



Cabinet

Date:	Monday, 6 June 2016
Time:	10.00 am
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer: Andrew Mossop
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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Cabinet are asked to consider whether they have any disclosable pecuniary and/or any other relevant interest, in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

2. MINUTES

The minutes of the last meeting have been printed and published. Any matters called in will be reported at the meeting.

RECOMMENDATION: That the minutes be approved and adopted.

LEADER'S UPDATE

3. EXECUTIVE KEY DECISIONS TAKEN UNDER DELEGATED POWERS

Key Decisions – taken under delegated powers. Period 11 March, 2016 (date of publication of last ordinary Cabinet agenda) to date.

- Leader of the Council – Strategic Policy and Oversight
Dock Bridges Contract Award
Effective from 16 April, 2016

CABINET MEMBER REPORTS

4. **CARE ACT KEY CHANGES TO POLICIES & PROCEDURES - UPDATE FOR CABINET (Pages 1 - 20)**
5. **BETTER CARE FUND 2016/17 (Pages 21 - 32)**
6. **SOCIAL CARE FEE SETTING PROPOSALS 2016/2017 (Pages 33 - 46)**
7. **REVISION OF GOVERNANCE ARRANGEMENTS FOR WIRRAL PARTNERSHIP HOMES TRADING AS MAGENTA LIVING (Pages 47 - 60)**
8. **REVIEW OF SCRUTINY ARRANGEMENTS (Pages 61 - 92)**

COMMITTEE REFERRAL

9. **COMMUNITY SAFETY PARTNERSHIP (Pages 93 - 102)**

At its meeting on 22 March, 2016, the Transformation and Resources Policy and Performance Committee considered a report on the Community Safety Partnership and recommended to Cabinet the ‘... 2016/17 priorities set by the Community Safety Partnership.’

The minute and report are attached.

10. **ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)**

To consider any other business that the Chair accepts as being urgent.

11. **EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

The following items contain exempt information.

RECOMMENDATION: That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

12. **ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)**

To consider any other business that the Chair accepts as being urgent.



**COUNCILLOR CHRIS JONES
CABINET MEMBER FOR ADULT
SOCIAL CARE**

CABINET

6 JUNE 2016

**CARE ACT KEY CHANGES TO POLICIES &
PROCEDURES - UPDATE FOR CABINET**

Councillor Chris Jones, Cabinet Member - Adult Social Care, said:

“The Care Act 2014 was perhaps the biggest single change in legislation governing social care in a generation. It has led to the Council conducting a full review of all social care policies, providing the opportunity to refresh and modernise our approach at the same time.

Making sure the most vulnerable are supported to be independent and thrive with a focus on their wellbeing is a fundamental thread running through our Wirral Plan. Our policy changes will support this focus and I am really pleased at the progress we are making to realise this.”

REPORT SUMMARY

This report has been prepared to inform Cabinet about recommended changes in, Adult Social Care policy documents. A full review of all social care policies has been undertaken in response to the new social and health care legislation, the Care Act 2014. This came into effect on 1 April 2015. The policies will affect all wards in the borough and will be available in the web library of the Council website

<http://democracy.wirral.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13643&path=0>

This report specifically highlights proposed policy changes in relation to key elements of the Care Act where the Council has discretionary powers (for example in relation to the charging for specific services). This is an important focal point for policy change, and an interim policy framework is set out, subject to consultation.

The policies have been developed in line with the Wirral Plan 2020 pledges. As well as providing a personalised framework for supporting the most vulnerable, these policies specifically offer people greater access to information, new rights and links with supporting older people to live well and to ensure that people with disabilities live independently.

RECOMMENDATION/S

- **That Cabinet approve the following Care Act compliant policies**

- | | |
|--|--|
| 1. Assessment Eligibility and Review | 10. Medication |
| 2. Carers | 11. Ordinary Residence |
| 3. Choice of Accommodation and Additional Payments (Top-ups) | 12. Overarching Values and Principals |
| 4. Complaints | 13. Personal Budgets and Direct Payments |
| 5. Deferred Payments | 14. Reablement |
| 6. End of Life Care | 15. Referral and First Contact |
| 7. Homelessness | 16. Safeguarding |
| 8. Hospital Discharges | 17. Safeguarding Adults Partnership Board (SAPB) |
| 9. Market Shaping and Market Failure | 18. Support Planning |
| | 19. Transitions |

- **That Cabinet approve the following policies, delegating authority to the Cabinet Member for Adult Social Care to make any amendments which may be required following consultation**

1. Assisted Transport
2. Charging and Financial Assessments
3. Financial Protection Policy (including protection of moveable property)

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

Policies are a key framework to support the delivery of operational services and to inform residents and stakeholders the Council's position in relation to discretionary legislative powers.

2.0 OTHER OPTIONS CONSIDERED

No other options are available. A full review of policies was required due to statutory changes.

3.0 BACKGROUND INFORMATION

3.1 The Care Act 2014 is the biggest change to adult social care law in over 60 years. It consolidates over 30 different pieces of legislation. The majority of Care Act changes came into force in April 2015, with the exception of the major reforms to the way people pay for adult social care which has been deferred until 2020.

3.2 Key areas of change for April 2015 include:

- General responsibilities for Local Authorities including; promoting people's wellbeing, focusing on prevention, and providing information and advice,
- The introduction of a consistent, national eligibility criteria
- New rights to support for carers, on an equivalent basis to the people they care for.
- Deferred payments for everyone facing the risk of having to sell their home.
- The extension of Local Authority adult social care responsibility to include prisons.
- New responsibilities around transition, commissioning the care market, provider failure, supporting people who move between Local Authority areas and safeguarding.

3.3 The majority of the Care Act is not new but reflects the consolidation of current legislation and guidance into one coherent law. Where the Act has not changed existing policy, we have taken the opportunity to reinforce best practice, consistency and collaboration across Wirral. Some parts of the Act introduce extensions or variations to current policy and practice and others demand new statutory duties and powers which Wirral must comply with.

3.4 Appendix 1 illustrates the Primary and Secondary legislation which has been revoked by the Care Act and highlights the respective areas of change. There are 22 high level Policies which have been written or reviewed to ensure Care Act compliance (Appendix 2). Each policy reflects the over-arching commitment to put the person at the centre of all decisions that are made. The focus on personal wellbeing, information, choice and control is at the heart of how care and support is provided by Wirral.

Overarching Values and Principles

3.5 This overarching policy reflects the Department's commitment to a person centred approach when working with individuals in a way which will also promote wellbeing, choice and independence. This policy clearly connects these values to the Wirral plan and the appropriate 20/20 pledges.

Customer Journey

3.6 This suite of policies includes assessment, support planning, review functions and the delivery of Reablement, Hospital and Intermediate Care services. The content of these policies reflect the new national eligibility criteria and Carers entitlement to an assessment in their own right if they meet the criteria within the Care Act.

Safeguarding

3.7 The two policies in this suite reflect the new duty of safeguarding enquiry under Section 42 of the Act and also the Statutory footing of the Adult Safeguarding Partnership Board. The Board policy has been signed off by the Chair of the currently established Safeguarding Adults Partnership Board.

Charging and Financial Assessment Policy

3.8 **Charging Policy - Carers** - For the first time Carers are entitled to a Carer's Assessment. In the light of the Care Act we wish to be compliant with the new legislation which puts carer's wellbeing on the same footing as the person needing care. It is proposed that in line with discretionary powers of the Act the Carer will currently not be financially assessed and will not be charged for services provided to them.

Choice of Accommodation and Additional Payments (Top Ups) Policy

3.9 Aspects of this policy relate to situations where an individual's home of choice may be more expensive than the Department would usually pay to meet their assessed need. The individual themselves or family members may wish to 'top up' the fee in order to facilitate the placement. This can also be an issue in relation to cross border placements when fee structures may vary in different Councils. Wirral Council has been leading on the development of a regional Choice of Accommodation and Additional Payments (top ups) policy which may reflect regional variations. Until this is finalised we propose to implement the attached interim policy. We are requesting that Cabinet delegate authority to the Director of Adult Social Services to approve any final regional amendments outside of the formal Cabinet process.

Key issues;

- Service Users will be allowed to choose their own accommodation and the Council must offer at least one care home that is affordable.
- All Top Ups will be subject to a tri-partite contractual agreement between Provider, Service User (or their representative) and the Council. Top up Payments will be administered by the Council.
- This is a new area of responsibility for the Council and in the instance of default by the third party this may potentially result in the Council becoming responsible for significant amounts of debt.

- If a third party agrees to pay for the top up, an assessment of their financial capacity will be undertaken to ensure they can pay for the length of time a service user may be in care.
- Service users who can no longer pay top up may be subject to being moved to a care home that is within Council rates, subject to an assessment of their ability to move as for some frail elderly individuals moving to alternative care may have significant impact upon their health and wellbeing.
- Third parties will pay fees direct to the Council and if they default on payments the Council will attempt to recoup any costs.
- The Local Authority will need to require care homes to declare what top up arrangements are in existence in order to facilitate a transition plan. It is thought that care homes may be reluctant to identify these agreements, for a variety of reasons. The plan is therefore to amend the existing care home contract to require care homes to disclose details of all top up agreements to the Local Authority.
- The Local Authority will not pay top up fees for those service users already in care where a tri-partite agreement referred to above has not been completed.

Deferred Payments

- 3.10 *Deferred Payments Agreements* (DPAs) are designed to prevent people from being forced to sell their home in their lifetime to meet the costs of their care. The Act places a duty on all local authorities to operate a deferred payment scheme and to offer deferred payments to people meeting the acceptance criteria for the scheme. This policy was agreed as an interim measure in July 2015 by Councillor Jones
- 3.11 Effectively the scheme offers a person a loan from Wirral Council using their home as security. It doesn't work in exactly the same way as a conventional loan but pays an agreed part of a person's weekly care and support bill for as long as is necessary.
- 3.12 By taking out a Deferred Payment Agreement (DPA) a person can 'defer' or delay paying the costs of their care home until a later date. Key issues;
- No client will be asked to sell their home in their lifetime to pay for care.
 - Interest will be charged on deferred payments in line with Government Interest rates (current rate 2.15%) updated every six months in January and July.
 - Administrative and Legal fees will be payable by service users so long as the fee is affordable and only reflects actual cost.
 - The deferral of payments leads to debts being secured against the property with the debt recovered from the estate when the property is sold.
- 3.13 **Interest Rate and Administration Charge**
The Council will have the ability to charge interest on any amount deferred including any administration charge deferred. The Council will charge interest at the maximum amount specified in the regulations. The interest rate will change every six months on 1st January and 1st July to reflect the changes in the national maximum interest rate. Administration charges will be updated annually but will never be more than the actual cost for that administration.

3.14 Wirral Council's proposed new charges are listed below and, with the exception of the interest charge, will be reviewed on 1 April each year.

Type of Charge	Value
National maximum interest rate (subject to revision 1 January and 1 July, each year)	2.15%*
Set up of deferred payment agreement	£250
Change or stop a deferred payment agreement	£100
Stopping and repaying a deferred payment agreement	£200
Repaying an already stopped deferred payment agreement	£100

All charges are in addition to any applicable valuation or Land Registry fees. All charges are subject to an annual review to take effect 1 April each year.

**to be revised from 1 July 2016.*

Charges of neighbours have been considered to ensure we are not outliers.

3.15 **Policies requiring consultation**

Many of the Charging and Financial Assessment policies have been updated and refreshed to reflect new Care Act guidance but will not have substantial impact upon customers, however some policies are proposing changes in discretionary powers which may have an impact upon individuals and as a result some policies need local consultation. These are detailed as follows;

3.16 **Charging Policy - support planning and arranging domiciliary care for self-funders**

Overview: The Care Act allows Councils to charge an administration fee to those people whose assets are above the Government's upper capital limit (currently £23,250). This fee must not be more than the amount the Council has incurred in arranging services.

The Council proposes to charge an administration fee of £60 in 2016/17 for arranging the care and support to cover its costs and there is a consultation taking place in relation to this. There is also consultation taking place with regard to the allowance the Council will make with regard to disability related expenditure. Results of the consultation are detailed at Appendix 3. In brief:

Consultation feedback – Charging. Results and comments received were mixed. Many approved but some were in disagreement with the policy to charge £60 because they didn't think they should pay or because they felt it was unfair that because they had saved they should pay.

Consultation action - A 'one off' fee of £60 will be charged in 2016/17 to those that have savings of over £23,250.

3.17 **Disability Related Expenditure (DRE)**

Overview – Service users were asked to comment on the need for more transparency and fairness in the way that all service users are treated.

Consultation feedback – Many agreed that DRE should be standardised but also suggested it would be difficult to do so.

Consultation action – We will create a standardised list of expenses so officers have a starting point when they make contact with service users, however the assessment of each service user will be based on their unique needs.

Assisted Transport Policy

3.18 Overview. This policy applies to all adults aged 18 years and above who access support provided directly or commissioned by Adult Services Social Care; there is a separate policy for:

- Children & Young People in education aged 5-16
- Children and Young people in education aged 16-19

3.19 Consultation feedback – Consultation identified a need for greater knowledge relating to the policy.

3.20 Consultation action - Additional Forums will be carried out with service users to ensure they have full knowledge of the new policy.

Financial Protection Policy (including protection of moveable property including pets)

3.21 Overview: If a person goes into hospital or residential care and they have no-one who is willing to help them Wirral Council will make arrangements to safeguard their property (including valuables and pets). Sometimes the storage / kennel / cattery costs incurred can escalate if the person is out of their home for a long period of time.

3.22 Consultation -
Wirral Council will recover third party costs incurred when protecting a service users' property - for example furniture storage fees, kennel / cattery costs. The Council will usually protect the service users property for a period of up to 12 weeks, thereafter the Council will seek to make alternative arrangements.

Consultation feedback – Over 61% of all those who responded agreed that third party costs should be recovered with only 20% objecting.

Consultation action – Third party costs will be recovered.

4.0 FINANCIAL IMPLICATIONS

There may be some impact upon Wirral residents in relation to the application of some of these policies. The deferral of payments will lead to the Council holding much higher levels of debt secured against personal properties. Debts are secured against the property but are recoverable when the property is sold. Administration and interest charges will be applied to cover the Councils reasonable costs.

5.0 LEGAL IMPLICATIONS

The policies have been developed with direct support from legal services, to support Departmental compliance with legislation and to reduce risks to the Council.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

There are no resource implications directly arising as a result of this report that have not been addressed elsewhere.

7.0 RELEVANT RISKS

The policies will support compliance with new legislation and if agreed will reduce reputational risk to the Council.

8.0 ENGAGEMENT/CONSULTATION

The report outlines the key policies which are being consulted upon.

9.0 EQUALITY IMPLICATIONS

Has the potential impact of your proposal(s) been reviewed with regard to equality?

Yes, each of the policies have had an Equality Impact Assessment.

