

CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting: 19 July 2010

Report of: Head of Corporate Improvement

Subject/Title: Local Service Delivery (Town & Parish Councils)

Portfolio Holder: Cllr Frank Keegan / Cllr David Brown

1.0 Report Summary

- 1.1 A stated policy and key transformational ambition of Cheshire East Council is to empower others to provide more relevant, responsive and value for money local public services, where appropriate, through local service delivery. One mechanism to achieve this is to work constructively with Town and Parish Councils to promote and enhance their opportunities to deliver local services for which they have powers and duties. There is a wealth of national support and legislation to underpin this approach, not least from the incoming Coalition Government. Other advocates include the Local Government Association and Commission for Rural Communities. In addition, it was a major feature of the Local Government Review business case. Specific benefits of implementing this policy include:

- Encouraging communities via their elected leaders to choose and directly deliver the level of services and functions for which they have powers and duties;
- Strengthening community cohesion by handing over control of specific services and functions to improve their effectiveness;
- Working with the expectations and ambitions of local residents and Councils;
- Providing a strategic framework for future decisions to transfer or devolve functions;
- Removing the current uncertainties about discretionary activities and enabling better planning for these activities and related budgets;
- Enabling Cheshire East Council to focus on its core business and having a positive impact on Council Tax for the majority of residents;
- Harmonising different approaches inherited from legacy Councils and replacing with a fair and consistent approach across the Borough;
- Resolving the issue of double taxation.

- 1.2 This report outlines the recommended approach to implement the Council's policy to transfer and devolve functions and services to Town and Parish Councils. The initial programme is over a period of 2 years. Recommendations are based on the outcomes of a multidisciplinary Working Group set up by Cabinet for this purpose.

2.0 Decision Requested

- 2.1 To agree the principles which underpin this development;
- 2.2 To agree to implement the plan outlined in this report;
- 2.3 To agree the levels of investment required and acknowledge the potential financial and non-financial benefits;
- 2.4 To agree to incorporate community and civic halls in this project and re-phase the related 2010-2011 budget savings target.

3.0 Reasons for Recommendations

- 3.1 As stated in specific benefits identified above.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 It is a stated policy of Cheshire East Council to empower local communities through the transfer and devolution of services and functions, as expressed in the Council's Corporate Plan.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 None.

8.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 8.1 One of the key aims of this policy is to improve cost effectiveness and value for money. Revenue and capital implications will be incorporated in the next budget setting cycle pending the approval of this report.
- 8.2 At this stage it is estimated that annual net savings of £690K could be achieved by 2012-13 through the successful implementation of this policy as it is currently scoped – this is explained later in the report. Estimated one-off project costs of approximately £200K are required for implementation. There is a potential phasing impact of £190K in the 2010-11 budget relating to deferring the transfer of community halls if they are to be properly encompassed within this implementation plan in order to 'package' transfers more effectively. There will be a balance sheet impact in respect of transferred assets but conditions will underwrite such

transfers in order to protect the Council's financial interest. A sum of £625K has been set aside in Reserves to support the initiative.

- 8.3 In addition, this recommended approach to implementation would eliminate double taxation, generating additional annual savings for the Council. Only the acknowledged claims in 2010 -11 for double taxation by Town and Parish Councils will be met and these will then cease completely through the implementation of the recommendations within this report.
- 8.4 The Borough Treasurer has been represented on the Working Group and has agreed the overall approach and financial implications.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 Powers and duties for town and Parish Councils are extensive. There will be legal implications through the conditions under which assets are transferred and, or, functions are devolved; these will be addressed throughout the implementation process. This proposal includes the need to employ additional legal resource to deal with this aspect for the duration of the project. The Borough Solicitor has been represented on the Working Group and has provided the following advice:

- Arrangements can be made with local councils for them to discharge some functions on this Councils behalf under Section 101 Local Government Act 1972. Alternatively there can be a purely contractual arrangement for the delivery of services to this Council's specification. It would be necessary to demonstrate that these arrangements are financially prudent and that service delivery is safeguarded. The business case should be fully expounded. Arrangements should be considered on a case by case basis.
- The report describes more fully this council's obligations with regard to transfer of assets. There is an overriding fiduciary duty to our residents to behave prudently in this regard.
- The transfer of services may involve staff transfer issues, which will have HR and financial implications.
- Overall, public assets and services should not be devolved unless the transferee authority has the ability and capacity to assume the obligations lawfully and effectively. The Monitoring Officer will remain concerned about the manner of discharge of functions by another local authority on this council's behalf.

