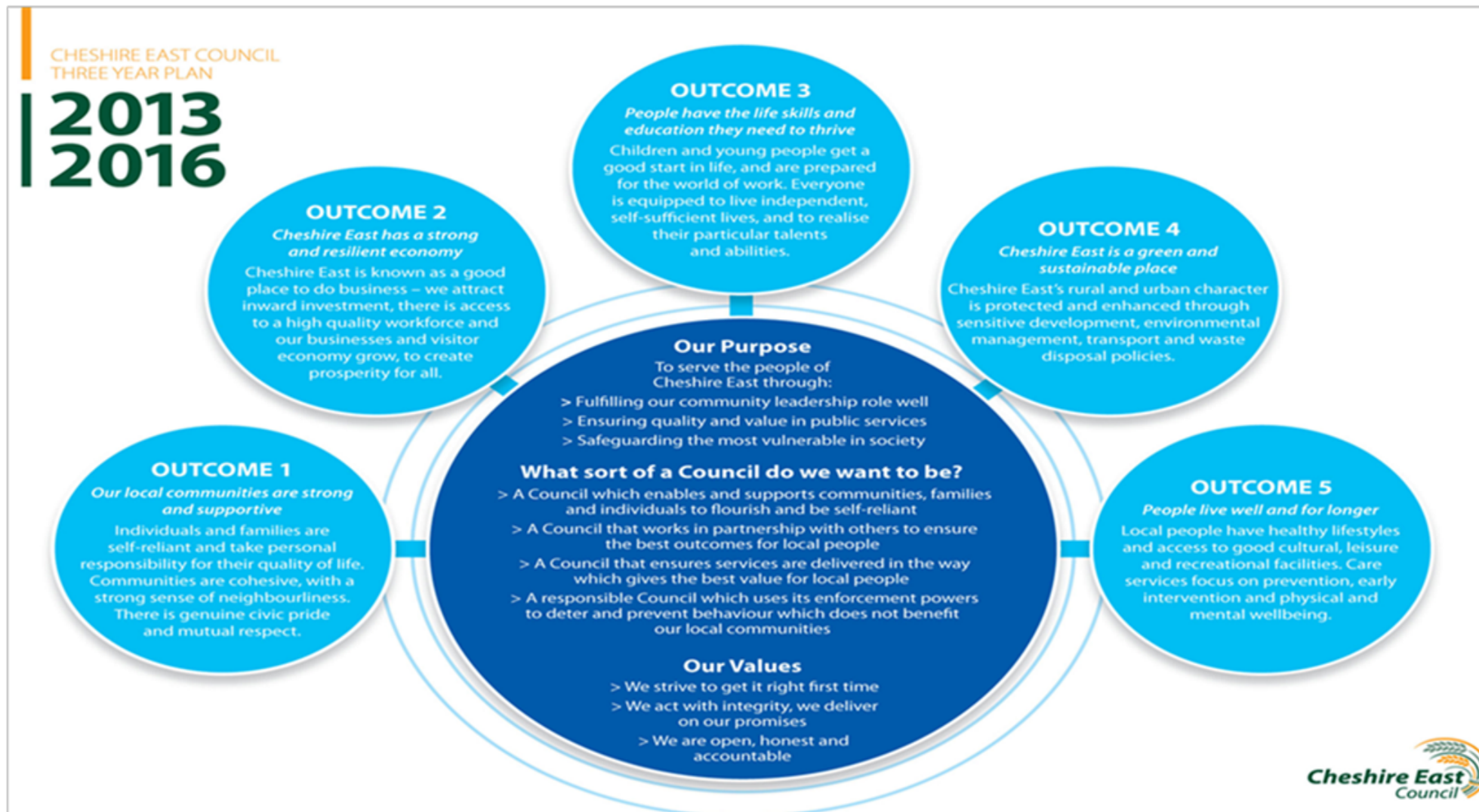
269. The Council's voluntary redundancy scheme continues to support organisational change and the delivery of the planned programme of change in the Council Plan. The effective use of voluntary redundancy in this way enables the Council to achieve its planned savings and efficiencies and also helps to maintain good employee relations within the Authority and minimises the prospect of compulsory redundancy.
270. 98 people (excluding Schools) have left the Council under voluntary redundancy terms in 2015/16, 7 of whom held posts within the management grades (Grade 10 or above). The total severance cost for all 98 employees was £1,694,320 inclusive of redundancy and actuarial costs. Over the next five years, these reductions are estimated to save the Council over £7,189,328 (which is the combined accumulated costs of the deleted posts).