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APPENDICES

Appendix 1 - Primary and Secondary legislation which has been revoked by the Care Act

Appendix 2 - Full List of Revised Policies

Appendix 3 - Consultation Exercise Results

REFERENCE MATERIAL

N/A

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
N/A	

APPENDIX 1 - Primary legislation revoked by the Care Act 2014

Legislation	Old section	New Care Act section	Care Act guidance chapter
Carers and Disabled Children Act 2000	1: Right of carer's to assessment	10: Assessment of a carer's needs for support	6 : Assessment and eligibility
	2: Services for carer's	20: Duty and power to meet a carer's needs for support	NA
	6: Assessments: persons with parental responsibility for disabled children.	61: Child's carer's assessment: requirements etc.	16: Transition to adult care and support
Carers (Equal Opportunities) Act 2004	1: Duty to inform carer's of their right to an assessment	10: Assessment of a carer's needs for support	6: Assessment and eligibility
	2: Assessment of carer's	10: Assessment of a carer's needs for support	6: Assessment and eligibility
Carers (Recognition and Services) Act 1995	1: Assessment of ability of carer's to provide care	10: Assessment of a carer's needs for support	6: Assessment and eligibility
Chronically Sick and Disabled Persons Act 1970	1: Information as to need for and existence of welfare services	4: Providing information and advice	3: Information and advice
	2: Provision of welfare services	18: Duty to meet needs for care and support	NA
Community Care (Delayed Discharges etc.) Act 2003	All	74: Discharge of hospital patients with care and support needs See also Schedule 3	15: Integration, co-operation and partnerships Annex G: The process of managing transfers of care from hospital
Disabled Persons (Services, Consultation and Representation) Act 1986	3: Assessment by local authorities of needs of disabled persons.	9: Assessment of an adults need for care and support	6: Assessment and eligibility
	8: Duty of local authority to take into account abilities of carer.	10: Assessment of a carer's needs for support	6 : Assessment and eligibility

Legislation	Old section	New Care Act section	Care Act guidance chapter
Health Services and Public Health Act 1968	Revoked		
Health and Social Care Act 2001	49: Exclusion of nursing care from community care services	22 (1, 8): Exception for provision of health services	15: Integration, co-operation and partnerships
Health and Social Services and Social Security Adjudications Act 1983	Revoked		
Local Authority Social Services Act 1970	Revoked		
National Assistance Act 1948	21: Duty of local authorities to provide accommodation.	8 (1): How to meet needs	Annex A: Choice of Accommodation and Additional Payments
	22: Charges to be made for accommodation.	14: Power of a local authority to charge	8: Charging and financial assessment
	29: Welfare arrangements for blind, deaf, dumb and crippled persons, etc.	13: The eligibility criteria	6: Assessment and eligibility
	47: Removal to suitable premises of persons in need of care and attention.	46: (abolished)	NA
	48 : Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.	47: Protecting property of adults being cared for away from home	14: Safeguarding
National Health Service Act 2006	82: Co-operation between NHS bodies and local authorities	6: Co-operating generally	15: Integration, co-operation and partnerships
National Health Service and Community Care Act 1990	44: Charges for accommodation provided by local authorities	14: Power of a local authority to charge	8: Charging and financial assessment
	45: Recovery of charges due to local authorities for accommodation	14: Power of a local authority to charge	8: Charging and financial assessment
	47: Assessment of needs for community care services	9: Assessment of an adult's needs for care and support	6: Assessment and eligibility

Secondary legislation revoked by the Care Act 2014

Legislation being Revoked	Old section	New Care Act section	Care Act guidance chapter
Approvals and Directions under S.21(1) NAA 1948 (LAC (93) 10)	NA	39: Where a person's ordinary residence is	19: Ordinary residence Annex J: Ordinary residence
Community Care Assessment Directions 2004	2.2: The local authority must consult the person, consider whether the person has any carer's and, where they think it appropriate, consult those	9: Assessment of an adult's needs for care and support	6: Assessment and eligibility
	2.3: The local authority must take all reasonable steps to reach agreement with the person and, where they think it appropriate, any carer's of that person, on the community care services which they are considering providing to him to meet his needs.	24: The steps for the local authority to take	10: Care and support planning
	2.4: The local authority must provide information to the person and, where they think it appropriate, any carer's of that person, about the amount of the payment (if any) which the person will be liable to make in respect of the community care services which they are considering providing to him.	17 (6): Assessment of financial resources	8: Charging and financial assessment
Community Care (Delayed Discharges etc. Act (Qualifying Services) Regulations 2003	NA	74: Discharge of hospital patients with care and support needs See also Schedule 3	15: Integration, co-operation and partnerships Annex G: The process of managing transfers of care from hospital
Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009	NA	31: Adults with capacity to request direct payments 32: Adults without capacity to request direct payments 34: Direct payments: further provision	12: Direct payments

Legislation being Revoked	Old section	New Care Act section	Care Act guidance chapter
Delayed Discharges (England) Regulations 2003	NA	74: Discharge of hospital patients with care and support needs See also Schedule 3	15: Integration, co-operation and partnerships Annex G: The process of managing transfers of care from hospital
Delayed Discharges (Mental Health Care) (England) Order 2003	NA	74: Discharge of hospital patients with care and support needs See also Schedule 3	15: Integration, co-operation and partnerships Annex G: The process of managing transfers of care from hospital
National Assistance (Residential Accommodation) (Relevant Contributions) Regulations 2001	NA	34: Deferred payment agreement and loans 35: Deferred payment agreement and loans: further provision	9: Deferred payment agreements
National Assistance (Sums for Personal Requirements) Regulations 2003	NA	17: Assessment of financial resources	8: Charging and financial assessment Annex B: Treatment of capital
NHS Continuing Healthcare (Responsibilities) Directions 2009	NA	22: Exception for provision of health services	6: Assessment and Eligibility 15: Integration, co-operation and partnerships
Ordinary Residence Disputes (National Assistance Act 1948) Directions 2010	NA	40: Disputes about ordinary residence or continuity of care	19: Ordinary residence

Statutory guidance revoked by the Care Act 2014

Legislation being Revoked	New Care Act Clauses	Care Act Guidance Chapter
Carers and people with parental responsibility for disabled children 2001	10: Assessment of a carer's needs for support 20: Duty and power to meet a carer's needs for support 60: Assessment of a child's carer's needs for support 61: Child's carer's assessment: requirements etc. 62: Power to meet a child's carer's needs for support 63: Assessment of a young carer's needs for support 64: Young carer's assessment: requirements etc.	6: Assessment and eligibility 10: Care and support planning 16: Transition to adult care and support
Caring for people: community care in the next decade and beyond 1990	Revoked	
Charging for residential accommodation guidance CRAG 2014	14: Power of local authority to charge 17: Assessment of financial resources 34: Deferred payment agreements and loans 35: Deferred payment agreements and loans: further provisions 36: Alternative financial arrangements	8 : Charging and financial assessment 9: Deferred payment agreements Annex A: Choice of accommodation and additional payments Annex B: Treatment of capital Annex C: Treatment of income Annex D: Recovery of debts Annex E: Deprivation of assets Annex F: Temporary residents in care homes
Fair Access to care Services (FACS): Guidance on eligibility criteria for adult social care 2002	13: The eligibility criteria	6: Assessment and eligibility
Fairer Charging Policies for Home Care and other non-residential services 2013 and LAC 2001(32)	14: Power of local authority to charge 17: Assessment of financial resources	8 : Charging and financial assessment Annex A: Choice of accommodation and additional payments Annex B: Treatment of capital Annex C: Treatment of income Annex D: Recovery of debts Annex E: Deprivation of assets Annex F: Temporary residents in care homes

Legislation being Revoked	New Care Act Clauses	Care Act Guidance Chapter
Guidance on the National Assistance Act 1948 (Choice of Accommodation) Directions 1992 and National Assistance (Residential Accommodation) (Additional Payments) Regulations 2001 (LAC(2004)20)	30: Cases where adult expresses preference for particular accommodation	Annex A: Choice of accommodation and additional payments
Identifying the ordinary residence of people in need of community care services 2013	39: Where a person's ordinary residence is 40: Disputes about ordinary residence or continuity of care 41: financial adjustments between local authorities	19: Ordinary Residence Annex J: Ordinary residence
No secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse 2000	43: Safeguarding Adults Boards 44: Safeguarding adults reviews 45: Supply of information Schedule 2: Safeguarding Adults Boards	14: Safeguarding
The Community Care (Delayed Discharges etc.) Act 2003 guidance for implementation (LAC (2003) 21)	74: Discharge of hospital patients with care and support needs See also Schedule 3	15: Integration, co-operation and partnerships Annex G: The process of managing transfers of care from hospital
The Personal Care at Home Act 2010 and Charging for Reablement (LAC (2010)6)	2 Preventing needs for care and support	2: Preventing, reducing or delaying needs
Prioritising Need in the context of putting people first: a whole system approach to eligibility for social care 2010	13: The eligibility criteria	6: Assessment and eligibility
Transforming Adult Social Care (LAC (2009)1)	Revoked	

Notes – Other legislation links

1. Mental Health Act 1983

Section 117 Aftercare.

Care Act Section 75 - This makes provision for ordinary residence and also enables those on 117 aftercare to have a choice of accommodation and top up the fees if their chosen accommodation is not available.

Care Act Schedule 4 - Makes provision for direct payments for people subject to Section 117.

2. Mental Capacity Act 2005

This act applies in entirety. Care Act mentions the MCA 2005 and uses the principles throughout.

3. Human Rights Act 1998

Care Act Section 73 – Provides protection for individuals under the Human Rights Act 1998 IF they are funded by the Local Authority. This applies to care at home and in residential settings. This does not apply to self-funders.

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APPENDIX 2 - Revised Policies

1. Assessment Eligibility and Review
2. Assisted Transport
3. Carers
4. Charging and Financial Assessments
5. Choice of Accommodation and Additional Payments (Top Ups)
6. Complaints
7. Deferred Payments
8. End of Life Care
9. Financial Protection Policy (including protection of moveable property including pets)
10. Homelessness
11. Hospital Discharges
12. Market Shaping and Market Failure
13. Medication
14. Ordinary Residence
15. Overarching Values and Principals
16. Personal Budgets and Direct Payments
17. Reablement
18. Referral and First Contact
19. Safeguarding
20. Safeguarding Adults Partnership Board (SAPB)
21. Support Planning
22. Transitions

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APPENDIX 3

Consultation Exercise Results

Number of Consultation Documents Delivered	1,580
Number of Responses	329
Percentage Response	21%

Question 1 – Support Planning and arranging care for Self Funders

Proposal: The council proposes to charge an administration fee of £60 in 2016/17 for arranging for care and support to cover its costs.

Question 2 – Disability Related Expenditure (DRE)

Proposal: The Council proposes to review its approach towards disability related expenditure and standardise charges to ensure fairness in the way people are assessed and charged.

Question 3 – Financial Protection Policy

Proposal: The Council will recover third party costs incurred when protecting a service users' property - for example furniture storage fees, kennel / cattery costs.

Question 4 – Transport Policy

Proposal: The Council will review the transport policy ensuring those that receive transport services only receive if they fulfil certain eligibility criteria.

Results

	Agree		Disagree		Don't Know		Total
	Number	%	Number	%	Number	%	Number
Q1	130	40%	144	45%	47	15%	321
Q2	132	41%	96	30%	93	29%	321
Q3	196	61%	59	18%	66	21%	321
Q4	112	36%	139	45%	58	19%	309

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**COUNCILLOR CHRIS JONES
CABINET MEMBER FOR ADULT
SOCIAL CARE**

CABINET

6 JUNE 2016

BETTER CARE FUND 2016/17

Councillor Chris Jones, Cabinet Member - Adult Social Care, said:

“Joining up services provided by the NHS and social care – making sure people who need support get the most seamless and efficient possible service – is a major priority for this Council. What matters is that people who need help get it; the organisation that provides it doesn’t matter to people, so shouldn’t matter to us.

We are working hard, and making great progress, towards integrating our care services and creating a system where social care and the NHS work as one, pooling our resources to improve the care we can provide. This report is a demonstration of that priority in action”

REPORT SUMMARY

The purpose of this report is to provide an update with regard to the Better Care Fund achievements in 15/16 and the priorities for submission in 16/17, put together on behalf of Wirral Council and Wirral Clinical Commissioning Group, in collaboration with key partners.

Links to the Wirral Plan Pledges

- Older People live well
- People with Disabilities live independently

Wirral has over achieved the 3.5% non-elective admission reduction target for 15/16 within budget.

Key schemes are evidencing real impact and progress in establishing a sustainable 7 day community offer.

Financially, the health and care economy in Wirral is in a challenging position. Despite seeing the number of people admitted reduce, those needed to be admitted have cost more, due to their high level of needs.

The priority for 16/17 is to ensure a sustainable Health & Social Care economy which supports the national direction of travel, in particular a community offer which enables 7 day admission avoidance and discharge.

It is the commissioning intention for 16/17 to agree cost envelopes with the main NHS providers, which will support the financial sustainability for acute and community care and minimise any negative impact or risk to providers, moving towards a more accountable single care system. The BCF will continue to invest in schemes to deliver the wider system change and prioritise support and mitigation of risks.

The BCF will continue to prioritise cost effective 7 day community services that are responsive, delivering the right care in the right place at the right time. Services will continue to be transformed, redesigned to ensure better outcomes for people, best value and effective use of resources across all providers.

RECOMMENDATION/S

Cabinet are asked to note the BCF achievements in 15/16 (please see attached appendix 1).

Cabinet are asked to note the 16/17 BCF plan and to recognise the role of the Health and Wellbeing Board in signing off the final submission (please refer to appendix 1 overview and appendix 2 scheme details).

Cabinet are asked to note the quarterly targets agreed and the governance arrangements for monitoring progress (see appendix 1).

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 NHS Wirral Clinical Commissioning Group (CCG) and Wirral Council were required to submit a 16/17 'Better Care Fund' plan to NHS England on 10 May 2016.
- 1.2 A pooled fund S75 legal agreement is required to be signed and in place by 30th June 2016, covering the agreement relating to the £28.9m pooled fund. As part of the agreement a further detailed risk share will be included.
- 1.3 The Better Care Fund (BCF) is explicitly intended to facilitate the integration of Health and Social Care systems at a local level, drive the development of 7 day health and social care services and support the wider transformation plan to deliver an effective sustainable health and social care economy.
- 1.4 The Health and Wellbeing Board has a critical role in influencing and monitoring progress in relation to integration, it has a key role in signing of submissions.
- 1.5 The Health and Wellbeing Board approved and signed off the proposed submission on 9 May 2016.
- 1.6 The CCG Governing Body will also be required to give approval in May.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The 16/17 BCF plan links to the CCG operational plan and supports Healthy Wirral priorities.
- 2.2 A Risk Share agreement will be finalised by 30 June 2016.

3.0 BACKGROUND INFORMATION

- 3.1 The existing national requirements remain:
 - Agreement across the economy and joint Sign off at Health and Wellbeing Board
 - Protection of Social care
 - 7 day services for admission avoidance and discharge
 - Information and Data sharing – including use of NHS no
 - Joint assessment and care planning and lead professional
 - Impact upon providers, notably the acute trust.
 - Risk share agreement
- 3.2 Additional 2 new national requirements:
 - Ring fenced element for out of hospital commissioned services (£7.082m)
 - Agreed delayed discharge action plan

- 3.3 We are required to agree quarterly monitoring of key targets:
- Non elective admissions reduction target 3.5%
 - Admissions to residential and nursing care 9% reduction (56 a year)
 - Effectiveness of re-ablement 90% of people are still at home 91 days post re-ablement
 - Delayed transfers of care;
 - 5% reduction in total number of delays.
 - 90% occupancy target at acute trust (656 beds)
 - Local - Domiciliary care response time - 95% same day response
 - Local - Service user experience - 95% of people state that all of the people treating and caring for us worked well together.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The 16/17 minimum pooled budget requirement for Wirral is £24,943m, plus £3,325m Disabled facilities grant (DFG).
- 4.2 Of the core £24.943m, £8,394 is ring fenced for out of hospital commissioned services and £7,082 is ring fenced for the protection of social care.
- 4.3 Wirral Health and Wellbeing board has approved a core budget of £28,967,864, which is a positive move to jointly committing to a pooled fund over and above the minimum requirement (see appendix 2).
- 4.4 A detailed risk share will be agreed with Directors of finance as part of the final pooled S75 agreement required for 30 June 2016.

5.0 LEGAL IMPLICATIONS

- 5.1 The Section 75 is a formal legal agreement and will have an accompanying and jointly agreed risk share agreement.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 6.1 N/A.

7.0 RELEVANT RISKS

- 7.1 N/A.

8.0 ENGAGEMENT/CONSULTATION

- 8.1. A stakeholder workshop was held in December 2015 to review progress in 15/16 and consider priorities for 16/17, in line with national requirements.
- 8.2 Steering group meetings have been held with key partners.
- 8.3 Monthly BCF board has been in place to oversee pooled budget spend and risk.

8.4. Health and Wellbeing Board members have been updated on a quarterly basis through the year.

9.0 EQUALITY IMPLICATIONS

Has the potential impact of your proposal(s) been reviewed with regard to equality?

(b) No because there is no relevance to equality.

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APPENDICES

Appendix 1 BCF Headlines 2016/17
Appendix 2 BCF Scheme Summary

REFERENCE MATERIAL

N/A

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	13 March 2016
Health & Wellbeing Board	11 November 2015
Health & Wellbeing Board	8 July 2015
Health & Wellbeing Board	5 April 2015
Health & Wellbeing Board	12 November 2014
Health & Wellbeing Board	17 September 2014
Health & Wellbeing Board	25 March 2014
Health & Wellbeing Board	13 February 2014

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Wirral BCF Headlines 2015/16

Health & Well-Being Board May 2016

The BCF has supported the start of the transformation change in Wirral. Whilst there has been significant progress and achievement across the economy, financially Wirral is in a challenging position. Despite achieving a 3.5% reduction in non elective admissions, the economy has not seen a reduction in spend for those that were admitted.

Therefore, whilst we have seen the number of people admitted reduce, those that need to be admitted are costing more.

This has inevitably placed a real challenge on the system to ensure sustainability moving forwards and has required us to have challenging conversations with providers as to where we might be able to:

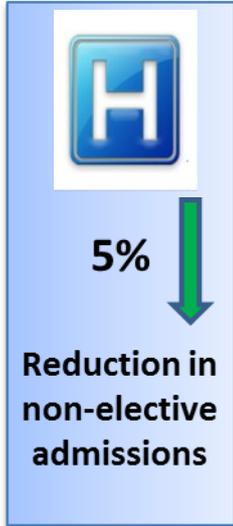
- deliver more efficiently
- reduce or decommission schemes
- redesign and transform services

It is the commissioning intention for 16/17 to agree cost envelopes with the main NHS providers—this will support financial sustainability for Acute and Community care.

Wirral partners have established a menu of services which individually or collaboratively offer an alternative to out of hospital care and support people to stay at home



All Wirral Partners contribute to Urgent Care Group



1366 admissions avoided by Rapid Community response

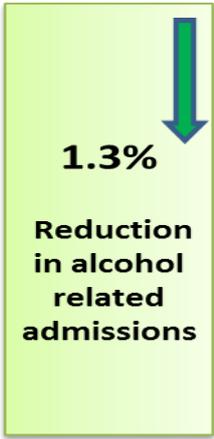
273 admissions avoided by the OPAT (IV antibiotics) service

Estimated 102 admissions prevented by Street Triage Service

December 2015 to March 2016
420 patients redirected to alternative services by Single Front Door e.g. GP Surgery, Think Pharmacy

205 fewer admissions for patients aged 65 plus

464 admissions avoided by the Community Older People Service



Going Forward in 16/17

BCF 16/17 priorities will support the sustainability of Health & Social Care in Wirral and the wider transformation plan.

