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# Update on Future Working Arrangements for the Public Protection Partnership

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<b>Committee considering report:</b>	Executive
<b>Date of Committee:</b>	24 March 2022
<b>Portfolio Member:</b>	Councillor Hilary Cole
<b>Date Portfolio Member agreed report:</b>	15th March 2022
<b>Report Author:</b>	Sean Murphy
<b>Forward Plan Ref:</b>	EX4174

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## 1 Purpose of the Report

- 1.1 Following the successful conclusion of the negotiations with Wokingham Borough Council (Wokingham BC), who are exiting the Public Protection Partnership (PPP) Members are asked to consider the resourcing, branding and governance arrangements for the new bilateral partnership between Bracknell Forest Council and West Berkshire Council.
- 1.2 The report also seeks to inform Members about the mechanism, funding and management of the services that Wokingham BC will be commissioning from PPP. Members are also being asked to approve the settlement sum payable by Wokingham BC due to their early termination of the Inter Authority Agreement (IAA), the detail of which will be included in the Part II paper as the report contains information relating to the business or financial affairs of individuals.

## 2 Recommendations

- 2.1 The Executive resolves to:
  - (a) APPROVE the settlement sum of £416,681, payable by Wokingham Borough Council associated with the termination of the Inter Authority Agreement and to delegate authority to Service Lead – Legal & Democratic Services to enter into a settlement agreement with Wokingham Borough Council in this connection;
  - (b) DELEGATE authority to the Public Protection Manager to conclude negotiations on the future arrangement with Wokingham Borough Council for the provision of trading standards and other services and delegate authority to the Service Lead Legal & Democratic Services to finalise and enter into an Inter-Authority Agreement (IAA).
  - (c) DELEGATE authority to Executive Director – Place to conclude negotiations on the revised form of Inter Authority Agreement (IAA) with Bracknell Forest Council

reflecting the Agreed Percentages of 60% West Berkshire and 40% Bracknell Forest and to delegate authority to the Service Lead Legal & Democratic Services to finalise and enter into an amended IAA on similar terms to the existing IAA.

- (d) APPROVE the revised branding for inclusion in the amended Inter Authority Agreement.
- (e) NOTE the proposed governance arrangements for the new bilateral service which Full Council will be asked to approve at the Annual meeting.

### 3 Implications and Impact Assessment

Implication	Commentary
<p><b>Financial:</b></p>	<p>The parties have agreed a ‘without prejudice’ financial settlement. The settlement sum will enable the PPP to operate its management structure for a further 12 months. Planning and risk management will be required to ensure that by that time other suitable arrangements have been put in place. The settlement also includes an in year allocation of PPP funds to meet data management costs for the new Commissioned Services.</p> <p>The Commissioned Services will be delivered under an Inter-Authority Agreement has been agreed with a contribution from Wokingham of £459K in year one based on cost recovery.</p> <p>It is being proposed that for the remaining services the Inter Authority Agreement (IAA) will be amended to reflect the revised agreed percentages of 60% for West Berkshire and 40% for Bracknell Forest.</p> <p>In terms of settlement arrangements the agreed figure between the parties is £416,281</p>
<p><b>Human Resource:</b></p>	<p>Arrangements have been put in place to ensure an orderly handover of workload for those employees transferring or being to Wokingham BC. A small number of staff will be transferring under the terms of TUPE and a further seven staff will be transferring to Wokingham BC after an ‘expression of interest’ selection process.</p> <p>Work is ongoing around a revised PPP structure to support the new service after the 01 April 2022. This is being undertaken in conjunction with the review of the Place Directorate at West Berkshire as the host authority.</p>
<p><b>Legal:</b></p>	<p>The existing Inter Authority Agreement (IAA) sets out the process for all parties to follow in the event of early termination by one party. The parties have agreed to a provisional</p>