Appendices to the Final Outturn Review of Performance 2015/16

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Appendix 1 Cheshire East Council Three Year Plan



Appendix 2 Changes to Revenue Budget 2015/16 since Quarter 3

	Quarter 3 Net Budget £000	Virements £000	Final Outturn Net Budget £000
Children & Families	43,055		43,055
Adult Social Care & Independent Living	95,358		95,358
Public Health	0		0
Economic Growth & Prosperity ^{* see note}	6,582		6,582
Chief Operating Officer:			
Commissioning Services:			
Building Control, Land Charges and Planning Support ^{* see note}	1,693		1,693
Environmental	27,330	-43	27,287
Highways	11,214		11,214
Leisure	2,030	210	2,240
Transport ^{* see note}	14,585		14,585
	56,852	167	57,019
Communities	9,205	43	9,248
Other (e.g Finance, ICT, Legal, Facilities)	39,394	-90	39,304
TOTAL SERVICE BUDGET	250,446	120	250,566
Central Budgets			
Specific Grants	-19,198		-19,198
Capital Financing	14,000	-120	13,880
Corporate Contributions	1,084		1,084
Contribution to / from Reserves	241		241
	-3,873	-120	-3,993
TOTAL BUDGET	246,573	0	246,573

* Since February 2015 Council, the budgets for Transport, and for Building Control, Land Charges & Planning Support have been moved from Economic Growth and Prosperity to Commissioning Services.

Appendix 3 Corporate Grants Register

Corporate Grants Register 2015/16		Original	Revised	Final Outturn	Change from	SRE / Balances
Final Outturn		Budget	Forecast TQR		TQR	(Note 2)
		2015/16	2015/16	2015/16	2015/16	
	Note	£000	£000	£000	£000	
SPECIFIC USE (Held within Services)						
Schools						
Dedicated Schools Grant	1	160,635	150,433	149,706	-727	
Pupil Premium Grant	1	6,795	6,247	6,072	-175	
Sixth Forms Grant	1	4,408	4,164	4,164	0	
Total Schools Grant		171,838	160,844	159,942	-902	
Housing Benefit Subsidy		84,518	84,518	80,887	-3,631	
Public Health Funding		14,274	15,598	15,889	291	
Restorative Justice Development Grant		8	8	8	0	
TOTAL SPECIFIC USE		270,638	260,968	256,726	-4,242	
GENERAL PURPOSE (Held Corporately)						
Central Funding						
Revenue Support Grant		39,182	39,182	39,182	0	
Business Rates Retention Scheme		38,607	38,607	38,607	0	
Total Central Funding		77,789	77,789	77,789	0	

Corporate Grants Register 2015/16 Final Outturn	Original Budget	Revised Forecast TQR	Final Outturn	Change from TQR	SRE / Balances (Note 2)
Note	2015/16 £000	2015/16 £000	2015/16 £000	2015/16 £000	
Children & Families					
Troubled Families	110	332	332	0	
Troubled Families - Co-ordinator	85	200	200	0	
Youth Justice Grant	326	289	288	-1	
Youth Rehabilitation Order - Junior Attendance Centre	0	33	33	0	
Extended Rights to Free Transport	0	128	128	0	
Staying Put Grant	0	73	73	0	
Remand Funding		40	40	-0	
Adult Social Care & Independent Living					
Local Reform and Community Voices Grant	265	195	195	0	
Independent Living Fund	1,000	749	749	0	
Adult Social Care New Burdens	2,272	2,272	2,272	0	
Social Care in Prison Grant	0	70	70	0	
Economic Growth & Prosperity					
Skills Funding Agency	628	628	798	170	
Neighbourhood Planning Grant	0	55	205	150	SRE
Right to Move	0	3	3	0	
Property Search Fees New Burdens	0	259	259	-0	
Letting Agents Transparency and Redress Schemes		1	1	-0	
Chief Operating Officer - Commissioning Services:					
Environment					
Lead Local Flood Authorities	35	35	35	0	
Lead Local Flood Authorities - technical advice on surface water proposals	0	82	82	0	

Corporate Grants Register 2015/16 Final Outturn	Original Budget	Revised Forecast TQR	Final Outturn	Change from TQR	SRE / Balances (Note 2)
	2015/16 £000	2015/16 £000	2015/16 £000	2015/16 £000	
<i>Note</i>					
Communities					
Housing Benefit and Council Tax Administration	1,549	1,549	1,549	0	
NNDR Administration Grant	559	559	559	0	
Implementing Welfare Reform Changes	53	53	53	0	
Smoke and CO2 Alarms		0	1	1 SRE	
Chief Operating Officer - Other:					
Education Services Grant	3,000	3,000	3,186	186	Balances
Council Tax Freeze Grant 2015/16	1,816	1,840	1,840	0	
New Homes Bonus 2011/12	870	870	870	0	
New Homes Bonus 2012/13	1,844	1,844	1,844	0	
New Homes Bonus 2013/14	1,037	1,037	1,037	0	
New Homes Bonus 2014/15	1,356	1,356	1,356	0	
New Homes Bonus 2015/16	1,200	1,200	1,200	0	
Affordable Homes 2012/13	85	85	85	0	
Affordable Homes 2013/14	82	82	82	0	
Affordable Homes 2015/16	63	63	63	0	
New Homes Bonus 2015/16 - return of topslice	128	126	126	0	
Individual Electoral Registration	0	112	112	0	
Local Government Transparency Code 2015	0	0	13	13	Balances
Business Rates Retention Grants	0	0	4,059	4,059	Balances
Total Service Funding	18,363	19,219	23,797	4,578	
TOTAL GENERAL PURPOSE	96,151	97,008	101,586	4,578	
TOTAL GRANT FUNDING	366,789	357,975	358,312	336	

Notes

1 The Dedicated Schools Grant, Pupil Premium Grant and Sixth Form Grant from the Education Funding Agency (EFA) figures are based on actual anticipated allocations. Changes are for in-year increases/decreases to allocations by the DfE and conversions to academy status.