Key Priorities:

- Better Health, Better Care, Better Value
- Support wider 5 year plan (Accountable Care System across Wirral)
- Support wider modelling of activity, quality and outcomes

16/17 Minimum Pooled Funding Requirements:

- Minimum pooled budget £24.943m and Disabled Facilities Grant (DFG) £3.325m
- £8.394m is ring fenced for protection of social care
- £7.082m is ring fenced for out of hospital commissioned services
- **Wirral has committed to funding £28.967m for BCF schemes in 2016/17**

The 16/17 BCF plan is to build on successes in 15/16

The focus is to make the most efficient use of existing financial resource by rationalising and redesigning the current model and pathways.

This will create additional capacity whilst reducing dependency and improving patient outcomes and experience. Key services include:

- Rapid Community Service
- Intermediate care
- Intravenous antibiotics at home

Ensuring immediate access to a wraparound community offer will require ongoing development of the following services:

- Reablement at home
- Domiciliary care
- Mobile night service
- Street Triage
- Carers Support



Key developmental areas in 16/17 include:

- Redesign discharge pathways in line with key principles
- Improve End of Life care response and support choice to enable people to die in their preferred place
- Intermediate Care (IMC) review and redesign
- Care Home support
- Integrated Therapy service
- Workforce culture shift
- Expand Rapid Response Service as a real alternative to acute care
- Proactively support people with long term conditions

National Requirements

The existing national requirements remain:

- Agreement across the economy and joint sign-off at Health and Wellbeing Board
- Protection of Social care
- 7 day services for admission avoidance and discharge
- I.T and information sharing including the use of the NHS number
- Joint assessment, care planning and lead professional
- Impact upon providers
- Risk share agreement

Plus 2 new requirements:

- Ring fenced element for out of hospital commissioned services (£7.082m)
- Agreed Delayed Discharge Action Plan



A Collaborative approach to delivering Health and Social care

Delayed Discharge Action Plan

Key Principles

- Single assessment at the earliest opportunity (including therapy assessments)
- Reduce 'deconditioning' - i.e. prevent the general health of people from deteriorating by staying in a hospital bed for too long when ongoing acute care is not required
- 'Home first' - aim for people to be discharged (and receive ongoing support if required) in their usual home whenever appropriate
- Reduce Length Of Stay (no more than a '2 midnight' stay for 60% of frail older patients that don't require ongoing acute care)
- Focus on 'stranded' patients—those patients that have been in hospital for more than 7 days and don't require ongoing acute care

Key Priorities

- Transformational redesign of the discharge process and pathways (principles above)
- Accelerate Continuing Healthcare (CHC) assessments
- Open 3 CHC assessment beds with dedicated nurse and social worker to undertake assessment
- Develop single framework for referral and assessment
- Implement recommendations from the Intermediate Care & Reablement review



The Wirral Challenge

- Elderly population
- Long term conditions
- Frailty



Programme Governance Structure:



Summary of schemes within the BCF programme.

BCF Scheme	Description	16/17 Spend
*Out of Hospital Service Schemes which prevent admission or facilitate timely discharge	<ul style="list-style-type: none"> • Equipment, assistive technology, falls prevention • Support to care homes • Intermediate Care • Homeless Service • IV antibiotics at home • Street triage • Rapid Community Response service • Community care of older people service • Green car 	£10,591,249
*Protection of Social Care	<ul style="list-style-type: none"> • Supporting 7 day services • Mobile night service • Domiciliary care • 72 hour service • Brokerage of care packages 	£8,314,714
*Reablement	<ul style="list-style-type: none"> • Supporting reablement in the community 	£2,444,419
*Care Act	<ul style="list-style-type: none"> • Care act mobilisation 	£497,180
*Carers	<ul style="list-style-type: none"> • Carers services 	£1,088,000
Other	<ul style="list-style-type: none"> • Third sector • Core mental health services • Mental health community support • Dementia support services • Communication campaign 	£2,707,302
Total Schemes		£25,642,864
*Disabled Facilities Grant (DFG)	<ul style="list-style-type: none"> • DFG and social capital 	£3,325,000
Grand Total		£28,967,864

*national requirements

Quarterly Monitoring of Schemes—16/17

- Maintain non-elective admissions reduction target of 3.5%
- 9% reduction in admissions to residential and nursing care (56 a year)
- Effectiveness of reablement—90% of people are still at home 91 days post reablement
- Delayed transfers of care;
 - 5% reduction in total number of delays
 - 90% occupancy target at acute trust (656 beds)
- **Local** - Domiciliary care response time—95% same day
- **Local** - Service user experience—95% of people state that all of the people treating and caring for us worked well together.

APPENDIX 2

BCF Scheme	Description	16/17 Budget (£)
Out of Hospital Services	Equipment / Assistive Technology / Falls Prevention /	3,900,000
	Support to Care Homes	40,000
	Intermediate Care	3,288,960
	Homeless Service	93,279
	IV Antibiotics @ Home	360,000
	Street triage	152,000
	Rapid Community Service	780,543
	Community Care of the Elderly	623,039
	Green Car - SRG	146,000
	Therapies for IMC Beds	1,207,428
		10,591,249
Protection of Social Care	Supporting Intermediate Care beds	804,348
	Mobile Nights Service	536,600
	Front line staff , Short Stay Support , Domiciliary Care , Supporting 7 day services , Brokerage.	6,873,766
	72 hour care	100,000
		8,314,714
Reablement	Supporting reablement in the community	2,444,419
Care Act	Care Act mobilisation	497,180
Carers	Carers Service	1,088,000
Other	Third Sector	1,638,833
	Core Mental Health Service	724,587
	Dementia Support	273,290
	Joint Post co-ordination of BCF	58,592
	Poster Campaign - SRG	12,000
		2,707,302
DFG	DFG & Social Capital	3,325,000
BCF Total		28,967,864

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COUNCILLOR CHRIS JONES
CABINET MEMBER FOR ADULT
SOCIAL CARE

CABINET

6 JUNE 2016

SOCIAL CARE FEE SETTING PROPOSALS
2016/2017

Councillor Chris Jones, Cabinet Member - Adult Social Care, said:

“Our older and most vulnerable residents deserve high-quality, sustainable and safe care. That is why, even during a time of national austerity and financial difficulties for this Council, we believe it is right that we invest an additional £3 million to safeguard and help improve the quality of care available in Wirral.

This investment, coupled with our ongoing work to better join up our services with the NHS, means we can drive forward our work towards making sure that older people live well, and people with disabilities can live independently, both of which are key pledges within our Wirral Plan.”

REPORT SUMMARY

- To report the outcome of consultation with care providers with regard to 2016-17 fee rates for services provided for Adults in Wirral Council.
- To summarise local requirements to deliver a sustainable care market within the Care Act requirements, with a quality of care that reflects our local expectations
- Officers of the council have worked collaboratively with an independent agency to benchmark, consult and engage with the sector, and have provided independent oversight and objective review of processes.
- Proposals have been made in the context of significant financial pressures in relation to care costs for both providers and the Council.

- The consultation has covered services provided on behalf of Wirral ASC and Wirral CCG as part of its joint commissioning arrangements with service provision Wirral Wide in all wards.
- The report covers all sectors: Residential and Nursing (including Intermediate Care and specialist services), Domiciliary Care and Supported Living.
- Funding required to meet recommended increases is in excess of what the Council has budgeted for in 2016/17 and will require the transfer of £1.5 million from the revenue budget contingency plus an additional £1.5 million of balances to be used for 2016/17 to fill the gap with the commitment to build this into the 2017/18 Budget. To put this into context the 2% Adult Social Care precept raised £2.3 million and is already being used for Adult Social Care
- The following pledges are linked to and supported by the recommended increases.
 - ◆ Older People Live Well
 - ◆ People with disabilities live Independently
 - ◆ Young People are ready for work and adulthood
 - ◆ Wirral is a place where employers want to invest and businesses thrive
 - ◆ Greater job opportunities in Wirral Council
 - ◆ Thriving small businesses
 - ◆ Workforce skills meet business needs
- The report includes a set of numbered appendices providing the detail for each sector

RECOMMENDATION/S

- Cabinet approve the rate and fees recommended by officers within the report.
- Cabinet recommend to Council that the increased cost of £3 million be met by £1.5 million from revenue budget contingency and £1.5 million from balances during 2016/17.
- Cabinet approve to back date payments to providers to 1 April 2016.
- Approve the forward work plan with the independent agency to develop a new costed care model for specialist residential and nursing
- Approve the forward work plan to develop an outcome based model via the LCR model of care for the Supported Living Sector

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The council is required to maintain and support a local market to deliver care and support. The work undertaken by Officers with independent support has taken into account legal requirements and core standards of care and has provided a clear evidence base for the proposed fee increase.
- 1.2 The council has a duty to commission a range of provision of high quality, appropriate services, offering people choices. Looking after the care market as a whole and ensuring continuity of care. These proposals support the development of a decent quality care market for those that need it in Wirral, enabling providers to employ a workforce appropriately trained and remunerated to meet local need.
- 1.3 During the consultation period a set of previously agreed interim rates for each sector was shared with providers, effective from 1st April 2016, up until cabinet decision in June 2016.
- 1.4 The interim rates were set up as a means of assisting providers' cash flows over the Period April-June 2016, as the department recognised that additional cost pressures were imposed on providers from this date. The department felt it was fair to put an interim rate in position, rather than require providers to bear these additional costs without subsidy, until such a time as a cabinet decision was made on the new rates (June 2016).
- 1.5 A list of the interim rates for each service area is included in Appendix 1, included at the end of this report.
- 1.6 The market has responded positively to requests from officers of the council to provide information and data relating to direct costs and have shared these openly to inform the process. Information provided has been supported with evidence publicly available via the National Minimum data set returns from Skills for care.
- 1.7 Benchmarking exercises have been undertaken across Wirral, the Liverpool City Region, the Northwest finance group and also the Social Services Comparator Authorities nationally. Consideration has been given to the benchmarking data gathered to inform the proposed fee rates, a copy of which is attached in Appendix 2, included at the end of this report.
- 1.8 Provider views have been thoroughly considered in relation to their full range of costs and new legislative and national requirements. The 16/17 fee rates and the interim rates agreed from April 2016 have taken account of their views.
- 1.9 A full list of provider feedback, and an explanation of the consideration the department has given to each of these, is attached in Appendix 3, included at the end of this report.

- 1.10 In the previous 3 years the Council has raised fees for the residential and nursing sector based on the Wirral cost of care model that was developed and agreed with providers. Supported Living rates are proposed to increase for the first time since June 2011, both in relation to the hourly rate and also overnight rates to meet new living wage challenges.

2.0 OTHER OPTIONS CONSIDERED

2.1 Options & risks table;

Option	Risks (All High)
Pay the same rates as 2015-2016	<ul style="list-style-type: none"> • The council is currently not paying rates at a level sufficient to meet the new legislative changes as described • There is a risk to the council of Provider legal challenge • There is a risk to the council of Judicial Review, as experienced in two neighbouring authorities • There is a risk of market destabilisation and the council not being able to meet statutory duty under the Care Act 2014 • Potential for a “whole system” impact for services across the whole health and care economy
Decrease Fees for 2016-2017	<ul style="list-style-type: none"> • Providers would serve notice on existing clients and the council would be at risk of not meeting statutory duty • The local market collapses, and the council fails to provide, thereby not being able to meet its statutory duty under the Care Act 2014 • Potential for a “whole system” impact for services across the whole health and care economy
Ask providers to absorb costs of legislative increases	<ul style="list-style-type: none"> • Providers are unable to absorb the increased costs • Providers meet increased costs through reduction in profit affecting financial viability • Providers would be unable to provide cost effective or quality business to Wirral, and this would impact on ability to meet Regulatory Requirements • Changes to legislation outweigh the actual costs • Potential for marker collapse • Judicial Review • Potential for a “whole system” impact for services across the whole health and care economy • The Government have implemented changes to pay and national insurance which mitigate some of the costs for providers

BACKGROUND INFORMATION

- 2.2 Legislative changes have had a significant impact on the care sector regionally and nationally, and these have been taken in to account as part of

the Provider engagement process, both individually and in group settings. These legislative changes have resulted in some legal challenges from their own staff teams, including mass grievances and employment tribunals. The outcomes of these have prompted some providers to contact the department to inform that existing fees are no longer sustainable. Changes include:

- Impact of the introduction and increase of the National Living wage
 - The requirement for providers to pay travel time
 - Impact of employer pension contributions
 - Introduction of apprenticeship tax for some larger providers
 - Increase in fees for CQC and registration arrangements
- 2.3 The market is receptive to delivering new models of care, and co-producing this with the council and CCG representatives.
- 2.4 The council, From April 2016 has a new duty under the Care Act 2014 to shape and support the local market. Market shaping means local authorities working to ensure that the social care services in their area are diverse and of a high enough quality to meet the needs of the carers and people with care needs living in their locality. Under the Care Act, local authorities must ensure that any person looking to use local care services has a range of quality providers to choose from and sufficient information to help them choose between them.
- 2.5 The rates and fees paid by the council need to reflect both the requirements for providers to be able to meet quality and safety standards, and enable the council to maintain a stable market which can offer quality provision, whilst ensuring best value and consideration to local factors.
- 2.6 The council, as reflected in its pledges for Vision 2020 is committed to improving the outcomes for older people and people with disabilities in Wirral, and minimising future demand within a sustainable budget.
- 2.7 Several queries have been received from providers advising that the current reimbursement for nursing care does not sufficiently cover the cost of care, due to workforce shortage and agency staffing costs. The Funded Nursing Care (FNC) rate is set nationally and at the time of writing is not yet available, but imminently due for publication. The Clinical Commissioning Group (CCG) has advised that they will await the publication of the national rate and will at that point enter into discussions with providers if it is not considered that the rate negotiated at a national level is sufficient to meet the cost of nursing care locally. As such, and given that the Council is statutorily not able to pay for the delivery of health care, the Council has not taken into account the cost of nursing care as part of this fee-setting process.

3.0 FINANCIAL IMPLICATIONS

3.1 The fees and rates recommended for 2016- 2017 are as follows:

Service Area	15/16 Fee Rate	16/17 Fee Rate
Residential Care	£412/wk	£416/wk
Residential (EMI) Care	£449/wk	£458/wk
Nursing Care (excl. FNC)	£453/wk	£457/wk
Nursing (EMI) Care (excl. FNC)	£469/wk	£479/wk
Domiciliary Care	£12.28/hr	£12.92/hr
Supported Living	£12.28/hr	£13.02/hr
Supported Living Sleeping Nights	£39.41 (avg.)	£72.51/night
Intermediate Care	£643/wk	£647/wk
Specialist Residential/Nursing Care	Ad hoc	No Change

3.2 The financial impact on the council in 2016-2017 is;

Service Area	Full Year Increase
Residential Care	£120,000
Residential (EMI) Care	£110,000
Nursing Care (excl. FNC)	£60,000
Nursing (EMI) Care (excl. FNC)	£110,000
Domiciliary Care	£530,000
Supported Living	£1,020,000
Supported Living Sleeping Nights	£1,380,000
Intermediate Care*	£20,000
Specialist Residential/Nursing Care	-
	£3,350,000

*Intermediate Care is a Better Care Fund (BCF) project, and therefore joint-funded with the CCG. This increase therefore represents the cost pressure across both parties.

3.3 The largest contributing factor to the increased fee rates in 16/17 is the introduction of the National Living Wage (NLW) at £7.20/hr. The Chancellor of the Exchequer has made a commitment to increasing the NLW to at least £9.00/hr by 2020, and latest studies indicate that the actual NLW by 2020 could be as high as £9.35/hr. Consequently, the cost pressures faced by the department in 16/17 will be compounded in future years by any further increases to the NLW. The NLW is the equivalent of a new national minimum wage that must be complied with. It is not the same as the voluntary living wage. Accredited Living Wage employers will pay their staff at least the new voluntary Living Wage rate of £8.25 per hour.

3.4 In addition recent legal challenges within European Legislation have meant that all hours worked for overnight services, including sleeping and waking cover now have to be paid at a minimum of an hourly rate, and soon to be national living wage of £7.20.

3.5 In order to mitigate the increased costs, the department has been working proactively with providers of Supported Living sleeping night services, to find more cost-effective ways of meeting the night-time needs of service users. It is estimated that, by 1 July 2016, approximately 20% of all commissioned sleeping nights could be replaced with a more cost-effective mobile night service. The net value of this mitigating action is estimated to be £350,000, resulting in a net cost pressure of £3,000,000. This is displayed in the table, below:

3.6 Full year cost pressure for 16/17, this includes backdating of fees to 1st April 2016.

Service Area	Value
Cost Pressures from 16/17 Fee Increases*	£3,350,000
Mitigation - Replacement of Sleeping Nights	(£350,000)
Net Cost Pressure 2016/17	£3,000,000

*Intermediate Care is a Better Care Fund (BCF) project, and therefore joint-funded with the CCG. £20k of this £3.35m, therefore, represents the cost pressure across both parties.

3.7 In respect of residential services a greater % increase has been applied to EMI residential and nursing rates to incentivise the market to meet demand in this area.

3.8 The 2% Adult Social Care precept generated £2.3 million which has previously been allocated to Social Care Budgets to meet identified demand and cost pressures. Whilst an additional sum had been set-aside for 2016/17 within the Revenue Budget Contingency, the funding of the cost pressure in 2016/17 will require a contribution of £1.5 million from the Contingency plus a further £1.5 million from General Fund balances.