10.0 Risk Management

- 10.1 Reputational and financial risks exist if this policy is not implemented consistently due to local resistance and inertia, and where the necessary internal professional skills are insufficient to deliver the implementation plan. The Working Group will maintain a risk register to identify, monitor and mitigate risks.

11.0 Background and Options

Background

- 11.1 It is the clearly stated intention of the Council to promote localism and empower others to deliver services particularly where this can be done with greater cost effectiveness. This is a crucial tenet in the improvement of local services and also ensures the Borough Council focuses on its core business. In addition, many of the larger Town and Parish Councils have stated aspirations and expectations to take on the responsibility and delivery of more services. In March 2010, Cabinet set the direction to progress this initiative. It tasked a multi-disciplinary working group to further understand the options and issues; determine a logical and fair approach to enable services and functions to be transferred and devolved; make recommendations.

Launch and Consultation

- 11.2 The notion of transferring or devolving services to Town and Parish Councils has been under consideration for some time both locally and nationally. The Council formally launched its approach at the Town and Parish Council Conference on 17 March 2010. Town and Parish Councils were then individually canvassed for their views, requested by the Leader, over a 2 month period and the results are shown at Appendix A. Additional meetings have been held with Nantwich, Knutsford and Congleton Town Councils at their request in order to explore their particular aspirations and understand the wider issues and practicalities for all parties.
- 11.3 Overall, there has been a very positive response with all 8 Town Councils and 43 out of 100 Parish Councils registering a response. All Town Councils have expressed a clear interest to take over specific functions and run these locally. 17 out of 43 Parishes have expressed an interest in taking on functions with the remainder in general support but stating that they may experience some initial difficulties in running services directly.

Principles for this Initiative

- 11.4 A number of principles have been established. This is not an exhaustive or final list. They have been developed by the Working Group and it is proposed that they will underpin the strategy and provide criteria against which to make decisions and define priorities. These are set out below:

- Primacy given to services that are technically simple and publicly visible
- Devolved delivery is proven to be more cost effective and/or efficient and/or responsive
- Transferred services must be within the legal remit of Town and Parish Councils
- The power to deliver devolved services must be capable of being delegated by CEC
- Borough Council to focus on core business
- Finance to follow function in the case of devolved services
- Overhead savings to be captured where possible as part of the budget setting process.

Models for Implementation

- 11.5 It is essential to distinguish between the ‘**transfer**’ and ‘**devolution**’ of services as this leads to two different models in terms of handing over control and has significantly different operational and financial implications. Process mapping has been carried out by the Working Group to demonstrate how this will work, and the proposed models (and their definitions) are set out below in broad terms:

Transfer Model

- 11.6 Definition: Services / functions which **ARE NOT** the core business / statutory responsibility of the Borough Council but which localities may wish to continue and deliver via Town or Parish Councils. No further permanent funding will be provided for such services by Cheshire East Council Tax payers. Some *transitional* funding may be required and this will be determined on a case by case basis depending on condition of assets, for example.

It is strongly recommended that these functions or assets are transferred on a Borough wide rather than pilot basis in order to bring clarity for all parties, and also to eliminate double taxation in respect of each function in a structured and fair manner.

Under this model, options for Towns and Parishes are as follows:

- Agree that the service is no longer needed - it will cease through local choice
- Agree that the service should continue and they will run it and fund it through local precept
- Agree that the service is needed but they are unable to run it – they can either ask a neighbouring council to run it for them and fund it through their local precept or (as a last resort) ask the Borough to continue it and fund that also through their local precept.
- In un-parished areas (possibly via the CEC Ward members) agree that CEC will cease provision or continue with a defined level of service / function which will be funded through Special Expense Payments levied on that geographic area. (NB this option will be the most

expensive option as all overhead recovery will be charged as well as the operational costs).

Devolve Model

- 11.9 Definition: Services / functions which **ARE** core business / statutory responsibility of the Borough Council but which may be more effectively and economically delivered via Town or Parish Councils.

Under this model, finance will follow function under terms agreed by the Borough Treasurer. Consideration will be required for clustering arrangements between Councils, staffing implications of any transfers, treatment of overheads and potential 'profits' where Town and Parishes run services more cheaply than the original budget allocation from the Borough. It is recommended that services categorised within this model are piloted before Borough wide implementation, in order to test the principles and approach. It should be stressed that under the devolved model ultimate responsibility is retained by the Borough Council.