2 SRE - Supplementary Revenue Estimate requested by relevant service

Appendix 4 Summary Capital Programme and Funding

Service	In-Year	SCE's	SCE's	Revised	Actual	Forecast Expenditure	
	Budget	Virements	Virements	In-Year	Expenditure	2017/18 and	
	TQR	Reductions	Reductions	Budget		2016/17	Future Years
	2015/16	Approved	Outturn	Outturn	2015/16	2016/17	2017/18 and
	£000	Since TQR	2015/16	2015/16	£000	£000	Future Years
		£000	£000	£000			£000
Children and Families							
Committed Schemes - In Progress	10,249	-2	-297	9,950	7,203	4,050	948
Committed Schemes at Gate 1 Stage	400	0	48	448	451	3,668	0
Medium Term and Rolling Programme	419	-182	-136	101	101	9,050	5,943
Longer Term Proposals	250	0	0	250	231	18	10,725
Adult Social Care and Independent Living							
Committed Schemes - In Progress	824	169	-355	638	380	283	0
Committed Schemes at Gate 1 Stage	0	0	0	0	0	0	0
Medium Term and Rolling Programme	0	0	0	0	0	731	0
Commissioning Services:							
Leisure							
Committed Schemes - In Progress	10,971	0	0	10,971	8,604	2,366	0
Committed Schemes at Gate 1 Stage	150	0	0	150	84	1,331	7,300
Longer Term Proposals	0	0	0	0	0	250	0
Environment							
Committed Schemes - In Progress	3,513	17	16	3,546	2,257	1,271	16
Medium Term and Rolling Programme	3,621	0	-7	3,614	2,480	13,741	0
Longer Term Proposals	634	0	0	634	150	3,547	9,620
Highways							
Committed Schemes - In Progress	27,922	0	195	28,117	23,824	12,539	5,962
Committed Schemes at Gate 1 Stage	0	0	0	0	0	0	0
Medium Term and Rolling Programme	0	0	0	0	0	13,512	12,637

Service	In-Year	SCE's	SCE's	Revised	Actual		
	Budget	Virements	Virements	In-Year	Expenditure	Forecast Expenditure	
	TQR	Reductions	Reductions	Budget		2016/17	2017/18 and
	2015/16	Since TQR	2015/16	2015/16	2015/16	2016/17	Future Years
	£000	£000	£000	£000	£000	£000	£000
Communities							
Committed Schemes - In Progress	1,435	0	-49	1,386	1,229	535	0
Economic Growth and Prosperity							
Committed Schemes - In Progress	26,810	1,607	167	28,584	20,869	21,423	4,882
Committed Schemes at Gate 1 Stage	825	17	60	902	531	1,496	4,650
Medium Term and Rolling Programme	1,798	0	0	1,798	1,792	6,065	2,097
Longer Term Proposals	12,539	-1,083	0	11,456	10,224	26,065	163,668
Chief Operating Officer							
Committed Schemes - In Progress	14,651	0	0	14,651	8,397	6,780	0
Committed Schemes at Gate 1 Stage	3,060	-8	0	3,052	441	3,881	0
Medium Term and Rolling Programme	474	0	0	474	166	9,929	5,997
Longer Term Proposals	2,630	0	-575	2,055	1,190	865	0
Committed Schemes - In Progress	96,375	1,791	-323	97,843	72,763	49,247	11,808
Committed Schemes at Gate 1 Stage	4,435	9	108	4,552	1,507	10,376	11,950
Medium Term and Rolling Programme	6,312	-182	-143	5,987	4,539	53,028	26,674
Longer Term Proposals	16,053	-1,083	-575	14,395	11,795	30,745	184,013
Total Net Position	123,175	535	-933	122,777	90,604	143,396	234,445

Funding Sources	2015/16	2016/17	2017/18 and
	£000	£000	Future Years
Grants	27,882	49,118	121,432
External Contributions	8,603	12,552	42,740
Cheshire East Council Resources	54,119	81,726	70,273
Total	90,604	143,396	234,445

Appendix 5 Approved Supplementary Capital Estimates and Virements up to £250,000

Capital Scheme	Amount Requested £	Reason and Funding Source
Summary of Supplementary Capital Estimates and Capital Virements that have been made up to £250,000		
Supplementary Capital Estimates		
Economic Growth & Prosperity		
Countryside Vehicle Replacement Programme	136,773	Replacement vehicles for Countryside Services. Funded from the service revenue budget.
Disabled Facilities Grant	137,470	Additional Disabled Facilities Grant allocation.
A500 Widening at junction 16	5,116	Increased budget to cover costs 2015-16 funded from Section 106 contributions.
A6 MARR Design Checks and TA	122,858	Budget increase to reflect additional income from Stockport Metropolitan Borough Council.
Private Sector Assistance	5,698	Increased budget to cover 2015-16 costs funded from repayment of loans.
Crewe Town Squares - Lyceum Square	2,537	Increased budget due to additional work paid for via third party.
Environment		
Banbury Park Re-vitalisation	5,089	Additional WREN grant received.
Lacey Green Park	4,024	Additional S106 funding received.