4.0 LEGAL IMPLICATIONS

4.1 Under section 18 of the Care Act 2014 and the Directions and Guidance made under it the Council has a duty to arrange accommodation for adults who by reason of age, illness or disability or any other circumstance are in need of care and attention. The Care Act 2014 creates a free standing duty to promote wellbeing when the Council is carrying out care and support functions. The council has had regard to the wellbeing principle during the formulation of the residential nursing fee proposal.

4.2 Statutory guidance given by the Department of Health in Circular LAC (2004) 20 provides that in setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors. Councils should also have due regard to Best Value requirements under the Local Government Act 1999. Such requirements include the discharge of the Council's functions having regard to efficiency and economy. The Care Act 2014 places a duty on the Council to promote effective care home provision and in accordance with that duty the Council has had regard to the actual cost of good quality care.

- 4.3 The Council is required to pay the amount it costs to meet the individual's objectives set out in the needs assessment and care/support plan [less any means tested contribution]. The Council is not required to pay more than it would expect to pay, having due regard to assessed needs. More than one cost should be set where the cost of meeting specific needs is different. In accordance with the Care Act 2014 the Council has had regard to the actual cost of good quality care and has ensured that particular types of accommodation reflect a fair cost of care.
- 4.4 In setting its fees the Council must comply with its duty under Section 149 of the Equality Act 2010 to have due regard to the need to eliminate discrimination, and advance equality of opportunity amongst elderly and disabled persons. The Council's Equality Impact Assessment should therefore focus on the likely impact of its proposed fees on the quality of care for the elderly and disabled differentiating where appropriate between different groups and defining any steps that mitigate any possible adverse consequences e.g. closures of homes.

5.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 5.1 As part of the wider council transformation, Wirral ASC will work with an independent agency during 2016-2017 to further develop costed care models for both the Supported Living Sector and the Specialist Residential and Nursing Sector.
- 5.2 Officers of DASS, Finance, Legal and Wirral CCG will continue to work with the Local Market on an annual review basis.
- 5.3 In 2016/17, the Council will undertake a review of Intermediate Care Services with the CCG, and there will consequently be a new published model.

6.0 RELEVANT RISKS

- 6.1 As above, see 2.0

7.0 ENGAGEMENT/CONSULTATION

- 7.1 The council has undertaken a period of consultation and engagement with providers during March and April 2016. Prior to this engagement work was undertaken with a cross section of the supported living sector during January and February 2016. Discussions have been ongoing with both the domiciliary care sector and intermediate care sector during Autumn and Winter 2015-2016.

- 7.2 Consultation Events:

Initial Provider Forums and commencement of consultation process	
16 th March 2016	Supported Living Specialist Residential and Nursing Sector Domiciliary Care Sector

17 th March 2016	Residential and Nursing Sector Intermediate Care Sector
16 th March 2016 - 26 th April 2016	Opportunity to provide comment/request an individual 1:1 consultation
13 th April 2016	A second Intermediate Care consultation event
27 th April 2016	Revised fee rates , post initial consultation shared with both domiciliary and Supported Living Market
27 th April 2016	Opportunity for domiciliary care and supported living providers to feedback on the revised rates up to 5 th May 2016 Dedicated Email addresses were given to providers to submit in writing
Officers of the council and an independent agency offered individual meetings to providers to undertake an open book accounting exercise. Consultation closed 5 th May 2016.	

7.0 EQUALITY IMPLICATIONS

8.1 Equality Impact Assessments have been carried out.

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APPENDICES

1. *Interim rates*
2. *Benchmarking data*
3. *Summary of feedback received*

REFERENCE MATERIAL

N/A

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	7 th February 2013
Cabinet	13 th March 2014
Cabinet	13 th March 2015

APPENDIX 1

INTERIM RATES, EFFECTIVE APRIL 2016 – JUNE 2016

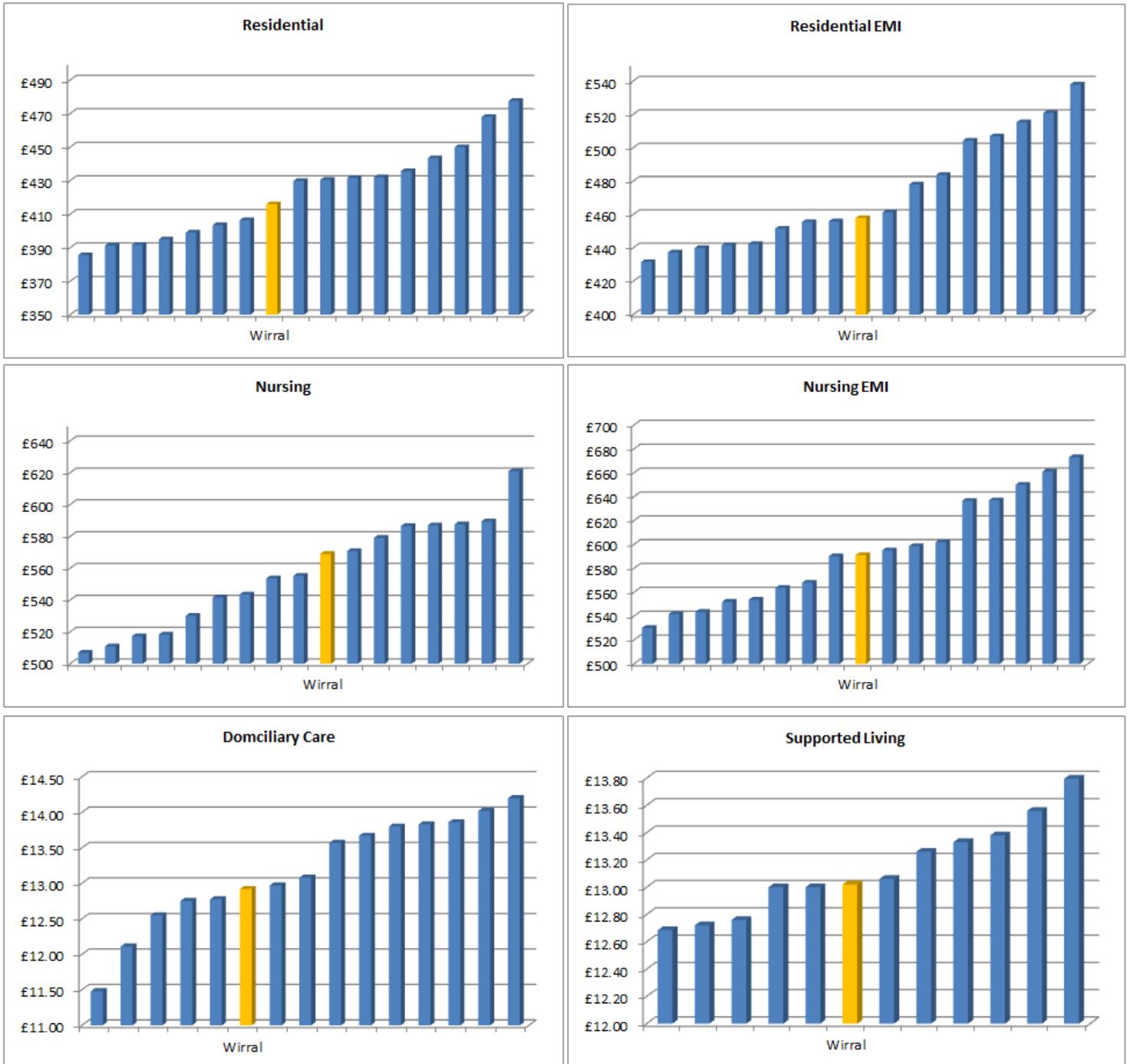
Service Area	Interim Rate
Residential Care	£414/wk
Residential (EMI) Care	£450/wk
Nursing Care (excl. FNC)	£455/wk
Nursing (EMI) Care (excl. FNC)	£471/wk
Domiciliary Care	£12.52/hr
Supported Living	£12.72/hr
Supported Living Sleeping Nights	£64.80/night
Intermediate Care	None set
Specialist Residential/Nursing Care	None set

- No interim rate was set for Intermediate Care, as the contract had only recently been awarded, and was therefore believed to sufficiently cover actual costs of care.
- No interim rate was set for specialist residential/nursing care, as these services are tendered with providers on a case-by-case basis, and it is therefore expected that the prices currently being paid are sufficient to cover the actual cost of care. These cases will be reviewed, as normal, at some point in the 2016/17 financial year, in line with the normal review timetable.

APPENDIX 2

WIRRAL'S PROPOSED RATES, BENCHMARKED AGAINST OTHER NORTH WEST COUNCILS (SUBJECT TO APPROVAL)

(Please note some local authorities operate different models of care to Wirral, therefore an element of 'blending' has been necessary to achieve comparable figures).



APPENDIX 3

CONSULTATION

CONSIDERATION OF FEEDBACK FROM PROVIDERS

The following aspects of the market place have been consulted upon:

Residential and Nursing Care
 Domiciliary Care
 Supported Living
 Intermediate Care
 Specialist Nursing

All providers in the market place were given the opportunity to provide feedback and were also provided with a cost model for completion. The number of fully completed cost models offered by providers were:

Residential and Nursing Care 10
 Domiciliary Care 3
 Supported Living 4
 Intermediate Care 1
 Specialist Nursing 0

Feedback and comments were received from the following number of providers:

Residential and Nursing Care 16
 Domiciliary Care 12
 Supported Living 9
 Intermediate Care 2
 Specialist Nursing 3

Some providers sent many comments but the list above reflects actual number of providers who responded.

Comment	No. of responses	Response
Residential and Nursing Care		
National Minimum Wage has placed an increased burden on care homes	4	The National Minimum Wage of £7.20 has been included within the residential and nursing care model.
Can you explain how the ROI was calculated	2	For consistency purposes we have calculated the ROI in the same way as we have for the previous two years. Source – Based on the Office of national Statistics. We are happy to meet with any provider to explain how this is calculated.
Concern raised regarding occupancy rate of 95%	1	We have reviewed our own records and processes and on average occupancy are still at 95% across most care homes within the borough. No changes have been made to our

		model.
The cost model must take into account payroll costs for all levels of staff employed within a care home.	2	The model has not changed since last year; rates included take into account all grades of staff and different roles performed.
Agency fees are increasing.	1	We have taken agency fees into account within the model.
Costs must include VAT	1	The actual cost of care including VAT is included within our cost of care model. We have considered all models received and have added VAT to ensure we are considering actual costs.
We will not be able to take placements at the Council rates and therefore we would have to charge top ups	1	The Council have set a rate that offers residential and nursing care homes a rate of weekly care that is comparable to nearby authorities and has been calculated using a tried and tested cost model. Any top up above the Councils usual rate must not be related to the cost of care but be related to additional quality aspects.
The council works on a 45 bed model for a nursing home. (Most providers are under 45 beds).	1	The Council have utilised data in relation to the number of nursing home beds within Wirral. For consistency purposes and to ensure fairness and transparency we have utilised the same cost model which has been approved by an independent agency.
Interim rate of an additional £1 not sufficient	2	The interim rate was based on all known changes pre consultation. Proposed increases of rates for residential and nursing (non EMI) are included in the body of the report. Changes to rates will be backdated to 1 April 2016.
Various requests for higher fees to be paid	2	The exercise carried out has taken into account provider feedback and determined the rates to be paid for 2016/17.
Domiciliary Care		
Issues raised re meeting requirements of National Minimum Wage	5	Cost model has been developed taking into account National Minimum Wage.
Have you taken in to account pension rates which come into effect on 1 September 2016	1	Pension rate of 1% has been included within the model.
The interim rate of £12.52 will not allow providers to operate in a sustainable business.	1	The cost model has been completed and a final rate of £12.92 has been offered to providers.
Have we taken into account travel time	1	Travel time has been included within the model.
Have you looked at guidance produced on what rates should be offered	1	Consideration has been given to all external sources as well as taking into account local factors including cost models offered by providers.
Has a decision been taken re direct payments and backdating	2	All rates will be backdated to 1 April and those direct payments currently being paid for domiciliary care and supported living at rates of £12.20 or £12.28 will be uplifted to reflect new rates backdated to 1 April 2016.
If fees are not set at a reasonable rate we will have to consider leaving the market	2	We have analysed returns provided and taken into account the UKHCA model and have

place		provided a model that is sustainable and can be used in future years. The model has been approved by an independent agency.
Can you explain the breakdown of fees within the cost models	2	We have been meeting with providers and continue to work with providers so they are able to understand how the models have been calculated.
Supported Living		
Is the National Minimum Wage being considered and will there be a differential between Team Leaders and Care Workers	3	National Minimum Wage has been considered within the model. Rates included take into account all grades of staff and different roles performed.
Cannot accept interim rate as currently is – require a rate of £13.20	2	We have reviewed the interim rate and have determined a rate of £13.02 is reasonable.
Sleeping rates must conform with National Minimum Wage	8	We have increased sleeping rates to take account of the National Minimum Wage.
Differences in cost models for Supported Living and Domiciliary Care	1	The domiciliary care model and the supported living models have been considered independently to ensure costs of both are accurately represented. A review of both models was carried out prior to dispatch to ensure consistency. The models were approved by an independent agency.
Provider would like to meet to discuss how model has been constructed	4	We have met with the providers and will continue to communicate with them to ensure they have an understanding of the model.
Will the model be used in future years to take, for example, increases in National Minimum Wage into account	4	The model has been developed so that it can be used in future years.
Intermediate Care		
General concern over the difference in cost between transitional beds and intermediate care beds.	1	A wider existing review of Intermediate Care is underway
Specialist Nursing		
One provider informed us that a fee increase would commence from 1 April	1	Provider informed this would not be acceptable as we are undergoing our own fee assessment and they will be notified when our review is complete.
Have we increased our council rates by 2%	1	Wirral Council have increased council rates by 2% and this has been directly attributed to Social Care.
How will we be helping existing cost pressures with providers	1	A full review of fees charged across the 5 themes has been carried out with support from an independent agency.



**COUNCILLOR
GEORGE DAVIES - CABINET
MEMBER FOR HOUSING
AND COMMUNITY SAFETY**

CABINET
6 June, 2016

**REVISION OF GOVERNANCE
ARRANGEMENTS FOR WIRRAL
PARTNERSHIP HOMES TRADING AS
MAGENTA LIVING**

Councillor George Davies, Cabinet Member - Housing and Communities, said:

“If we are to meet our 2020 pledge for good quality housing that meets the needs of residents, we need to support our Registered Provider partners to ensure their governance is fit for purpose. These proposals will ensure that that Board of Magenta Living can provide strong leadership and vision going forward and enable the company to be competitive in an increasingly business focused environment”

1.0 REPORT SUMMARY

- 1.1 The purpose of this report is to advise Cabinet that the Council, as a Company Member of Magenta Living, will be required to vote on proposals for Magenta Living to move to a Board that is selected on the basis of skills rather than by constituency nominations.
- 1.2 Magenta Living’s Board has agreed to move to a Board recruited for the skills and experience necessary to enable the organisation to move into more diverse and commercial areas of business and demonstrate it meets the standard required by the Regulator, the Homes and Communities Agency (HCA) for the current business in the new operating environment.

2.0 RECOMMENDATION/S

Cabinet is recommended to:-

- agree the proposal for Magenta Living to move to a Board that is selected on the basis of skills rather than by constituency nominations.
- Agree that Magenta Living's Articles of Association be revised to reflect the changes.
- Delegate authority to the Borough Solicitor to agree changes to Magenta Living's Articles of Association.
- Authorise the relevant Council officer to vote on the changes (and associated matters) proposed and referred to in this report at the forthcoming Magenta Living General Meeting.
- Refer this report to Council meeting 11 July 2016 for approval.
- That relevant Members undertake and be provided with all requisite training and development necessary / appropriate to be a Board Member of Magenta Living.

SUPPORTING INFORMATION

3.0 REASONS FOR RECOMMENDATIONS

- 3.1 To enable Magenta to be involved in more diverse activities and to meet the expectation of the Regulator that their Board is sufficiently skilled to have oversight of a more complex business and able to manage the associated risks

4.0 OTHER OPTIONS CONSIDERED

- 4.1 None

5.0 BACKGROUND AND KEY ISSUES

- 5.1 The operating environment has changed dramatically since transfer in February 2005. Previous Boards of Wirral Partnership Homes and Magenta Living have tried to reshape the business in light of these changes to make it more resilient. These attempts have been met with limited success.
- 5.2 At transfer there was a board of 15 comprising five local authority nominations, five tenants and five independent people. In order to comply with the minimum National Housing Federation (NHF) Code of Governance requirements at that time, in 2013 the Board and Company Members agreed to reduce the Board size from 15 to the maximum number of 12 but still maintaining the three constituencies in the same third ratio, along with a change of board directors' terms of office from three terms of three years to two terms of four years and that tenant and independent board directors would go through the same skills based interview process for places on the Board. This was agreed by Magenta Living's AGM in September 2013.
- 5.3 Magenta Living is proposing to make further changes to their constitution in the light of wider scale changes in the housing association sector.

