

# CHESHIRE EAST COUNCIL

## Constitution Committee

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<b>Date of Meeting:</b>	26 <sup>th</sup> April 2013
<b>Report of:</b>	Democratic and Registration Services Manager
<b>Subject/Title:</b>	Macclesfield Local Service Delivery Committee – Terms of Reference

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### 1.0 Report Summary

- 1.1 This report responds to a request from Macclesfield local members for changes to be made to the terms of reference of the Macclesfield Local Service Delivery Committee.

### 2.0 Recommendations

- 2.1 That

- (1) the Committee consider the proposal put forward by the local Members and resolve to take no further action in respect of any proposed changes to the Macclesfield Local Service Delivery Committee terms of reference, pending the outcome of the planned Community Governance Review for Macclesfield, thereby leaving the existing terms of reference of the Committee unchanged; and
- (2) in the light of paragraph 9.9 of the report, the Macclesfield Local Members' Briefing meetings continue on a regular basis, for the interim period pending the outcome of the community governance review, covering all relevant areas on a briefing/consultation basis.

### 3.0 Wards Affected

- 3.1 Details of the affected wards are set out in the report to the Committee which met on 24<sup>th</sup> January, which is appended to this report as Appendix B.

### 4.0 Local Ward Members

- 4.1 Cllrs Andrew, Harewood, L Brown, Hardy, Jeuda, Druce, K Edwards, Jackson, Murphy, Roberts, Neilson.

### 5.0 Policy Implications

- 5.1 Any change to the terms of reference of the Macclesfield Local Service Delivery Committee would need to be agreed by Council and incorporated in the Constitution.

## **6.0 Financial Implications**

- 6.1 There are no direct financial implications.

## **7.0 Legal Implications**

- 7.1 The Local Service Delivery Committee for Macclesfield (as for Crewe) was set up in 2010 for the unparished part of Macclesfield as part of a wider decision to plan for the empowerment of local communities and with the possibility of a future Community Governance Review for Macclesfield in mind. Section 101 of the Local Government Act 1972 was relied upon as the power to establish the LSDC, as it allows a local authority to arrange for the discharge of any of its functions by a committee. The current terms of reference are contained in the appendix to this report.
- 7.2 The proposal put forward by local Members in Macclesfield is now to establish a “consultative body” with the terms of reference as outlined elsewhere in this report. The proposal is that the body would have the “status of a town or Parish Council” solely for the purposes of consultation on matters affecting the unparished area, and should be accorded the “discretionary rights and privileges” the Council gives to Town and Parish Councils within Cheshire East, in terms of expressing views formally on local matters to Cheshire East Council.
- 7.3 However, the Council has no legal power to recognise any body that lacks the legal status of a Town or Parish Council as possessing that status.
- 7.4 Furthermore, the Council has no legal power to recognise a body as a de facto Town/Parish Council, in advance of a statutory process, by Community Governance Review, to determine whether, and if so in what way, an actual Town /Parish Council ought to be established.
- 7.5 There are already measures in place for local people to be involved in planning decisions, so the current lack of a body with Town/Parish status as a designated consultee does not deprive the residents of Macclesfield of the opportunity to support/object to planning applications. It is the case also that the current LSDC meetings are public, so members of the public interested in its work can attend and speak at meetings. In addition they also have the right to consult their local Councillor if they consider that there is a matter within the LSDC’s terms of reference that has not been addressed, but ought to be raised and debated at a meeting.

## **8.0 Risk Management**

- 8.1 Members would need to consider whether, if the proposals put forward by the Macclesfield local members were agreed, this might create a precedent for other areas in the Borough, whose members may feel that they too should have the benefit of similar arrangements.
- 8.2 Other risks are also identified in the following paragraphs of this report.

## **9.0 Background and Options**

- 9.1 A report was made to the meeting of the Committee on 24<sup>th</sup> January 2013, in order for consideration to be given to an informal request from members representing the unparished area of Macclesfield, that a consultative body should be established to represent the views of the residents of the Town in respect of decisions which may be made by the Council and which would affect them.
- 9.2 In response to the request, the Committee resolved that it should receive a further report, reviewing the terms of reference of the Macclesfield Local Service Delivery Committee, following informal consultation with members of that Committee.
- 9.3 This report informs the Committee of the outcome of the consultation.
- 9.4 Following the meeting of the Committee, a number of local Macclesfield members agreed proposed terms of reference which they would like to see as a replacement for those which currently apply to the Local Service Delivery Committee. Their proposed terms of reference are appended to this report as Appendix A. The existing terms of reference are appended to the report as part of Appendix B.
- 9.5 It can be seen that the proposed terms of reference, if agreed, would significantly expand the role of the Local Service Delivery Committee, which was set up exclusively to review and make recommendations on delivery of services and transfer of assets in the unparished area in accordance with Council policy, and on any special expense levy.
- 9.6 The proposed terms of reference place heavy emphasis on the creation of a parish council which, of course, is just one of the options which might flow from the planned Community Governance Review process for Macclesfield. The question must, therefore, be asked as to what would happen to the Local Service Delivery Committee, with expanded terms of reference, if a parish council was not created. Would it be assumed that the Committee would continue to function on this basis for an indefinite period?
- 9.7 The proposed terms of reference would also appear to afford the Local Service Delivery Committee the status of parish council, giving the Committee the rights which a parish council would normally enjoy, for example, as consultee on planning applications. The Local Service Delivery Committee cannot have such status and, given the proposed “competencies” set out in paragraphs 4 and 5 of Appendix A, there could be significant risks in the Committee being regarded, to all intents and purposes, as an “interim Parish Council”, even though it cannot undertake such functions.
- 9.8 The proposed terms of reference go further, in seeking to give the Local Service Delivery Committee the right to involve itself in the preparations for devolution of services and transfer of assets in the event that the creation of a parish council is the outcome of the Community Governance Review. This

would appear to be the responsibility of the Community Governance Review Sub-Committee, which performed this function in connection with the creation of Crewe Parish Council.

- 9.9 The Committee should also be mindful of the existence of the Macclesfield Local Members' Briefing: an informal briefing mechanism for the Members of the unparished area of Macclesfield, and for those of the surrounding Borough Wards. This, whilst not being a formal consultative body, was (and could be) a voice for local Members during the period up to the conclusion of the Community Governance Review. However, the Briefing meeting always was an informal arrangement, which was established around three years ago, to deal with economic development and regeneration issues.

## **10.0 Access to Information**

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

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