Capital Scheme	Amount Requested £	Reason and Funding Source
Capital Budget Virements		
Education		
Elworth Primary - Basic Needs	8,593	Virement of Schools Condition grant to meet the cost of Children & Families staff time spent on projects.
Lacey Green PS - Basic Need	564	
Manor Park - Basic Needs	6,877	
St Benedicts CPSS	376	
Daven PS Relocation of Kitchen	2,579	
Mobile replacement - Disley PS	7,805	
Dingle Primary School Mobile	10,411	
Mablins Lane PS Mobile	12,775	
Wheelock PS - Phase 2	5,702	
Adelaide Academy	940	
Schools Block 2015-16	37,260	
Wyche PS - Condition Works	3,158	
Pupil Referral Unit - New Site	25,047	
Free Early Years Education 2yo	1,626	
Hollinhey Primary School 15-16	15,759	
Poynton HS - Condition Works	2,481	
Springfield Special Sch	61	
Basic Need Block	84,000	Scheme Completed at Dean Oaks Primary School, surplus fund vired back to Basic Needs Block for re-allocation.
The Dingle Kitchens block (Gas interlock)	6,982	Virement to combine UIFMS and Gas interlock Projects for the Dingle Primary School.
Manor Park - Basic Needs	38,676	Virement from Schools Maintenance project toward additional costs incurred in relation to improvements to the floors.

Capital Scheme	Amount Requested £	Reason and Funding Source
Capital Maintenance Central Allocation	498	Construction complete, Mobberley PS, surplus funds via back to Capital Maintenance pot for re-allocation.
Basic Need Block	29,177	Construction complete, Offley Basic Needs, surplus funds via back to basic needs pot for re-allocation.
Capital Maintenance Central Allocation	1,201	Construction complete, Pebblebrook PS, surplus funds via back to Capital Maintenance pot for re-allocation.
Capital Maintenance Central Allocation	47,892	All works from 2014-15 SMS programme have now been completed, surplus funds via back to capital maintenance pot for re-allocation.
Universal free school meals	4,718	All works from 2014-15 SMS programme have now been completed, surplus funds via back to UIFSM Pot for re-allocation.
Capital Maintenance Central Allocation	120	Construction complete, Sound PS, surplus funds via back to Capital Maintenance pot for re-allocation.
Basic Need Block	24,837	Completion of works from St Johns Wood Community School Project, surplus funds via back to Basic Needs pot for re-allocation.
St. Benedict's CPSS extensions and internal re-modelling	4,671	Virement from Capital Maintenance Central Allocation to meet the cost overspends on Local Authority managed schemes.
Capital Maintenance Central Allocation	500	Completion of works from 2015-16 SMS programme, surplus funds via back to capital maintenance pot for re-allocation. (Gawsworth Primary School - Kitchen improvements).
Basic Need Block	1,989	Construction complete, Wilmslow Grange Primary School, surplus funds via back to Basic Needs pot for re-allocation.
Scholar Green Primary School	150,000	Virement from Basic Needs Grant for a new scheme to increase the number of places available to teach pupils at Scholar Green Primary School.
Underwood West Primary School	244,714	Virement from Schools Managed Schemes Block as this scheme will now required it own project code due to the overall cost exceeding £250,000.
Economic Growth & Prosperity		
Countryside Projects	7,217	Transfer Local Transport Plan budget from Rights of Way Improvement Plan to fund Countryside Projects.
Crewe Rail Exchange	13,322	Transfer Local Transport Plan budget from Strategic Programme Delivery to fund the Crewe Rail Exchange scheme.

Capital Scheme	Amount Requested £	Reason and Funding Source
Communities		
Electronic Vehicle RAPIDS	6,848	Transfer Air Quality budget funded by Local Transport Plan Grant to fund budget shortfall.
Environment		
Banbury Park Re-vitalisation	1,037	Virements from Parks Development Fund to fund budget shortfalls on completed 2015/16 projects.
Queens park Paths Project	5,535	
Weston Cemetery Extension	150,000	Funding for the extension works at Weston Cemetery to be vired from the Strategic Pot.
Pavilion Way Play Area	2,029	S106 funding virement from West Park Play Project
Highways & Transport		
S106 Adlington Road, Wilmslow	9,111	Redistribution of Local Transport Plan Grant (LTP) to cover budget pressures within the programme.
Highway Investment Programme	52,574	
Surface Water Mgt Schemes	22,312	
Bridge Maintenance Minor Wks	138,039	
Road Safety Cycle Scheme	1,509	
Total Capital Budget Virements Approved	1,191,522	
Total Supplementary Capital Estimates and Virements	2,131,158	

Appendix 6 Request for Supplementary Capital Estimates and Virements above £250,000