6.0 THE DRIVERS FOR CHANGE

- 6.1 Social housing is under considerable pressure: reductions to rents charged, cuts to current operating budgets, lack of demand and reduced lettings income following benefit reductions to Magenta Living's traditional clients, reduced and/or no grant or subsidy for new build developments mean that resources are not available to run the social housing business as they once were.
- 6.2 The Magenta Living Board agreed that they needed to develop into more diverse areas of work to create other income streams that would replace or supplement previous public subsidies. Moving into build for sale, build for shared ownership and developing a portfolio of private market rent schemes, together with the development of joint ventures are all new and challenging activities being pursued. All offering potential rewards but with significantly different risks. It is essential that the Board of the company has the skills to manage those risks, ensuring that profits are made which are brought back to Magenta Living to replace lost government subsidy.

6.3 For risk management reasons as well as taking regulatory guidance, Magenta Living needs to ensure that it has a sufficiently skilled and experienced Board to have oversight of such new ventures.

6.4 It is clear from the HCA that they expect stronger commercial and business skills will be required on Magenta Living's Board for the future.

7.0 THE EXPECTATIONS OF THE REGULATOR

7.1 The HCA has flagged up concerns that the Magenta Living Board should be sufficiently skilled to be able to understand the more diverse activities that they would be involved in.

7.2 All registered housing associations must operate to a recognised code of governance. Magenta Living has adopted the 'NHF Code of Governance: promoting excellence for housing associations'. The main expectations with reference to this review of Magenta Living's governance are:

- Board Directors must act in the interests of the organisation and not on behalf of or representing any constituency or interest group
- Board should be at least five and no more than twelve members
- Recruitment to board vacancies must be open and transparent and be based on the board's considered view of the skills and attributes required to discharge its functions
- Maximum tenure for all non-executives must in total be nine years
- Where a board member is nominated or elected the organisation "must ensure that those coming forward bring skills and experience that meet the needs of the board, and that they are fully aware in advance of the responsibilities that they will undertake. New board members must not be appointed without undergoing a due selection process to establish their suitability."

7.3 Seminars and articles from leading figures such as Julian Ashby, Chair of the Regulation Committee at the HCA have been increasingly urging boards to ensure they are sufficiently skilled. In September 2013, Julian Ashby said that the HCA had dealt with a number of cases where poor governance had led to ineffective risk management. Those boards did not have sufficient skills to challenge or did not recognise the need for specialist or professional advice and he called on providers to regularly appraise their mix of expertise and ensure their boards are fit for purpose by refreshing and renewing skills regularly. This advice has consistently been reinforced and early this year Julian Ashby advised boards that if they did not have the necessary skills for diverse activities then they should not be involved in those activities.

7.4 In order for the HCA to be able to really test the effectiveness of boards and their organisations a new system of In-Depth Assessments (IDAs) are now being carried out on registered housing associations. Through review of the company's documentation and intensive work on site, the HCA wish to ensure that governance and financial arrangements in each housing association do not put the social housing assets at risk. The HCA will be looking for evidence that the board has credible plans and they will wish to obtain assurance that the board has the skills

and drive to deliver those plans. The Magenta Living Board understand that an IDA would consider a range of areas: strategy, structure, financial resilience, risk profile and mitigation and governance. Under governance the HCA will test the Board's understanding of business planning, management reporting and forecasting. They will wish to see the level of individual Board skills and effectiveness and the interface with the executive.

- 7.5 Through IDAs the HCA is 'raising the bar' in assessing registered providers' compliance with the regulatory standards and whether they are fit for purpose in a much more difficult operating environment. A key element will be the level of skills and experience on the Board to manage what will be more challenging businesses going forward.
- 7.6 The regulator has published four volumes of 'Learning from Problem cases' over the last twenty years. These reports chronicle, in some detail, the failures in the housing association sector. They are produced for boards and executives to learn from the mistakes and setbacks of others so as to avoid encountering similar fates. The latest volume was published by the HCA in June 2015 and covers Cosmopolitan Housing Association (a Liverpool housing association that was brought to the brink of insolvency due to weak governance and management and a number of financial issues). Whilst there are a range of factors leading to problem cases the report sets out that the greatest root of cause of failures has been through weak governance. The report states that 'in today's tough business environment, boards need skill, grip and effective teamwork if they are to exercise proper oversight of the executive and the operations of the organisation.'
- 7.7 The report goes on to highlight that 'we are seeing a higher bar for the standard and skills and competencies required for non-executives' and 'we are now seeing – if not universally – a more ruthless focus on skills, capabilities and the depth of knowledge in much board member selection.' The problem cases highlighted show that poor governance and risk management with, in many cases, weak board skills and oversight in more risky and complex non-social housing activities can lead to spectacular failures. One of the lessons is to ensure the board have the skills to oversee the new ventures that are part of the organisation's aspirations. This is a theme that Julian Ashby the Chair of the Regulation Committee at the HCA regularly comes back to as set out earlier.
- 7.8 In short the HCA expect housing associations to be involved in more diverse activities but that their boards are sufficiently skilled to have oversight of a more complex business and able to manage the associated risks.

8.0 MAGENTA LIVING INDEPENDENT REVIEW OF GOVERNANCE

- 8.1 Following a meeting with the HCA in July 2015 Magenta Living commissioned an independent governance review using Altair (a specialist national housing consultancy). They would review Magenta Living's governance arrangements and carry out a study on best practice in Large Scale Voluntary Transfer housing associations (LSVTs).
- 8.2 Altair referred to the changed operating environment and the need for appropriate skills and experience for a board to be able to control, support and direct the

organisation in its business objectives and the fact that the NHF Code of Governance and HCA Regulatory Framework have both been strengthened in this regard.

8.3 Altair's review of Magenta Living's Board found that:

- All board directors agreed that with the future challenges a more skills based board was required
- All board directors agreed that there were currently skills gaps, particularly around finance and business and commercial skills
- Many noted that the board relies on a small number of key board directors
- There was concern over the imbalance between focus on strategy and on day to day operations
- There were mixed views on the size and composition of the board whilst agreement that it needs to be skills based
- There was a view that the annual appraisal process needed review
- It was agreed there were too many committees and these should be streamlined and recruited on the basis of skills
- It was felt that board champions' roles were not adding value
- It was felt existing tenant involvement and advisory forums were ineffectual
- Governance documents needed to be reviewed and updated, particularly the scheme of delegation

8.4 Altair made a series of recommendations:

- Magenta Living move to a skills based board and consider reducing the size of the board
- That a more rigorous approach to annual appraisal be instituted with no automatic reappointment, instead the skills the board requires would drive the appraisal and appointments process
- Nominated board directors should go through the same skills based appointments process as all other board directors
- If the board decides to move away from constituencies altogether, that arrangements be established to ensure adequate engagement with tenants
- Committee structures to be streamlined with a minimum of audit and remuneration committees and consider task and finish groups for other business
- Cease the board champions role
- Revise the supporting governance documents
- Review the length of the chairs appointment from one year at a time to introduce more certainty and consistency
- Reduce the level of operational detail in reports and focus more on strategy

8.5 The report will be available to the HCA as part of any future IDA or regulatory review of Magenta Living. The HCA would expect the Magenta Living Board to have taken account of it and to have acted on the findings of an external independent review.

9.0 SKILLS AND APPRAISALS

- 9.1 Following the Altair review, the Magenta Living Board agreed a set of skills that will be required moving forward to more diverse activities. The list of agreed skills is attached at Appendix 1.
- 9.2 From the surveys undertaken by Altair, board directors collectively identified a range of skills gaps, a number of which will be required for the future operation of the business going forward:
- Business growth and diversification
 - PR and Communications
 - HR
 - Housing Management and service delivery
 - Property development
 - Legal services
 - Commercial and financial skills
- 9.3 From previous discussions Magenta Living has already noted that it will wish to retain skills that it has acquired in its early years work. These have included community development, resident perspective, tenant involvement, local authority and public sector working and voluntary and community work.
- 9.4 However from the above analysis there are a number of skills not presently in place which will be required for the future operation of the business going forward undertaking more diverse activities.
- 9.5 The Board undertook a skills gap analysis / appraisal process (facilitated by Altair) at the end of March 2016 which, together with an agreement on the skills required against its future work programme, will inform the Board's future structure.

10.0 WHAT ARE OTHER LSVTS DOING?

- 10.1 It is clear that the vast majority of LSVT housing associations have made significant changes to their governance structures. Many have moved away from constituencies which have equal numbers of board directors in each.
- 10.2 The NHF has also conducted a survey to 154 LSVT housing associations receiving responses from 76. Amongst their findings are:
- 29 now do not have a local authority board director, 12 have one and 11 have two on the board, the remaining 19 who responded have three or four
 - For tenants there is a wider spread. 11 do not have tenants on the board, six have one, 30 with two or three on board, 15 have four and 11 have between five and nine.
- 10.3 Several organisations moved away from the constituency model to a purely skills based approach without any nominations via constituencies. Altair has conducted a good practice study of LSVT associations as part of their review of governance. They concluded that most (70 out of 76) LSVTs have adjusted their governance structures due to the changed operating environment and need for business diversification. Most have moved to a more skills based board and most had moved

away from the standard constituency model to a board that includes more independents with the required relevant skills. This has been done by reducing the number of tenant and council places but in the main still reserving a minimum number of constituency places.

11.0 WIRRAL COUNCIL APPROVAL

11.1 Officers and Board Directors from Magenta Living have met with the Leader of the Council and the Cabinet Member for Housing, outlining the issues detailed in this report.

11.2 From the discussions it was agreed that:

- Once the new governance arrangements are in place, the Council would be able to encourage suitable skilled and experienced individuals to apply for any vacancy
- The existing Councillor Board Directors will be eligible to apply for a place on the skills-based Board and will undergo an interview process by an interview panel of the Magenta Living Board
- It can reasonably be anticipated that the Councillors currently serving on the Board will have between them some of the skills required to be on a skills based Board
- At the time that any director comes to the end of their term of office, and a vacancy occurs, any individual from any background or sector, who has the necessary skills, will be eligible to apply. The Council would be able to encourage any suitable person to apply

11.3 The Council's decision making process will require this report to be approved by the Cabinet and the recommendation to be subsequently approved by a full Council meeting. The Cabinet Member for Housing is recommending approval of the changes outlined in this report.

11.4 If the full Council agree to the governance changes the Borough Solicitor would be required to attend a general meeting of Magenta Living and cast the Council's vote in favour of the necessary changes to Magenta Living's Articles of Association.

11.5 Once agreed, the changes will be incorporated into Magenta Living's Articles of Association and the recommendation is for the Borough Solicitor to be authorised to agree these changes.

11.6 A timetable for Company Member consultation and holding a General Meeting of Company Members has been drawn up which will pick up the Council's decision making process which is set out below.

12.0 THE COUNCIL'S 'GOLDEN SHARE'

12.1 At a General meeting of the company the Council has one vote which is worth a third of the voting rights. The tenant members have a share of a third of the votes and the independent members have a share of the remaining third of the votes.

- 12.2 For any special resolutions such as changing the name of the company or changing the company's articles, under company law, 75% of the company membership must vote in favour of the resolution for it to be passed. As the Council vote is worth 33.3% of the total vote it has what has become known as a 'Golden Share' as it is in effect a veto over the other two constituencies represented at a company meeting.
- 12.3 It has been agreed that officers from Magenta Living and the Council work together to come up with a revised approach which ensures a more balanced allocation of votes at a general meeting.
- 12.4 Further proposals will be brought to a future Cabinet in respect of the Council's 'Golden Share'.

13.0 TIMETABLE

- 13.1 The proposed date for implementation of the skills based Board is Magenta Living's AGM on 20 September 2016.
- 13.2 Magenta Living's consultation with its Company Members (tenants and independents) has started and will be ongoing until the AGM.
- 13.3 In order to achieve this target date, Council's Cabinet are requested to consider and recommend approval of the proposal to full Council at its meeting on 11 July 2016.

14.0 THE HOUSING AND PLANNING BILL 2015/16

- 14.1 As officers are preparing this Cabinet report an announcement has been made by the Government that they intend to bring forward an amendment to the Housing and Planning Bill currently going through parliament which would give the secretary of state the power to create regulations with the purpose of "limiting or removing" the ability of councils to "exert influence" over registered providers.
- 14.2 For LSVTS such as Magenta Living this appears to include removing the council's ability to nominate board directors and also their voting rights at a general meeting (the 'Golden Share').
- 14.3 The Government's approach is to ensure that housing associations can be classified as independent bodies rather than public sector bodies. This follows the reclassification of housing associations as 'public non-financial corporations' by the Office of National Statistics (ONS) late last year given the amount of control exercised over them by government or other public bodies. The Government made an immediate commitment to bring in changes necessary to prompt the ONS to reverse this decision and, in January, laid a number of deregulatory amendments to the Housing and Planning Bill intended to address the ONS' concerns. The Government now appears to have now tabled an additional amendment to address other instances of public sector control that it has become aware of, relating to local authority influence over Large Scale Voluntary Transfer (LSVT) organisations.

- 14.4 It is unknown at this stage what these changes will look like and how Magenta Living's constitution could be amended by the new powers. It is recommended that given the Council and Magenta Living have started to make similar changes already that Cabinet agrees to the changes highlighted in this report. Should legislation be passed which makes further changes then these will then be implemented as a matter of fact.

15.0 RELEVANT RISKS

To the Council:

- 15.1 The Council is a Company Member of Magenta Living holding one-third of the membership therefore it is essential that the Board of Magenta Living is fit for purpose, in order to ensure effective decision making mitigating any risk to the Council's reputation and interests in the Company.
- 15.2 It is in the Council's interests to have a vibrant locally based and locally managed housing association which owns around half of the social housing in the borough.

To Magenta Living:

- 15.3 If Magenta Living does not change its governance structure it would be at risk of increased scrutiny by the HCA and a potential downgrade of its governance rating (Magenta Living currently holds the highest G1 / V1 rating for Governance and Financial Viability).
- 15.4 Moving into more diverse activities and not having the most appropriate skills on the Board could result in decisions being taken without full appreciation of implications which could have dire consequences. It would be no defence that the Board Directors did not have sufficient skills to understand the decisions taken.
- 15.5 Taking no action to revise Magenta Living's governance structure would make it very difficult to undertake the diverse activities required in order to provide further income to the Company.

16.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 16.1 This relates to the structure of 'Magenta Living' so there are no financial implications for the Council.

17.0 FINANCE IMPLICATIONS

- 17.1 The existing Community Fund arrangements which the Council has in operation jointly with Magenta Living are unaffected - although the Fund is looking to be closed at the end of 2016/17.

18.0 LEGAL IMPLICATIONS

- 18.1 This relates to Magenta Living's governance arrangements so there are no legal implications for the Council.

19.0 ENGAGEMENT/CONSULTATION

19.1 Magenta has consulted with Board members and Senior Officers from the Council on the proposed changes. It is intended, subject to Council approval, that Magenta further put these changes to a formal vote as part of their Annual General Meeting in September 2016.

20.0 EQUALITIES IMPLICATIONS

20.1 Magenta Living's Constitution is a fundamental part of its approach to equality and diversity.

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APPENDICES

Magenta Living Board Skills List

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date



BOARD DIRECTOR – REQUIRED SKILLS

Relevant Experience and Skills - Essential

1. Board Director or Governance experience
2. Operational experience at a senior level
3. Strategic leadership
4. Financial Management
 - Accountancy
 - Treasury management
 - Business planning
 - Audit
5. Asset Management
 - Property development and sales
 - Property management
 - Construction
 - Housing management
 - Regeneration
6. Risk management
7. Change management
8. Performance management
9. Business growth and development
10. Customer services
11. Commercial business skills

Relevant Experience and Skills - Desirable

12. Legal
 - company
 - constitutional
 - business
 - contracts
 - charity
13. Stakeholder engagement
14. Community involvement
15. Marketing
16. Public relations
17. ICT

Knowledge - Desirable

1. Registered Providers
2. Regulatory Framework
3. Political and economic environment
 - welfare reform
 - devolution
 - housing strategy
 - planning
4. Probity
5. Local knowledge
6. Mergers and acquisitions
7. Health and social care
8. Social investment

Abilities - Essential

1. Team working
2. Integrity
3. Independent judgement
4. Creative and clear thinking
5. Analytical skills
6. Communication skills
7. Networking
8. Equality and diversity

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**COUNCILLOR
ANN MCLACHLAN
CABINET MEMBER FOR
TRANSFORMATION,
LEISURE & CULTURE**

CABINET
Monday, 6 June 2016
REVIEW OF SCRUTINY
ARRANGEMENTS

Councillor Ann McLachlan, Cabinet Member - Transformation and Leisure, said:

“The Wirral Plan sets the vision for what we want this borough to look like in 2020: good jobs, an attractive local environment and people living happy and fulfilling lives. To get there, with vastly diminished Council and public sector resources, requires radical thinking and new ways of working.

“This Council will go through major change in the coming years, and as a responsible and inclusive Administration we welcome effective scrutiny and the views of our Elected Member colleagues. These new Scrutiny arrangements provide an absolute focus on the Wirral Plan, allowing Elected Members from all parties to bring their experience and expertise to the fore in supporting and scrutinising our progress towards achieving all 20 of our Pledges.”

REPORT SUMMARY

This report sets out proposals for amending the Council’s overview and scrutiny arrangements to better align with, support and challenge the effective delivery of the Wirral Plan. This will ensure the scrutiny function adds value in support of better outcomes for Wirral residents.

The new arrangements will also deliver better value for money through a reduction from the four existing Policy and Performance Committees to three new Overview and Scrutiny Committees that clearly align with the three Wirral Plan themes of People, Business and Environment. This will help ensure that the focus of scrutiny is targeted towards the Wirral Plan and its partnership delivery arrangements.