Suggested Approach to Implementation

- 11.10 This implementation has high local impact and there are some potentially complex negotiations involved. In order to manage this in a fair, controlled and effective way therefore it is suggested that functions and services are transferred and devolved in a systematic and predetermined manner over a defined time period of 2 years. This ensures clarity for all organisations involved, allows the appropriate support arrangements to be set in place, enables the packaging of services and functions so that they make organisational sense, and informs all councils in time for their budget and precept setting processes.

A matrix is shown at Appendix B which outlines the recommended approach to rolling out transfer and devolution of specific services which broadly match those requested through consultation. This will be 'mapped' onto each area **as a starting point** to work out their package of functions and services, and the financial, legal and operational implications will be drawn up within a proposition.

A broad project plan and scoping document has been produced in order to outline the size of the task and how it will be organised. This also registers important linkages with other initiatives in terms of the related development of local service delivery within CEC, town centre management and asset planning. It is necessary to address the resource requirement to effectively implement this policy which is estimated to be 2 FTE for 2 years to cover experienced and knowledgeable project management and additional legal expertise. It is thought at this stage that other resources will be absorbed within existing structures and budgets. This will cost approximately £200K and it is recommended that it is funded from reserves set aside to support this initiative.

Subject to approval to proceed on this basis, there will be a series of meetings held by representatives of the Working Group within each LAP area in order to brief Town and Parish Councils, and to arrange how to move forward within each area on the basis of function and service 'packages' where appropriate (mainly for larger Councils).

Detailed work would then begin to develop the 'proposition' for each package of transfers and where necessary these would be brought back to Cabinet for ratification.

Community and Civic Halls

- 11.11 The Council's 2010-11 revenue budget includes a savings target of £190K for the transfer of Community Halls reflecting the early intention to transfer functions to third parties. With the exception of Fellowship House which is in the process of being transferred it is recommended that the remaining Halls are dealt with as part of this holistic strategy - this is likely to result in more mutually beneficial outcomes both financially and in terms of local delivery and impact. This would result in the majority of the savings target being achieved a year later than currently planned.

Asset Transfer Considerations

- 11.12 Implications of the proposals for the Council's property assets will be managed by the Assets Manager and Borough Solicitor in accordance with best practice and the best consideration requirements of s123 of the Local Government Act 1972 and the General Disposal Consent 2003. The terms of the 2003 Consent mean that specific consent is not required for the disposal of any interest in land which the authority considers will help it to 'secure the promotion or improvement of the economic, social or environmental well-being of its area'. Circular 06/2003 states that where applicable, authorities should also have regard to their community strategy.

Considerations will include the possible short term financial contribution by CEC in lieu of ongoing running costs and/or identified capital expenditure (e.g. backlog maintenance), as well as the level of control to be retained by this Council over the Town/Parish Council's future management of the property through, for example, restrictions on use and onward disposal and/or guarantees in respect of the intended use of any future proceeds of sale. However, it may be acceptable for a Town and Parish Council to receive an asset from CEC and after a number of (agreed) years, sell it and retain the proceeds.

In circumstances which result in a proposal to transfer a property asset to a Third Sector organisation, for example, a voluntary or community group, a much more stringent control regime would be applied in accordance with the procedures set out in the Council's Community Asset Transfer Strategy, which will be the subject of a further report to Cabinet in the near future. The Strategy will establish a transparent, positive and proactive

framework to enable and manage asset transfer from Cheshire East to the third sector to happen. To achieve this it is necessary to demonstrate how community asset transfer might support both Council and wider community objectives. Identified risks associated with such a transfer include: organisational capacity and skills, insufficient funds to meet required refurbishment and ongoing maintenance needs, unrepresentative/unaccountable minority control, over reliance on a small number of volunteers.

Summary

11.13 Cheshire East Council and Town and Parish Councils have reaffirmed their desire to transfer and devolve specific functions and services so that they can be delivered locally. This report sets out a mechanism for doing that in a systematic and manageable way which will enhance local choice and accountability as well as improve value for money.

Considerable time and effort has been invested by all members of the Working Group, and its Cabinet sponsors, to present an implementable solution to a complex area and this should be acknowledged. This Group will need to be supported and supplemented if the implementation plan is to be delivered as outlined in the report as it is contingent upon their continuation and backing.

Immediate next steps involve selecting a suitably skilled project manager, communicating the approach and setting up appropriate conditions to carry out negotiations.

12.0 Access to Information

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

Name: Ceri Harrison (on behalf of the Working Group)

Designation: Head of Corporate Improvement

Tel No: 01270 686558

Email: ceri.harrison@cheshireeast.gov.uk