Capital Scheme	Amount Requested £	Reason and Funding Source
Cabinet are asked to approve the Supplementary Capital Estimates and Virements above £250,000 up to and including £1,000,000		
Supplementary Capital Estimates		
Highways & Transport		
Highway Maintenance Minor Works	542,403	Additional schemes requested in year that were outside the original capital programme, funded by the Community Investment reserve.
Highway Investment Programme	534,000	2016/17 funding allocation for the Pothole Action Fund.
Maintenance Block (Highways LTP)	585,000	Additional Funding from the Department Of Transport of £585,000 as part of the Governments Incentive Scheme.
Total Supplementary Capital Estimates Requested	1,661,403	
Capital Budget Virements		
Children and Families		
Disley Primary School (Basic Needs)	450,000	Virement from Basic Needs Grant for a new scheme to increase the number of places available to teach pupils at Disley Primary School.
Economic Growth & Prosperity		
Investment in Heritage Buildings	425,000	Transfer budget from the supporting strategic projects block allocation to fund the Council's investment in local heritage assets.
Total Capital Budget Virements Requested	875,000	
Total Supplementary Capital Estimates and Virements	2,536,403	

Appendix 7 Request for Supplementary Capital Estimates and Virements above £1m

Capital Scheme	Amount Requested £	Reason and Funding Source
Cabinet are asked to request Council to approve the Capital Virements and SCEs over £1,000,000		
Supplementary Capital Estimates		
Economic Growth & Prosperity		
Congleton Relief Road	10,931,000	To reflect the full delivery costs of the scheme to be funded by developer contributions.
Total Supplementary Capital Estimates Requested	10,931,000	
Capital Budget Virements		
Chief Operating Officer		
Schools Capital Maintenance	1,000,000	Virement from Childrens and Families Capital Maintenance Grant to Asset to address conditions works at schools.
Children and Families		
Hungerford Primary School	2,030,000	Virement from Basic Needs and Capital Maintenance block for new schemes to increase the number of places available to teach pupils at schools in Cheshire East.
Mablins Lane Primary School - Phase 2	1,500,000	
Monks Coppenhall Primary School - Basic Needs	1,845,000	
Total Supplementary Capital Estimates and Virements	17,306,000	

Appendix 8 Capital Budget Reductions

Capital Scheme	Approved Budget £	Revised Approval £	Reduction £	Reason and Funding Source
Cabinet are asked to note the reductions in Approved Budgets				
Education Strategy				
DFC Grant	5,590,778	5,534,273	56,505	Reductions required due to schools converting to Academy Status.
Kitchens block (Gas interlock)	610,651	605,097	5,554	Scheme completed, this reduction relates to return of the surplus contribution from Pussbank Primary School.
School Maintenance Projects	2,855,905	2,778,181	77,724	All works from 2014-15 SMS programme have now been completed. This reduction relates to return of the surplus contributions from School.
Springfield Special School - to build a sports barn	1,146,903	1,121,831	25,072	Scheme completed, this reduction relates to return of the surplus contribution from Springfield Special School.
Suitability, Minor Works and Accessibility block	1,405,379	1,404,879	500	This reduction relates to return of the surplus contribution from Gawsworth Primary School.
Case Management Phase 2	65,000	1,411	63,589	Project no longer required.
Adult Social Care				
Supporting the Front Line - Standardising of the Adults, Children & Families ICT Systems	1,557,840	1,472,919	84,921	Notification has been received that social care capital grant has now ceased. This reduction is being actioned to remove the budget relating to our estimate of the grant for 2016-17 and 2017-18
NHS Number - Patient Demographic Service Integration	20,000	0	20,000	
Care Act Information Solutions	200,000	0	200,000	
Sensory Room - Crewe Lifestyle Centre	50,000	0	50,000	
Social Care Capital Grant	1,956,426	730,749	1,225,677	
Integrated Digital Care Record	1,071,000	1,070,949	51	Scheme Completed.

Capital Scheme	Approved Budget £	Revised Approval £	Reduction Reason and Funding Source £
Highways			
Boundary Lane, Congleton	2,500	2,448	52 Refund of unspent S278 Fees - Budget Reduction.
Communities			
Electronic Vehicle RAPIDS	278,000	222,000	56,000 Original budget anticipated an external contribution of £56k, which did not materialise.
Customer Access	829,649	829,206	443 Revenue contribution revised to reflect the final figures.
Leisure			
Leisure Cent ICT Member System	153,228	152,286	} Final closedown for completed projects.
Nantwich Pool Enhancements	1,605,259	1,603,559	
Total Capital Budget Reductions	19,398,518	17,529,788	1,868,730