The new arrangements would involve the three committees driving forward a scrutiny work programme that is prioritised around the twenty pledges in the Wirral Plan. This would involve the creation of task and finish groups and standing panels which examine the effectiveness of Wirral Plan delivery. This would provide non-executive members with the opportunity to challenge and influence partnership delivery arrangements and to harness the views of service users and residents to ensure the best outcomes for Wirral residents.

The changes to the Scrutiny function require a change to the Council's Constitution, Calendar of Meetings and appointments to the new committees and as such would need to be referred to Council for approval.

RECOMMENDATION/S

That:

- 2.1 Cabinet considers and approves the proposed changes to the Council's scrutiny arrangements set out within this report (and Appendices);
- 2.2 Cabinet refers the proposed changes detailed within this report (and Appendices) to the Coordinating Committee for consideration at its meeting on 15 June 2016 for consideration;
- 2.3 The proposed changes to the Council's scrutiny arrangements set out within this report (including Appendices) and the views of the Co-ordinating Committee as confirmed at its meeting on 15 June be referred to an extraordinary meeting of Council to be held on 27 June 2016 for consideration and approval.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 For the Council's scrutiny arrangements to be re-organised to ensure they fit with the Wirral Plan objectives and delivery arrangements up to 2020.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Scrutiny arrangements are for Council's to determine as they see fit, depending on their local operational structures and strategic objectives. As part of this review, a number of alternative models have been considered including a one committee model, a two committee model and multiple committee models. The three committee model is favoured as it provides a direct link to the three Wirral Plan themes.

3.0 BACKGROUND INFORMATION

- 3.1 Overview and Scrutiny (O&S) was introduced by the Local Government Act 2000. It places a statutory requirement on Councils that operate executive arrangements to have an O&S function in place. This is discharged through the creation of dedicated committees composed of Councillors who are not on the Executive Committee or Cabinet. Wirral Council's O&S function is currently delivered through four Policy and Performance Committees.

- 3.2 O&S is a vital component of good governance. It provides a mechanism to engage non-executive Members in reviewing the effectiveness of Council policy and service delivery as well as that of local partners and other providers. It has the potential to drive improvement and significantly enhance the quality of Council decision-making, service provision and cost-effectiveness.

- 3.3 The following are widely recognised roles of the O&S function:

- Holding the Executive to account.
- Holding Partners to account.
- Horizon-scanning.
- Policy Development and Review.
- Pre-decision scrutiny.
- Post-decision scrutiny.
- Performance management and improvement.

Existing Arrangements

- 3.4 The current arrangements were implemented three years ago following the last major refresh of the Council's constitution in April 2013. The arrangements comprise of four Policy and Performance Committees as follows:

- Coordinating Committee – responsible for coordinating the work of scrutiny, scrutinising over-arching issues and undertaking the call-in duty for the authority.

- Families and Wellbeing Policy and Performance Committee – responsible for scrutinising service delivery falling under the remit of the Families and Wellbeing Directorate and the statutory responsibility for local health scrutiny. The Committee has established a Children Sub-Committee and the Health and Care Performance Panel.
- Regeneration and Environment Policy and Performance Committee – responsible for scrutinising service delivery falling under the remit of the Regeneration and Environment Directorate and the statutory responsibility for local flood risk. Provides a link to the Liverpool City Region Combined Authority scrutiny panel.
- Transformation and Resources Policy and Performance Committee – responsible for scrutinising service delivery falling under the remit of the Transformation and Resources Directorate and the statutory responsibility for the Crime and Safety Partnership.

Drivers for Change

3.5 The following have been identified as key drivers for change for the Council's scrutiny function:

- The Wirral Plan shifts the focus on delivery of outcomes and not on process.
- A new council operating model will be established removing Directorates.
- Wirral Plan delivery will result in the development of new delivery models and a new approach to partnership working.
- Through Wirral Plan implementation, the Councils relationship with residents will significantly change.
- Councils and service delivery models are changing. The transformation agenda will require committee functions to become more flexible in their approach.
- It is anticipated the pace of transformation will be much faster with committees needing to respond quickly to changes in requirements.
- Devolution and the extension of the remit of the Liverpool City Region will lead to ramifications for governance structures in the composite Local Authorities.
- Need to utilise available resources as effectively as possible whilst maximising the focus of scrutiny.

Proposed New Arrangements

3.6 To ensure the function can respond appropriately to the drivers for change, the proposal is to establish a three committee model aligned to the Wirral Plan themes of People, Business and Environment. This would create a model which enables scrutiny to best support and add value to the Wirral Plan.

3.7 The proposed model allows for partnership delivery arrangements to become more embedded to deliver the Wirral Plan and its supporting strategies. This will enable each of the committees to focus more on the delivery of outcomes for Wirral residents rather than Council services as they have previously.

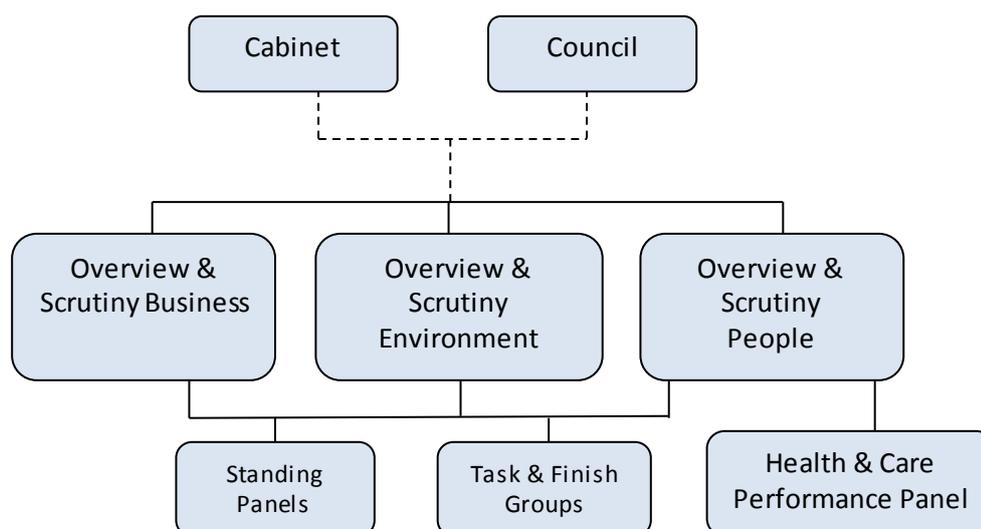
3.8 The proposed model would promote an approach to scrutiny focussed around the Wirral Plan. The majority of work would be conducted through designated standing panels and task and finish groups organised around the delivery of the 20 pledges and the Council's transformation agenda. To complement the inter-dependencies across

the Wirral Plan, there would also be an opportunity for joint working groups to be set up with representatives from different committees to cover cross-cutting themes.

- 3.9 To avoid duplication and ensure cross-cutting themes and Member capacity are effectively managed, joint planning sessions would be convened between the Chairpersons and spokespersons for the three committees. This would effectively lead to a single scrutiny work programme that would clearly support the Wirral Plan.
- 3.10 In terms of the regulations around the scrutiny of education matters, the Diocesan and Parent Governor Representatives would be co-opted onto the People Committee as necessary and appropriate.

CALL-IN

- 3.11 Under the proposed model, responsibilities for dealing with call-in would be split across the three committees depending on the nature of the call-in received. Where there is a cross-cutting matter/issue, the allocation of the call-in would be determined by agreement of the three committee Chairpersons.
- 3.12 An overview of the model is set out in the diagram below.



- 3.13 Key to the success of the new model will be the development of new arrangements for establishing a single, integrated scrutiny work programme. This will promote a more focused approach to ensure only topics of significance are included as a means for scrutiny to add value to delivering the Wirral Plan.
- 3.14 This will be achieved by:
- Greater coordination between committees to develop a single Scrutiny Work Programme, through regular informal meetings between the Chairs and spokespersons.
 - Closer engagement with the Executive to define the priorities for scrutiny to achieve the greatest impact.

- Increased use of scrutiny as a vehicle to enable the voice of service users and residents to be heard.
- Setting clear objectives for scrutiny work with a clear focus on improved outcomes for residents and service users.
- Maximising opportunities for the use of pre-decision scrutiny to influence and shape better decision-making.
- Reducing the focus on formal committee meetings and increasing the focus on scrutiny work that produces member-led reports with clear recommendations.
- Time-limiting task and finish work to free up capacity to undertake more scrutiny inquiries.

The Transfer Process

- 3.15 In terms of transferring from the current to the new arrangements, the existing scrutiny workload has been mapped onto the new committees. This is set out in Appendix 1 attached to this report.
- 3.16 Subject to Cabinet approval, the proposed changes would be referred to Coordinating Committee (15 June) for consideration and comments, and thereafter referred for approval to an extraordinary Council on 27 June 2016. Council will be the final arbiter on approving the proposed model and requisite changes to the Council's Constitution, and Calendar of Meetings set out in the Appendices to this report.

POLITICAL PROPORTIONALITY and MEMBERSHIP

- 3.17 As the proposal includes one less Council committee it is necessary to review the number of committee seats and the political proportionality calculation. The proposal reduces the number of seats to 118 from 133 (a reduction of 15) – see Appendix 2. The proposal does not require any alteration to or otherwise affect the allocation of seats and political make-up of any of the other Council Committees as approved by Council at its Annual meeting on 17 May 2016. It is proposed that the current membership of the Policy and Performances Committees be transferred/aligned to the proposed overview and scrutiny committees as detailed within Appendix 2.

CALENDAR OF MEETINGS

- 3.18 Subject to Council's approval, it is proposed that the next scheduled meetings of the Policy and Performance Committees (29 June, 5 July and 12 July) are cancelled and alternative dates are confirmed for the first meetings of the three Overview and Scrutiny Committees. The dates of 12, 14 and 18 July are proposed as first meeting dates for the new committees. Details regarding appointments and a revised calendar of meeting dates are included as Appendix 2 to this report.

OTHER CONSTITUTIONAL CHANGES

- 3.19 If the proposal is agreed, references within the Constitution to the Co-ordinating Committee and Policy and Performances Committees be replaced/changed as detailed within Appendix 2.

4.0 FINANCIAL IMPLICATIONS

4.1 The reduction from four to three committees will mean a reduction in the number of formal committee meetings and a corresponding reduction in officer time required.

5.0 LEGAL IMPLICATIONS

5.1 The implementation of these proposals will require changes to the Council's Constitution. The proposed amendments are included as Appendix 3, 4 and 5 to this report.

5.2 The proposal is in line with the Council legal obligations in relation to its overview and scrutiny functions.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are none arising from this report.

7.0 RELEVANT RISKS

7.1 This proposal seeks to mitigate the risk of not refreshing the Council's scrutiny arrangements in the light of the drivers for change highlighted at 3.5 (above). The current scrutiny model, based on the Directorate structure, does not effectively align with the Wirral Plan in terms of the 20 pledges and the partnership delivery model.

8.0 ENGAGEMENT / CONSULTATION

8.1 The proposal will be presented to the current Coordinating Committee at its first meeting of the new municipal year for consideration.

9.0 EQUALITY IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because the report is provided for information.

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APPENDICES

Appendix 1 – Transfer of Scrutiny Work Programme Items

Appendix 2 – Appointments and Revised Calendar of Meetings

Appendix 3 – Revised Article 6 and Table 2 - Responsibility for Functions of the Constitution

Appendix 4 – Revised Part 4a - Standing Order 35

Appendix 5 – Revised Part 4d Overview and Scrutiny Procedure Rules

REFERENCE MATERIAL

N/A

SUBJECT HISTORY (last 3 years)

Council Meeting	Date

Appendix 1 – Transfer of Scrutiny Work Programme Items

Outstanding Work Programme Items	Transfer to New Model
<p>Coordinating Committee</p> <ul style="list-style-type: none"> • Cumulative Impact on Public Health • Review of Councillors <p>Families & Wellbeing</p> <ul style="list-style-type: none"> • Avoiding Hospital Admissions Review • Children Ready for School Review <p>Regeneration & Environment</p> <ul style="list-style-type: none"> • Tourism Scrutiny Review • Coastal Strategy Review • Reducing Pedestrian Casualties Notice of Motion • Wirral Waters Notice of Motion <p>Transformation & Resources</p> <ul style="list-style-type: none"> • Disaster Recovery Scrutiny Review • Freedom of Information Scrutiny Review • Libraries Scrutiny Review • Local Welfare Assistance Scheme Review 	<p>People</p> <ul style="list-style-type: none"> • Cumulative Impact on Public Health • Avoiding Hospital Admissions Review • Children Ready for School Review • Local Welfare Assistance Scheme Review <p>Environment</p> <ul style="list-style-type: none"> • Coastal Strategy Review • Review of Councillors • Libraries Scrutiny Review • Reducing Pedestrian Casualties Notice of Motion <p>Business</p> <ul style="list-style-type: none"> • Tourism Scrutiny Review • Disaster Recovery Scrutiny Review • Freedom of Information Scrutiny Review • Wirral Waters Notice of Motion

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A. APPOINTMENT AND CONSTITUTION OF COMMITTEES 2016/2017- PROPOSED NEW SCRUTINY COMMITTEES

That Council agrees:

- (1) This note advises on the allocation of committee places to political groups in the light of the relative strength of the groups for the municipal year 2016/17 following the 5 May 2016 election and if the proposed revision to the number of scrutiny committees is agreed:

Labour	39 seats	59.1 %
Conservative	21 seats	31.82 %
Liberal Democrat	5 seats	7.57 %
Green	1 seat	1.51 %
	66 seats	Totals 100.00%

Allocation of Committee Places

- (2) Applying the percentages in (1) above to the overall number of committee places (Members of the Cabinet are not included in those calculations) and based upon a proposed total of 118 committee places, the three political groups and the Green Party member would be entitled to a **total** of committees places as shown below:

Labour	69.74 rounded up to	70
Conservative	37.55 rounded down to	37
Liberal Democrat	8.93 rounded up to	9
Green	1.78 rounded up to	2

- (3) Applying the arithmetical entitlement to **individual** committees would result in the following allocations:

Committee	Places	Lab	Con	L/Dem	Green
Standards & Constitutional etc.	9	5	3	1	
Audit and Risk Management	9	5	3	1	
Employment and Appointments	8	5	2	1	
Licensing Act 2003 Committee	15	10	4	1	
Licensing, Health & Safety etc.	9	5	3	1	
Pensions	10	6	3	0	1
Planning	13	7	4	1	1
Overview & Scrutiny: Business	15	9	5	1	
Overview & Scrutiny: Environment	15	9	5	1	
Overview & Scrutiny: People	15	9	5	1	
Total	118	70	37	9	2

- (4) For two committees an arithmetical adjustment has been made to enable the Green Member to have his entitlement of 2 committee places.

- (5) These adjustments are made with regard to the requirement for the Labour Group, as the majority group on the Council, to maintain an overall majority on each committee and for each group's entitlement to committee places to be in accordance with those figures set out in (2) above.

B. MEMBERSHIP

Council agrees that the appointments made by Council at its Annual Meeting on 17 May be transferred/realigned as follows:

<u>MEMBER APPOINTMENTS MADE TO:</u>	<u>TRANSFFERRED MEMBER APPOINTS:</u>
Coordinating Policy and Performance	N/a
Families & Wellbeing P&P	People Overview and Scrutiny Committee
Regeneration & Environment P&P	Business Overview and Scrutiny Committee
Transformation & Resources P&P	Environment Overview and Scrutiny Committee

C. OTHER CONSTITUTIONAL CHANGES

That to give effect to the proposed changes Council agrees that the following changes be made to the Constitution:

- All references to the Co-ordinating Committee within the Constitution be removed and replaced with the names of the three proposed Overview and Scrutiny Committees.
- All references to:

Families & Wellbeing Policy and Performance Committee be changed to People Overview and Scrutiny Committee

Regeneration & Environment Policy and Performance Committee be changed to Business Overview and Scrutiny Committee

Transformation & Resources Policy and Performance Committee be changed to Environment Overview and Scrutiny Committee

D. REVISED CALENDAR OF MEETINGS FOR OVERVIEW AND SCRUTINY COMMITTEES

That Council agrees:

<u>COMMITTEE</u>	<u>CANCELLED</u>	<u>RE-ARRANGED</u>
Coordinating Policy and Performance	Tuesday, 21 June	Wednesday, 15 June
Families & Wellbeing P&P	Wednesday, 29 June	
Regeneration & Environment P&P	Tuesday, 5 July	
Transformation & Resources P&P	Tuesday, 12 July	

Proposed new Overview and Scrutiny Committees Meetings

<u>COMMITTEE</u>	JULY	SEPTEMBER	NOVEMBER	JANUARY	MARCH
Business	Tuesday 12	Tuesday 13	Tuesday 29	Tuesday 24	Wednesday 29
Environment	Monday 18	Wednesday 21	Wednesday 30	Tuesday 31	Tuesday 28
People	Thursday 14	Thursday 8	Monday 28	Monday 16	Thursday 23

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Article 6 – Overview and Scrutiny Committees

6.1 Appointment

The Council will annually constitute and appoint three Overview and Scrutiny Committees, comprising of fifteen councillors, to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000.