Appendix 9 Treasury Management

Counterparty Limits and Investment Strategy

1. The maximum amount that can be invested with any one organisation is set in the Treasury Management Strategy Report. The maximum amount and duration of investments with any institution depends on the organisations credit rating, the type of investment and for banks and building societies, the security of the investment. For most of 2015/16 credit rated banks and building societies have generally been set at a maximum value of £5m for unsecured investments and £10m for secured investments. Any limits apply to the banking group that each bank belongs to. Limits for each Money Market fund have been set at a maximum value of £10m per fund with a limit of 50% of total investments per fund. Due to their smaller size, unrated Building Societies have a limit of £1m each.
2. The limits in the Treasury Management strategy also apply to investments in foreign banks subject to an overall limit of 40% of our total investments in foreign countries and a limit of £10m per country. Foreign investments held at 31st March 2016 total £4.5m over two countries (Germany and Canada).
3. To maintain diversification of investments over a broader range of counterparties, the Council is also investing with other Local Authorities and some unrated Building Societies on advice from our treasury advisors who are monitoring their financial standing in the absence of any normal credit rating.
4. Banks' credit ratings are kept under continual review. There have been some changes in 2015/16 following the regulatory changes and withdrawal of Government support although these changes have not been as severe as expected. Government support has generally been replaced by greater loss absorbency capability. However, as the impact of any bank failure on Council investments is now greater, the following measures have been taken to reduce the risk of being bailed in:
 - a. Invest in more secure financial instruments such as Covered Bonds and Repurchase Agreements (REPO's)
 - b. Invest in highly rated Corporate Bonds which will not be subject to any 'bail-in risk'
5. Covered Bonds are fixed period investments (typically three to ten years) which are tradeable and where the investment is backed by collateral. The bonds held by the Council were purchased on the secondary market with less time to run until maturity. These bonds are exempt from any 'bail-in' requirements and gives the Council protection in the event the Counterparty gets into difficulties. Bonds are rated depending on their collateral so it is possible that a bond is acceptable to the Council where an unsecured deposit would not be.
6. REPO's are where the Council purchases assets from a counterparty with an agreement that the counterparty repurchases those assets on an agreed future date and at an agreed price. The future price will include interest on the investment. The assets purchased will vary in value over the term of the trade so a third party is used (at the cost of the other party, not the Council) to hold those assets on our behalf and obtain additional assets if the value falls below the level of the investment

at any time. It is the quality of the purchased assets that governs the credit quality of the investment rather than the actual counterparty. The Council is making arrangements with Clearstream who can provide the third party facilities and are internationally regarded.

7. **Chart 1** shows an analysis of the investments by counterparty type. A full analysis of the types of investment and current interest rates achieved is given in **Table 1** with the maturity profile in **Chart 2** which also shows the value of investments potentially subject to bail-in in the event of counterparty failure and those which are exempt from bail in requirements.

Chart 1 – Current Investments by Counterparty Type

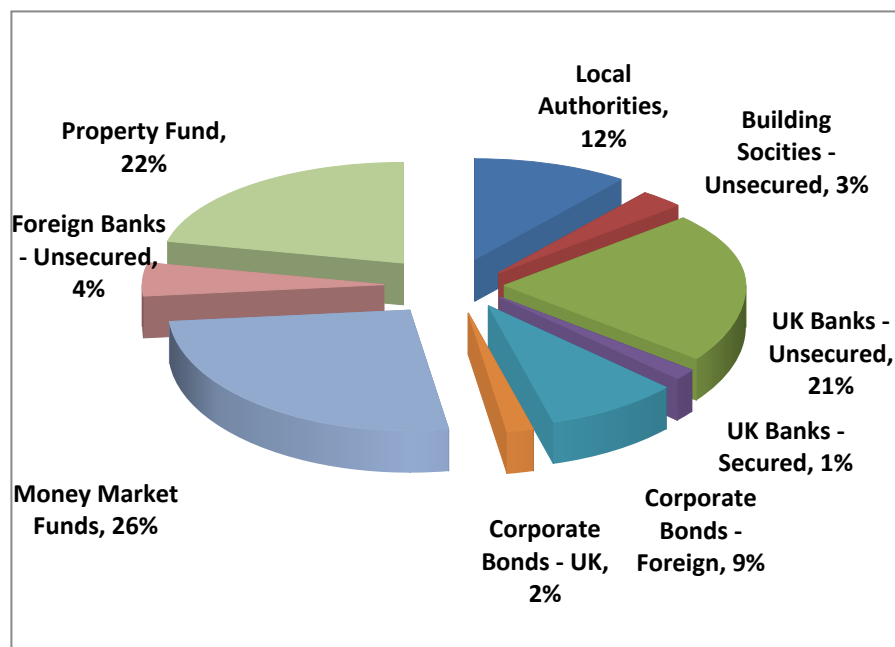


Table 1 – Types of Investments and Current Interest Rates

Instant Access Accounts	Average Rate %	£m
Instant Access Accounts	0.05	0.5
Money Market Funds	0.52	8.9

Fixed Term Deposits (Unsecured)	Start	Maturity	Rate %	£m
Close Bros	30/10/2015	29/04/2016	0.65	2.0
National Counties Building Society	13/11/2015	13/05/2016	0.75	1.0
Lancashire County Council	02/12/2015	04/12/2017	1.00	2.0
Close Bros	18/12/2015	20/06/2016	0.70	1.0
Toronto Dominion (CD)	04/01/2016	03/01/2017	0.90	1.0
Gloucester Police CC	31/03/2016	07/04/2016	0.55	2.0