6.2 General Role

Within their terms of reference, Overview and Scrutiny Committees will:

- (a) Review and / or scrutinise the decisions made or actions taken in connection with the discharge of the Council's functions;
- (b) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny committee about their activities and performance;
- (c) Support joint work planning arrangements in developing an integrated scrutiny work programme;
- (d) Make reports and / or recommendations to the Council and / or the Cabinet in connection with any policy or the discharge of any functions;
- (e) Exercise the right to call in, for reconsideration decisions made but not yet implemented by the Executive function of the Council;
- (f) Assist the Council and the Cabinet in the development and monitoring of the annual budget;
- (g) Review and scrutinise the Council's transformation governance and processes as well as monitoring the outcomes and benefits of the Transformation Programme;
- (h) Review and scrutinise the Council's partnership arrangements;
- (i) Review and scrutinise the Council's commissioning activities;
- (j) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas; and
- (k) Have the authority to establish task & finish groups, standing panels and sub-committees as necessary to discharge the functions falling within the remit of the committee.

6.3 Overview and Scrutiny Committees Terms of Reference

Each Overview and Scrutiny Committee is aligned to one of the Wirral Plan themes of People, Business and Environment with responsibility for reviewing and / or scrutinising decisions made or actions taken in connection with the

pledges that make up the respective theme of the Wirral Plan. The Overview and Scrutiny Committee is also responsible for scrutinising the strategies, policies, partnerships, transformation projects / programmes and supporting functions which operate in support of their Wirral Plan theme.

People Overview and Scrutiny Committee

<p>Wirral Plan Pledges</p>	<ul style="list-style-type: none"> • Older People Live well • Children are ready for school • Young people are ready for work and adulthood • Vulnerable children reach their full potential • Reduce child and family poverty • People with disabilities live independently • Zero tolerance to domestic violence
<p>Scope of the Committee</p>	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Ageing well Strategy • Wirral’s Strategy for Children, Young People and Families • Improving Life Chances Strategy • All Age Disability Strategy • Zero Tolerance to Domestic Abuse Strategy • Safeguarding Strategy • Schools Strategy • Health and Wellbeing Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Older People • Health and Social Care • Mental Health (all age) • Learning Disabilities (all age) • Children’s Care • Children’s Services • Education • Safeguarding

	<p>To perform the Council's statutory responsibilities to undertake health scrutiny. The Committee will:</p> <ul style="list-style-type: none"> • Review and scrutinise any matter relating to the planning, provision and operation of health services in the Borough, including significant change to service provision and those jointly commissioned or delivered by the council. • Require the provision of information or the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health services in the Borough. • Participate in cross-boundary overview and scrutiny of health services with other local authorities; including the establishment of joint committees; or the delegation of functions to another local authority, where appropriate. • Report to the Secretary of State for Health: <ul style="list-style-type: none"> - Where the committee is concerned that consultation on substantial variation or development of services has been inadequate - Where the committee considers that the proposal is not in the interest of the local health service.
Cross-Cutting Themes	<ul style="list-style-type: none"> • Wirral residents live healthier lives pledge (link with Environment theme) • Community services are joined up and accessible pledge (link with Environment theme) • Liverpool City Region Combined Authority

Business Overview and Scrutiny Committee

Wirral Plan Pledges	<ul style="list-style-type: none"> • Greater job opportunities in Wirral • Workforce skills match business needs • Increase inward investment • Thriving small businesses • Vibrant Tourism economy • Transport and technology fit for the future • Assets and buildings are fit for purpose
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<p>Scope of the Committee</p>	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Wirral’s Growth Plan • Wirral Visitor Economy Plan • Wirral’s Transport Strategy • Wirral’s Digital Strategy • Wirral Asset Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Growth • Transport • Digital • Regulatory Services • Asset Management • Customer Services
<p>Cross-Cutting Themes</p>	<ul style="list-style-type: none"> • Good quality Housing that meets the needs of residents pledge (Link with Environment theme) • Community services are joined up and accessible pledge (link with Environment theme) • Liverpool City Region Combined Authority

Environment Overview and Scrutiny Committee

<p>Wirral Plan Pledges</p>	<ul style="list-style-type: none"> • Leisure and cultural opportunities for all • Wirral Residents live healthier lives • Community services are joined up and accessible • Good quality housing that meets the needs of residents • Wirral’s Neighbourhoods are safe • Attractive local environment for Wirral residents
<p>Scope of the Committee</p>	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Wirral’s Leisure Strategy

	<ul style="list-style-type: none"> • Wirral's Culture Strategy • Wirral Residents Live Healthier Lives Strategy • Neighbourhood Strategy • Housing Strategy • Ensuring Wirral's Neighbourhoods are Safe • Managing Our Waste Strategy 2015 - 2020 • Loving Our Environment Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Leisure • Community Services • Safer Neighbourhoods • Housing Services • Environment <p>To perform the Council's statutory responsibilities to undertake scrutiny in relation to:</p> <ul style="list-style-type: none"> • The review and scrutiny of the flood and coastal erosion risk management functions under the Flood and Water Management Act 2010. • The review and scrutiny of decisions made or action taken in connection with the discharge by the Responsible Authorities and Co-operating bodies of the Wirral Community Safety Partnership of their crime and disorder functions.
<p>Cross-Cutting Themes</p>	<ul style="list-style-type: none"> • Vibrant tourism economy pledge (link with Business Theme) • Transport & Technology Infrastructure fit for the future (link to Business theme) • Liverpool City Region Combined Authority

RESPONSIBILITY FOR FUNCTIONS

Table 2 - Responsibility for Council Functions

(Page 65 Council's Constitution)

Proposed Amendment:

Committee	Membership	Functions	Onward Delegation of Functions
Overview and Scrutiny Committees	15 Members of the Authority	The statutory functions of a Overview and Scrutiny Committee with the terms of reference set out in Article 6.	

s35. Calling-In of decisions

(1) All decisions of:

- (i) the Cabinet;
- (ii) an individual member of the Cabinet; or
- (iii) a committee of the Cabinet; and
- (iv) key decisions taken by an officer

shall be published, and shall be available at the main offices of the Council normally within 2 days of being made. All members of the Council will be sent a copy of the decision.

(2) That Minute(s) will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, unless the decision is called in for scrutiny by 5:00p.m. on the final day of the Call-In period of **within** five clear working days from the date of publication. (Adjusted by a maximum of one day if there is one or more Bank Holidays in that period).

(3)

- (i) During that period, the Chief Executive shall Call-In a decision for scrutiny by the responsible Overview and Scrutiny Committee in which the matter relates if so requested by any six members of the Council who have given detailed reasons for the Call- In of the decision. The detailed reasons must be provided by the Lead signatory by the Call-In deadline. When a Call-In is requested, the Chief Executive shall liaise with the Member listed first on the Call-In schedule to ensure there is sufficient information provided to enable the Call-In to proceed. As long as there is a clear reason given, the Call-In should be allowed. He/she shall then notify the decision-taker of the Call-In. He/she shall call a special meeting of one of the Overview and Scrutiny Committees, designated through consultation with the Chairs of the committees, on such date as he/she may determine, where possible and in any case within 15 working days of the decision to Call-In.
- (ii) The relevant Chief Officer and all members will be notified of a Call-In immediately and no action will be taken to implement the decision until the Call-In procedure has been completed. A decision of the Cabinet, a committee of the Cabinet or individual Cabinet member may be called in only once.
- (iii) The meeting of the committee to consider the Call-In shall be quorate if four (4) or more members are in attendance.

- (iv) The meeting of the Overview and Scrutiny Committee shall commence at 4:00pm unless otherwise agreed by the Chairperson.
 - (v) Should a committee meeting be adjourned part-heard it must be convened within 7 working days thereafter otherwise it shall be abandoned and a new committee meeting convened within 7 working days.
- (4) Having considered the decision, the Overview and Scrutiny Committee may:-
 - (i) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or;
 - (ii) refer the matter to full Council. Such a referral should only be made where the Overview and Scrutiny Committee believes that the decision is outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures set out in those rules must be followed prior to any such referral.
- (5) If a decision is referred back to the decision making person or body it shall be reconsidered in the light of the written concerns of the Overview and Scrutiny Committee before a final decision is made.
- (6) If following a Call-In, the Overview and Scrutiny Committee does not refer the matter back to the decision making person or body and does not refer the matter to Council, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting. If the Overview and Scrutiny does not meet the decision shall take effect from the date when the Committee should have met.
- (7) If the matter is referred to full Council and the Council does not object to a decision which has been made, then the decision will become effective on the date of the Council meeting.
- (8) If the Council does object the Council may take a decision, which is outside the policy and budgetary framework. Otherwise the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive Board as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten working days of the Council request.
- (9) Call-In should only be used in exceptional circumstances where members have evidence which suggests that the decision was not made in accordance with the principles of decision making in the constitution.

(10) Call-In and urgency

- (a) The Call-In procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interest. The record of the decision and the notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to Call-In. The Chief Executive must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (b) The operation of the provisions relating to Call-In and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

(11) Call-In shall be consistent with the Scrutiny Call-In Guidelines. The Scrutiny Call-In Guidelines shall be amended / approved by Overview and Scrutiny Committee Chairs as required.

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Appendix 5 - Overview and Scrutiny Procedure Rules

1. The number and arrangements for Overview and Scrutiny Committees

The Council has established Overview and Scrutiny arrangements in accordance with the requirements of the Local Government Act 2000.

The Council will have three Overview and Scrutiny Committees as set out in article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub committees. The role of Overview and Scrutiny Committees is wide ranging and can relate to all the Council's functions and responsibilities and to external bodies.

The Council recognises that these arrangements are an important and integral part of its political structure not only in relation to calling the Cabinet to account but more importantly allowing all Members of the Council to participate in the development of the Council's policies, plans and strategies including the formulation of the Budget and the Policy and Planning Framework and to contribute to decision-making in the Council.

The role for the Council in scrutinising other public bodies, such as the National Health Service, is recognised and the Council's arrangements reflect these statutory responsibilities.

2. Membership of Overview and Scrutiny Committees

All Councillors except for members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision with which he/she has been directly involved. A member of an Overview and Scrutiny Committee may however be involved in scrutinising the recommendations of a working party, where he or she was involved in drawing up those recommendations.

3. Education Regulation Co-optees

The People Overview and Scrutiny Committee and any sub-committee dealing with education matters shall include in its membership the following co-optees:

- (a) One Church of England diocese representative
- (b) One Roman Catholic diocese representative
- (c) Two parent governor representatives

Where the People Overview and Scrutiny Committee / sub-committee deals with other matters, these statutory consultees shall not vote on those matters, though they may stay in the meeting and speak.

4. Meetings of the Overview and Scrutiny Committees.

There shall be at least four ordinary meetings of each Overview and Scrutiny Committee in each year plus further dedicated meetings to support the annual consultation and/or budget setting process where necessary. In addition, extraordinary meetings may be called from time to time as and when appropriate. Committee meetings may be called by

the Chair (after consulting the Party Leaders or spokespersons before the date is determined), or by any three members of the committee.

5. Quorum

The quorum for an Overview and Scrutiny Committee shall be set out in the Council Procedure Rules in Part 4 of the Constitution (Standing Order 29).

6. Overview and Scrutiny Committees Chairs

- (a) The Chairs and Vice Chairs of Overview and Scrutiny Committees will be appointed by Council. Sub-committee Chairs will be drawn from among the members sitting on the sub-committee.
- (b) The Chairs and Vice Chairs of the Overview and Scrutiny Committees shall have discretion to determine how cross-cutting matters / issues will be allocated between the committees.
- (c) Regular meetings of the committee Chairs will be convened to review the work programme and allocation of cross-cutting matters / issues as appropriate.

7. Work Programme

The Overview and Scrutiny Committees will be responsible for developing a single integrated Overview and Scrutiny work programme. The work programme will reflect the priorities of the Wirral Plan.

8. Agenda items

Any member of an Overview and Scrutiny Committee or sub-committee, Cabinet Portfolio Holder or the Leader shall be entitled to notify the Chair that they wish an item falling within the remit of the committee be included on the agenda of the next available meeting of the Committee / sub-committee. On receipt of such a request, the Chair will ensure that it is included on the next available agenda.

The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and / or Council. The Cabinet and / or Council shall consider the report of the Overview and Scrutiny Committee within two months of receiving it or the next available meeting should that not be possible.

9. Policy review and development

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules in Part 4 of the constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees or sub-

committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (c) Overview and Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Overview and Scrutiny Committees

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committees will prepare a written report for submission to Cabinet (if the proposals are consistent with the existing budget and policy framework), or to the Council (if the recommendation would require a departure from or change to the agreed budget and policy framework).
- (b) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within two months or the next available meeting should that not be possible.

11. Making sure reports are considered by the Cabinet

The agenda for meetings of the Cabinet will, where appropriate, include an item entitled 'Issues arising from Overview and Scrutiny Committees'. The reports of Overview and Scrutiny Committees referred to the Cabinet shall be included in that point in the agenda (unless they have been considered in the context of the deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny committee completing its report/recommendations or the next available meeting should that not be possible.

12. Rights of Overview and Scrutiny Committee members to documents

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

- (a) Any Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any officer to attend before it to explain in relation to matters within its remit:-

- 1) any particular decision or series of decisions;

- 2) the extent to which the actions taken to implement Council policy; and /
or
 - 3) their performance
- (b) Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that committee will inform the Head of Legal and Democratic Services who will inform the member or officer giving at least three working days notice of the meeting at which they are required to attend. This notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where in exceptional circumstances, the member or officer is unable to attend on the required date, the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of fifteen working days from the original request.

14. Attendance by others

An Overview and Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and / or answer questions. It may, for example, wish to hear from members and officers in other local public sector organisations, or from residents or other stakeholders and shall invite such people to attend.

15. Call-In

Arrangements for Call-In shall be conducted in accordance with Part 4a of the Council's Constitution (Standing Order 35).

In considering any matter called-in the Overview and Scrutiny Committee shall follow the process set out in **Annex 1** and will have due regard to the Call In Guidelines that have been produced to support consistency in the Call-In process.

16. Referral of Notices of Motion from Council

Council Standing Order 7 enables Notices of Motion to be referred to an Overview and Scrutiny Committee. Under those circumstances:

- (a) The Proposer and Seconder of a motion which has been referred above shall be given at least 7 days notice of the meeting at which the motion is to be considered. The Proposer (or in his/her absence, the Seconder) shall be expected to attend the meeting and explain the Motion.
- (b) The Chairperson may call an extraordinary meeting of the Committee if he/she considers the matter to be time sensitive and the matter should be considered before the next scheduled meeting of the Committee.
- (c) At the discretion of the Chairperson, other persons with expertise on the subject of the Motion may be invited to attend the meeting at which it is to be considered.

(d) The following shall apply to speakers:-

- (1) the Proposer (or in his/her absence, the Secunder) of the Motion – shall have up to 5 minutes to explain the motion (unless otherwise permitted by the Chairperson).
- (2) any other person – up to 3 minutes (unless otherwise permitted by the Chairperson).
- (3) the Proposer (or in his/her absence, the Secunder) of the Motion shall have the right of reply - not exceeding 3 minutes (unless otherwise permitted by the Chairperson).
- (4) Questions may be asked of speakers by the Committee – not exceeding 5 minutes (unless otherwise permitted by the Chairperson).

(e) Should both the Proposer and Secunder of the motion be unable to attend, no written submission on their behalf will be permitted and the motion shall be considered in their absence.

(f) Consideration of the motion may be deferred to a future meeting to allow further information to be provided or other persons to attend.

(g) Subject to (f) above, the Committee shall debate the Motion and reach a decision.

(h) Any decision taken in respect of the motion shall be referred to the next Ordinary Council meeting for consideration.

17. The party whip

When considering any matter in respect of which a member of an Overview and Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the Overview and Scrutiny Committee's consideration of the matter. The declaration and detail of the whipping arrangement shall be recorded in the minutes of the meeting.

18. Procedure at Overview and Scrutiny Committee meetings

(a) Overview and Scrutiny Committees and sub-committees shall consider the following business:-

- 1) declarations of interest (including Party Whip declarations);
- 2) minutes of the previous meeting(s);
- 3) response of the Cabinet to reports of the Overview and Scrutiny Committee;
- 4) the business otherwise set out on the agenda for the meeting.

(b) Where the Overview and Scrutiny Committees conduct investigations (e.g. with a view to policy development), the committees may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:-

- 1) that the investigation be conducted fairly and all members of the

- committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- 2) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - 3) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

19. Matters within the remit of more than one Overview and Scrutiny Committee

Where a matter for consideration by an Overview and Scrutiny Committee falls within the remit of more than one Overview and Scrutiny Committee, the decision as to which Committee will be responsible for the matter will be resolved by agreement of the Chairs of the Overview and Scrutiny Committees.

ANNEX 1 CALL IN PROCEDURE

Chair's opening remarks (5 minutes)

The Chair will open the special Committee meeting convened to consider the Call-In and set out the procedure as follows:

Explanation of the call in by the lead signatory (5 minutes)

The Chair will invite the lead signatory to set out the reasons for the Call-In. Members of the Committee will be invited to ask the lead signatory questions.

Overview and explanation of the decision taken by the relevant Cabinet Member (5 minutes)

The Chair will invite the Cabinet Member to explain the reasons for the decision. Members of the Committee will be invited to ask the Cabinet Member questions.

Evidence from call in witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement (not to exceed 5 minutes) if they wish, prior to questions from Members of the Committee.

(Running order of witnesses)

Evidence from decision-taker's witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement if they wish (not to exceed 5 minutes), prior to questions from Members of the Committee.