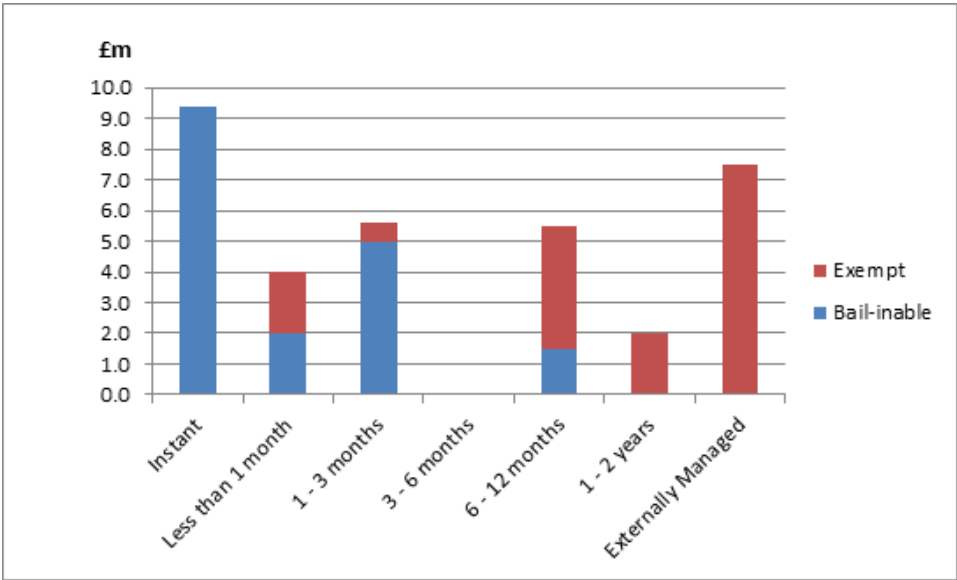
Secured Deposits	Start	Maturity	Rate %	£m
Bank of Scotland	17/06/2015	08/11/2016	0.84	2.5
Bank of Scotland	30/10/2015	08/11/2016	0.95	1.5

Corporate Bonds	Start	Maturity	Rate %	£m
Volkswagen Financial Services	27/04/2015	23/05/2016	0.90	3.0
Rolls Royce plc	29/01/2016	14/06/2016	1.06	0.6

Externally Managed Funds	£m
Property Fund	7.5

Summary of Current Investments	£m
TOTAL	34.0

Chart 2 – Maturity Profile of Investments



Appendix 10 Requests for Allocation of Additional Grant Funding

Service	Type of Grant	£000	Details
Economic Growth and Prosperity	Neighbourhood Planning Grant (General Purpose)	150	A further grant of £150,000 has been provided to the Council by the Department for Communities and Local Government for designated Neighbourhood Areas. This is to support these local communities to prepare a neighbourhood plan. The grant is not ring fenced to Neighbourhood Planning so can be used to support the wider Spatial Planning function.
Economic Growth and Prosperity	Adult Skills (General Purpose)	169	Additional funding for learners attending Skills Funding Agency courses. The funding contributes towards the Council's priority area of responding to the changing education and learning environment. The grant is in part awarded subject to achievement of performance measures stipulated in the grant conditions and therefore partial repayment of the grant may be required for underperformance.
Communities	Smoke and CO2 Alarms (General Purpose)	1	Grant of £835 provided to the Council by the Department for Communities and Local Government.
Total		320	

Appendix 11 Debt Management

1. Sundry debt includes all invoiced income due to the Council except for statutory taxes (Council Tax and Non-Domestic Rates) for which the performance related data is contained within Section 2 of this report.
2. Around a quarter of the Council's overall sundry debt portfolio relates to charges for Adult Social Care, the remainder being spread across a range of functions including Highways, Property Services, Licensing, Markets and Building Control.
3. In 2015/16 the Council raised invoices with a total value of £77m. This includes around £18m in Adult Social Care relating to client contributions towards care packages and income from Health.

Volumes of Invoices raised in 2015/16

	Number	Value £000
Adult Finance	49,567	18,380
Other	9,438	59,066
Total	59,005	77,446

4. The amount of income collected in 2015/16 was £59.2m.
5. The Council's standard collection terms require payment within 28 days of the invoice date, however, services receive immediate credit in their accounts for income due. The Council uses a combination of methods to ensure prompt payment of invoices. Recovery action against unpaid invoices may result in the use of

debt collectors, court action or the securing of debts against property.

6. The Revenue Recovery team (using their experience gained in collecting Council Tax and Non-Domestic Rates) engage with services to offer advice and assistance in all aspects of debt management, including facilitating access to debt collection/enforcement agent services (currently provided by Bristow & Sutor). In 2015/16 the team collected £1.8m on behalf of services.
7. During 2015/16 the Social Care Business Support team were responsible for the collection of debt for Adult Social Care. Following a lean system review, changes have now been made to the team and debt resources of two FTE are now managed within the Revenue Recovery team with a focus on new debt cases. It was recognised that historic debt needs to be tackled in a dedicated way with a one off dedicated debt recovery team. This resource will be managed by the service due to the important connection to social care professionals, case management and financial assessment systems, charging policies and legal debt recovery resource already in place within Legal Services.
8. During 2015/16 quarterly meetings have been held with the Portfolio Holder for Finance, the Chief Operating Officer and the Director of Legal Services to review and approve the write off of outstanding debt.

Amounts of sundry debt written off in year

	Adults £	Sundry £
Under £5,000	202,395	40,761
£5,000 - £10,000	90,482	15,853
£10,000 - £50,000	79,091	84,704
Over £50,000	0	496,768
Total	371,968	638,086

9. During 2015/16 a cleansing exercise was undertaken in both Adults Social Care debt and legacy debt with approximately £0.5m of sundry debt written off which related to predecessor authorities.
10. The amount of outstanding service debt at the end of March 2016 was £5.6m. This excludes debt still within the payment terms. The total amount of service debt over 6 months old is £2.7m; provision of £2.9m has been made to cover doubtful debt in the event that it needs to be written off.