Summary of the lead signatory (5 minutes)

The Chair will invite the lead signatory to summarise the key points of evidence given in support of their case.

Summary of the decision-taker (5 minutes)

The Chair will invite the decision-taker to summarise the key points of evidence given in support of the initial decision.

Committee Debate

The Chair will invite comments, observations and discussion from members of the Committee.

Committee Decision

The Committee having considered the evidence and debate may:-

- Refer the decision back to the Cabinet Member setting out in writing the nature of its concerns.
- Refer the matter to the Council. Such a referral should only be made where the Overview and Scrutiny believes that the decision is outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures set out in those rules must be followed prior to any such referral.
- Uphold the decision - If the Overview and Scrutiny Committee agrees with the initial decision the relevant Senior Officer may implement it without delay.

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POLICY AND PERFORMANCE TRANSFORMATION AND RESOURCES COMMITTEE

22 MARCH 2016

41 COMMUNITY SAFETY PARTNERSHIP

The Head of Corporate and Community Safety presented a report which outlined Wirral's statutory requirement for a Community Safety Partnership (CSP) and provided the committee with an update on the arrangements and the priorities set by Wirral Community Safety Partnership for 2016/17.

The report also highlighted the progress made to date in the delivery of 2 of the 20 pledges within Wirral's 2020 Vision, these being:

- Ensuring Wirral's neighbourhoods are safe.
- Zero tolerance to Domestic Abuse

The current public sector austerity measures had meant that a number of partner organisations had undertaken restructuring of their services and this had resulted in the CSP needing to collaborate even further than it had done so already. It would be a priority to identify and implement new delivery models where the Police had clear operational control for all the community safety resources across Wirral. This would result in the police having the authority to commit and deploy other agencies' resources to areas of need.

To achieve and deliver the new priorities a new structure model for the CSP would be presented.

Responding to comments from Members, the Head of Corporate and Community Safety made a number of points, including:

- The Council was legally obliged to produce an Annual Statement on what had been achieved on the CSP priorities and this was published on the Council website.
- He would provide a definition in writing of two of the targets set for 2015/16, Primary Fires and Secondary Fires.
- The targets were owned by Merseyside Police and were therefore Merseyside wide but there would be performance management indicators attached to the Council's own 2020 pledges.
- With regard to comparative data, the Wirral Basic Command Unit did compare favourably to other areas, although some statistics might show higher figures for certain crimes such as domestic abuse, because of more effective systems of reporting and support arrangements in Wirral.
- He agreed that there was a need for greater co-operation between partner agencies to deliver and achieve the CSPs priorities.

Resolved –

- (1) That the content of the report and the progress made in the delivery of the two 2020 pledges, be noted**
- (2) That this Committee recommends to Cabinet the 2016/17 priorities set by the Community Safety Partnership.**

**Policy and Performance - Transformation and Resources
Committee****Tuesday, 22 March 2016**

REPORT TITLE:	Community Safety Partnership
REPORT OF:	Strategic Director: Transformation and Resources

REPORT SUMMARY

This report seeks to outline Wirral's statutory requirement for a Community Safety Partnership (CSP) and to provide Members of this committee with an update on the arrangements and the priorities set by Wirral Community Safety Partnership for 2016/17.

The report also takes the opportunity to highlight to Members the progress made to date in the delivery of 2 of the 20 pledges with in Wirral's 2020 Vision, these being:

- Ensuring Wirral's neighbourhoods are safe.
- Zero tolerance to Domestic Abuse

RECOMMENDATION/S

That Members are requested to:

1. Note the content of this report and the progress made in the delivery of the two 2020 pledges; and
2. Recommend to Cabinet the 2016/17 priorities set by the Community Safety Partnership.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Crime and anti-social behaviour and domestic abuse in all its forms are a plight on the victims and the communities where they occur. The two Wirral 2020 pledges - Ensuring Wirral's Neighbourhoods are Safe and Zero Tolerance to Domestic Abuse – set the future direction of how the Wirral partnership will tackle these matters and are key to the future wellbeing of Wirral's communities.
- 1.2 The Community Safety Partnership (CSP) is responsible for overseeing the delivery of these pledges.
- 1.3 To seek this committees approval to recommend to Cabinet the priorities for the CSP in 2016/17.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 No other options were considered.

3.0 BACKGROUND INFORMATION

Statutory Requirements for a Community Safety Partnership

- 3.1 Section 6 of the Crime & Disorder Act 1998 requires the Responsible Authorities, commonly referred to collectively as a Community Safety Partnership (CSP) within a local government footprint to work together in formulating and implementing strategies to tackle local crime and disorder in the area.
- 3.2 Amendments made to the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007 required CSPs to share any partnership plans and community safety agreements with the Office of Police and Crime Commissioner (OPCC) and gave the OPCC powers to call together representatives of these authorities across their police area to attend a meeting – the Merseyside Community Safety Partnership.
- 3.3 OPCC are not a designated responsible authority under the Crime and Disorder Act 1998, however, the OPCC and the CSP must have regard to each other's priorities within their plans. This encourages joint working across each respective police force area and leads to mutually agreed priorities. It also ensures that the OPCC's priorities are tackled at the local level, and the CSP priorities are appropriately reflected and resourced.

Current Community Safety Partnership Arrangements

- 3.4 Currently the Wirral CSP operates under the brand of Safer Wirral and is attended by a wide representation from the following agencies and individuals:

- Merseyside Police – Area Commander
- Cabinet Member - Housing and Communities
- Party Group Spokesperson (Conservative & Lib Dems)
- Wirral Council
 - Community Safety Team
 - Wirral Anti-Social Behaviour Team
 - Family Safety Unit
 - Youth Offending Services

- Merseyside Fire & Rescue Service
- National Probation Service
- Merseyside Community Rehabilitation Company
- Wirral NHS
- Merseyside Office of Police and Crime Commissioner

3.5 The CSP meet on a quarterly basis to understand latest crime data and agree work priorities to protect local communities to help people feel safer. They work out how to deal with local issues like anti-social behaviour, drug or alcohol misuse and reoffending. They annually assess local crime priorities and consult partners and the local community about how to deal with them.

Community Safety Partnership Priorities

3.6 The CSP agree their priorities for a 2 year period and these are then reviewed on an annual basis. The priorities for 2014 – 2016 were:

- Reducing anti-social behaviour
- Reducing the amount of unlawful damage that occurs on Wirral
- Reducing the number of young people illegally drinking alcohol
- Reducing the impact of drug abuse
- Take effective action on all forms of hate crime
- Manage offenders who commit disproportionately high levels of crime
- Reduce shoplifting

3.7 These priorities are monitored and published on the internet to maintain accountability to the partnership and also to the communities of Wirral. The Performance Management Framework comprises the target rationale, baselines, projections, targets and reporting frequencies. Detailed below (Fig 1) are the target areas of focus throughout 2015 - 2016.

15 16 Targets set from 14 15 Achievements and 15 16 Projections						
Wirral Community Safety Partnership Performance Targets - 2015 / 2016	Reporting Frequency	Out Turn 2014/15	2015/16 Trend Projection	Proposed Target 2015/16	Target Rationale	Calculation Method
All Crime		19061	19794	19428		All recorded crime in Wirral
All crime within the 7 Beats Initiative	Monthly	2894	2900	2897	Average of 14/15 and 15/16 projection	All crime in Police Beats A342, A343, A344, A345, A346, A347, A348 (7 of 9 Beats in Birkenhead and Tranmere Ward)
Violence						
Violence With Injury	Monthly	1982	2268	2125	Average of out-tum and projection	Home Office definition
Alcohol Related Violence Youth		32	32	32		Recorded violence where alcohol flag is checked for 10-17 year olds or 18+
Alcohol Related Violence Adult		899	1044	972		National Indicator 28 definition
Senous knife crime		80	96	88		National Indicator 29 definition
Gun Crime		20	42	31		
Repeat Offending / Victimisation						
Repeat MARAC cases -	Quarterly	16.5	16.5	16.5	Maintain 2014/15	Average % repeats of high risk cases taken to MARAC in previous 12 months
Compass Decrease in offending rate		77.2	77.2	77.2		Rate 6 months before Compass Delivery/ rate 6 months after Compass Delivery
Compass Decrease in offending severity		78.5	78.5	78.5		This year's / last year's offending rate
PPO Offending Rate Reduction		41.2	41.2	41.2		
Acquisitive Crime						
Senous Acquisitive crime	Monthly	2920	3324	3122	Average of out-tum and projection	Former National Indicator definition
Primary deliberate fires		224	224	224		
Burglary		1026	1410	1218		
Taking of Motor Vehicle		548	690	619		
Theft From Motor Vehicle		1216	1056	1136		
Theft from Shop		2151	2256	2204		
Anti Social Behaviour						
Anti Social Behaviour Incidents	Monthly	11781	11250	11516	Average of target and projection	National Standard For Incident Recording
Criminal damage		3586	3420	3503	Out-tum	Former National Indicator definition
Secondary deliberate fires count		735		735		
Young people attending sports sessions		847		528	15% increase	Positive Futures - 15% increased funding for two of the measures
Young people reporting a reduction in alcohol/drug misuse		88		88	Out-tum	
Young people referred to partner interventions		339		390	15% increase	

Figure 1 – 2015/16 Performance Management Framework

3.8 The priorities for 2016/17 have been agreed by the CSP and were designed around the Wirral's 2020 Vision and one of its overarching principle's that no one single agency can deal with, or be responsible for dealing with complex community safety and criminal problems.

Therefore the CSP priorities for 2016 -2021 mirror those priorities set out in the two relevant pledges of Wirral's 2020 Vision specifically:

- Zero tolerance to Domestic Abuse (Pledge No. 7)
- Ensuring Wirral's neighbourhoods are safe. (Pledge No. 19)

3.9 These two pledges set the strategic direction for community safety in Wirral over the next five years. There will still be a requirement to measure the rates of specific crimes and anti-social behaviour, but the CSP will be far more outcome focussed with an agreed set of priorities, which when achieved will result in a safer Wirral.

**3.10 Ensuring Wirral's Neighbourhoods are Safe - Priorities
Build safer, stronger, more confident communities.**

- 3.11 Greater engagement and involvement with the communities of Wirral will be at the heart of the work programmes for the CSP. We must strive to eradicate the fear of unsafe from the reality of a place where crime is being reduced.
- 3.12 The CSP will prioritise working with our residents to support strong, active and inclusive communities, who are informed and involved in decision-making which will enable us to improve our services and create safer neighbourhoods.
- 3.13 All of the above priorities will have due regard to the OPCC plans and priorities, and the CSP will work with the OPCC to mitigate risks to our communities and achieve tangible outcomes towards both sets of priorities.

Improve Community Safety by Tackling the Cause and Impact of crime and ASB

- 3.14 The CSP will prioritise its resources towards tackling the causes and impact of crime with the aim of improving the lives of victims. In particular the partnership will seek to prioritise the eradication of the fear of crime and of feeling unsafe across the Borough.
- 3.15 The CSP will work with colleagues involved in the Early Years strategy to ensure that our young people are directed away from crime and anti-social behaviour to other activities and resources such as The Hive – Wirral's new £6 million Youth Zone which is due to open in 2016.
- 3.16 In addition to this, the CSP will seek to work with colleagues from youth offending services, to ensure that as much can be done in regards to those young offenders and ensure that any perpetrator programmes bring about change in behaviours and reduce reoffending.
- 3.17 New and more efficient ways of working to address anti-social behaviour will be a priority for the CPS such as Wirral's Neighbourhood Justice Scheme which aims to provide positive outcomes to those affected by crime, ASB or neighbour disputes by enabling people to work together to find some kind of meaningful resolution. This method can help prevent escalation, ultimately saving time and the costs associated with repeat interventions by the police and other agencies.

Protecting Vulnerable People

- 3.18 In this pledge the CSP will seek to eliminate all forms of Hate crime, domestic abuse, child sexual exploitation and other similar offences, often referred to as 'Harmful Practices'. These crimes are often committed against vulnerable adults and children. It will prioritise supporting victims at the earliest opportunity and working alongside all agencies and communities to ensure we protect against radicalisation to prevent vulnerable people from being drawn into terrorism.

- 3.19 The CSP will also work collectively to prioritise social isolation and all safeguarding issues by linking in with other existing work such as the Ageing Well strategy to and to Make Safeguarding Personal.
- 3.20 The Protecting Vulnerable People work stream will link directly to the Wirral 2020 Vision of Zero Tolerance to Domestic Abuse. The key priorities of this strategy are:
- Prevention - and Early Intervention;
 - Provision – Children and Young People at the Heart of our Domestic Abuse Response;
 - Partnership – A Strong Community Coordinated Response;
 - Perpetrators – Make Victims Safer and Reduce Re-offending.

Deliver greater integration with all relevant partner agencies

- 3.21 The CSP has a long history of working in collaboration and this can be demonstrated by 8 consecutive years of falling crime and ASB reports. However the current public sector austerity measures have meant that a number of partner organisations have undertaken restructuring of their services and this has resulted in the CSP needing to collaborate even further.
- 3.22 Therefore it will be a priority to identify and implement new delivery models where the Police have clear operational control for all the community safety resources across Wirral. This will result in the police having the authority to commit and deploy other agencies resources to areas of need.

New Community Safety Partnership Structure

- 3.23 To achieve and deliver these new priorities we will be presenting a new structure model for the CSP in April (Fig 2) and contained with the Wirral 2020 pledge. This new structure highlights the key thematic areas and looks to distribute the leaderships of these themes across a wider partnership.
- 3.24 In addition we believe a new Wirral Community Safety Partnership should have greater community representation and we will be striving to encourage community representation onto the partnership.

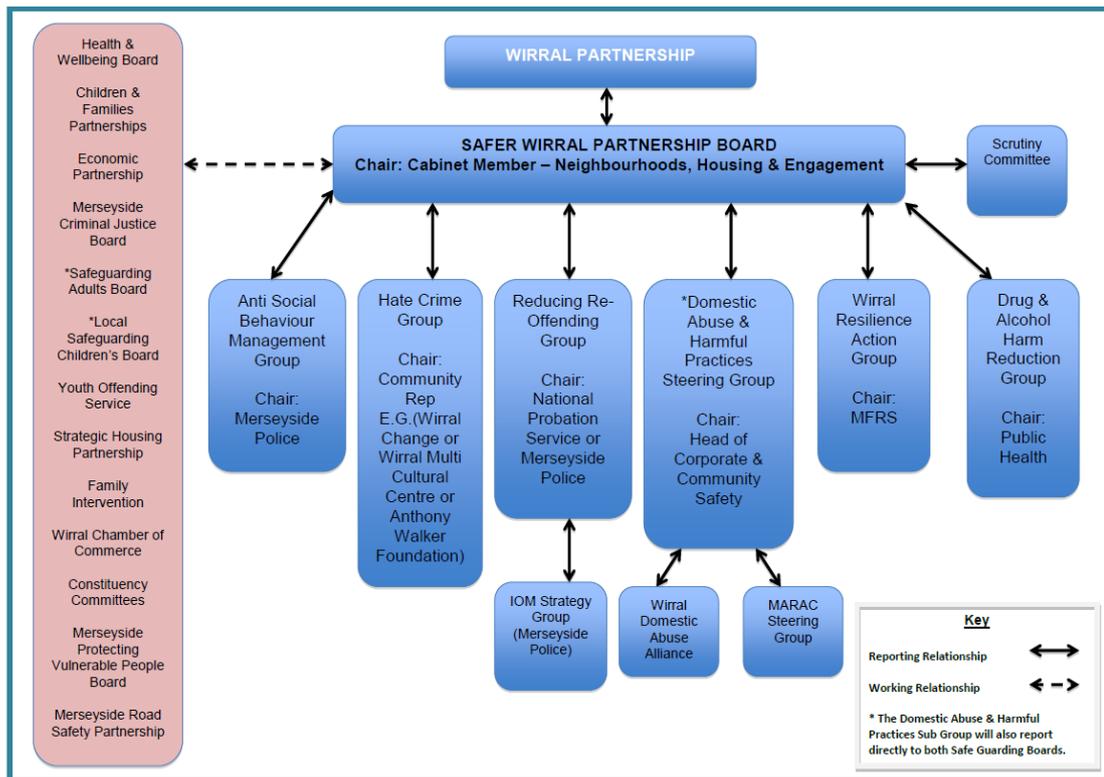


Figure 2 – New CSP Structure

4.0 FINANCIAL IMPLICATIONS

4.1 The work of the CSP is funded by contributions from 3 main sources and the levels of funding for 2016/17 are shown in brackets:

- Wirral Council (£334,000)
- Merseyside Police (£169,000 – BCU Fund)
- Office of Police and Crime Commissioner (£388,000)

4.2 The majority of this funding is attributed to staffing from across the agencies.

4.3 In addition to this the CSP bids for grants and other awards which become available and in 2016 this equated to £140,800.

5.0 LEGAL IMPLICATIONS

5.1 The provision of a Community safety Partnership is a statutory requirement under the Crime & Disorder Act 1998.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

7.0 RELEVANT RISKS

8.0 ENGAGEMENT/CONSULTATION

8.1 Comprehensive consultation was undertaken in the development of the two Wirral pledges.

9.0 EQUALITY IMPLICATIONS

9.1 This report is for information only, as such there are no equality implications but full EIA's were undertaken in support of both Wirral pledges:

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

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APPENDICES

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date