	Outstanding Debt £000	Over 6 Months Old £000	Debt Provision £000
Children & Families	67	9	9
Schools	48	31	31
Adult Social Care & Independent Living	3,999	1,818	2,209
Public Health & Wellbeing	0	0	0
Economic Growth & Prosperity	405	241	293
Chief Operating Officer:			
Commissioning Services:			
Environmental	153	132	132
Highways	588	219	219
Leisure	16	12	12
Communities	17	9	9
Other	287	213	84
Total	5,580	2,684	2,998

Appendix 12 Earmarked Reserves

Name of Reserve	Opening Balance 1 st April 2015 £000	Movement in 2015/16 £000	Balance at 31 st March 2016 £000	Notes
Children & Families				
Long Term Sickness	350	-350	0	Carried forward surplus of contributions paid by schools ~ operated as a trading account.
Education All Risks (EARS)	343	-343	0	Carried forward surplus of contributions paid by schools ~ operated as a trading account.
Children's Social Care	377	0	377	To support implementation of Children's Social Care bill.
Adult Social Care & Independent Living				
Extra Care Housing PFI	1,681	198	1,879	Surplus grant set aside to meet future payments on existing PFI contract which commenced in January 2009.
Individual Commissioning	309	141	450	To provide capacity to perform Deprivation of Liberties and Best Interest reviews of care customers following recent case law.
NHS Section 256	3,535	-144	3,391	To support adult social care which also has a health benefit, as agreed with Eastern Cheshire and South Cheshire Clinical Commissioning Groups and governed by Cheshire East Health and Wellbeing Board.
Public Health	1,972	-30	1,942	Ring-fenced underspend to be invested in areas to improve performance against key targets. Including the creation of an innovation fund to support partners to deliver initiatives that tackle key health issues.
Environmental				
Crematoria	160	-160	0	Mercury abatement income set aside to fund potential replacement cremators as per the capital programme.

Name of Reserve	Opening Balance 1 st April 2015 £000	Movement in 2015/16 £000	Balance at 31 st March 2016 £000	Notes
Highways				
Severe Weather	240	120	360	To provide for future adverse winter weather expenditure.
Communities				
Communities Investment	1,788	-1,202	586	Amalgamation of promoting local delivery; grant support; new initiatives and additional funding from outturn to support community investment.
Emergency Assistance	845	-276	569	Carry forward of underspend on previous years' schemes to provide for future hardship payments.
Economic Growth & Prosperity				
Building Control	168	-168	0	Ring-fenced surplus (could be used to offset service deficit, if applicable)
Tatton Park	222	-20	202	Ring-fenced surplus on Tatton Park trading account.
Economic Development	141	-141	0	Support for town centres and economic development initiatives.
Planning Costs and Investment Service Structure	1,000	-642	358	To meet potential costs within the Planning Service and Investment Service Structure.
Royal Arcade Crewe	0	500	500	To provide for future costs relating to the Royal Arcade including repairs and maintenance.
Chief Operating Officer				
Elections	604	-592	12	To provide funds for Election costs every 4 years.
Climate Change	67	-67	0	Renewable Energy project.
Insurance & Risk	2,695	1,886	4,581	To settle insurance claims and manage excess costs.
Investment (Sustainability)	8,681	-5,937	2,744	To support investment that can increase longer term financial independence and stability of the Council.
Pension Contributions	173	-173	0	To meet impact of reduced workforce on fixed contribution to Past Service Pensions deficit.
Collection Fund Management	4,648	3,543	8,191	To manage cash flow implications as part of the Business Rates Retention Scheme. Includes liabilities that will not be paid until 2016/17.
Financing	4,820	6,720	11,540	To provide for financing of capital schemes, feasibility studies, and other projects and initiatives.
Transforming Services	0	3,345	3,345	Funding for costs associated with service transformation; particularly in relation to staffing related expenditure.

Name of Reserve	Opening Balance 1 st April 2015 £000	Movement in 2015/16 £000	Balance at 31 st March 2016 £000	Notes
Cross Service				
Trading Reserve	36	1,143	1,179	The Authority's share of ASDVs net surplus to be spent in furtherance of the ASDV's objectives.
Service Manager carry forward	5,244	-2,058	3,186	Allocations for Cost of Investment or grant funded expenditure.
Revenue Grants - Dedicated Schools Grant	8,184	-3,026	5,158	Unspent specific use grant carried forward into 2015/16.
Revenue Grants - Other	2,733	-329	2,404	Unspent specific use grant carried forward into 2015/16.
TOTAL	51,016	1,938	52,954	

Notes:

- Figures exclude Schools balances of £8.058m at 31st March 2016.
- Proposed earmarked reserves to be created at March 2016 are highlighted.
- Balances at 31st March 2016 exclude the following Council approved additions and reductions to earmarked reserves from 1st April 2016:

	£000
Planning costs and Investment Service structure	1,000
Transitional Funding	2,500
Collection Fund Managememt	451
Investmemt Sustainability	-140
	<u>3,811</u>

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