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	<p>Settlement Agreement reflecting the without prejudice offer from Wokingham BC.</p> <p>An Inter Authority Agreement (IAA) between West Berkshire Council and Wokingham BC is the proposed mechanism for dealing with the Commissioned Services going forward between the parties. This agreement would see employees providing these services continuing to be employed by West Berkshire Council.</p> <p>The Joint Public Protection Committee will need to be re-constituted to reflect the changes in the partnership going forward. It is proposed that Wokingham BC will be invited to attend the JPPC for relevant agenda items but will not be members of the JPPC.</p> <p>The IAA will be re-drawn in respect of the ongoing partnership between West Berkshire Council and Bracknell Borough Council which will to reflect the 60/40 agreed percentage split between the two organisations.</p>
<p><b>Risk Management:</b></p>	<p>The project governance board and the partner Councils have been kept updated on risk and risk mitigation matters throughout the course of the last year. The risks have now been largely successfully mitigated.</p> <p>The last remaining significant risk would be the failure of the parties to agree the draft settlement arrangements and / or to agree the terms of the IAA for the new Commissioned Services.</p> <p>Officers consider that the management of risk with respect to these changes have been successful with costs and liabilities kept to an absolute minimum whilst minimising the risk of redundancy and maintaining customer service.</p>
<p><b>Property:</b></p>	<p>There are no direct property implications from this report.</p> <p>Staff that were previously based at Shute End but who are staying with PPP have been asked to identify a new base at either Time Square, Bracknell or Theale Gateway. The vast majority have opted to be based at Time Square and contractual changes will now be made.</p> <p>Staff that are currently based at Shute End that will be providing services to Wokingham BC residents and businesses under the 'commissioned services' arrangements will remain at Shute End.</p>

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<b>Policy:</b>	There are no direct policy implications arising from this report. Amendments will have to be made to a number of the PPPs existing plans, policies and strategies to reflect the change in circumstances and this will be incorporated into the annual review process.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>		✓		No, the settlement and future trading arrangements of the PPP enable the services to continue to be provided across the whole community. The JPPC will consider any future policy changes and they will have their own EIA.
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		As above
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		As above
<b>Environmental Impact:</b>		✓		
<b>Health Impact:</b>		✓		
<b>ICT Impact:</b>		✓		Plans have been put in place to mitigate disruption from data migration projects and operational requirements for case management systems.

<b>Digital Services Impact:</b>		✓		Plans have been put in place to support website redesign.
<b>Council Strategy Priorities:</b>		✓		With careful planning and mitigation measures the PPP should be able to continue delivering a sustainable service. This is subject to successful negotiations and growth bid award.
<b>Core Business:</b>			✓	It is inevitable that there will be some management capacity issues to deal with the implications of the report, this will impact on Covid response (if required) and other Business As Usual (BAU).
<b>Data Impact:</b>		✓		Plans have been put in place to mitigate disruption from data migration projects and operational requirements for case management systems.
<b>Consultation and Engagement:</b>	<p>Sue Halliwell – Executive Director: Place</p> <p>Eric Owens – Service Director Development and Regulation</p> <p>Damian James – Assistant Director - Bracknell Forest</p> <p>Sean Murphy – PPP Service Manager</p> <p>Shiraz Sheikh and Claire Say – Legal Services</p>			

## 4 Executive Summary

- 4.1 Since the notification from Wokingham BC of their decision to terminate the partnership, detailed negotiations have taken place to minimise cost and disruption of customer service for all parties. The negotiations have now successfully concluded and a financial settlement has been reached.
- 4.2 During the negotiation process a range of risks were identified and assessed. Financial risks were always the primary concern and the Executive are being asked to make a decision on the Part II paper in order to conclude the remaining elements of the negotiations.
- 4.3 The settlement has ensured that the Council has recovered all costs and achieved a settlement which enables the retention of the existing management structure for just over 12 months.

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- 4.4 In parallel to this, a discussion about specific functions that the PPP could continue to provide to Wokingham BC has been developed and a proposal to deliver 'Commissioned Services' is in the final stages of negotiations. This reduces financial risks for all parties and requires final approval to enter into a new legal agreement.
- 4.5 Inevitably there have been some compromises on both sides to ensure that positive working relationships are maintained and the Exit Plan has provided a framework for all parties to navigate the negotiations. Parties from both sides commented at the Joint Public Protection Committee on the 14 March 2022 about the positive manner in which the negotiations have been conducted and how this boded well for the future working relationship between the parties.
- 4.6 Wokingham BC will be taking a report on 'Arrangements for the New Enforcement and Safety Service' to their Executive meeting on the 31 March 2021. The stated purpose of the report is to update their Executive on the provisions for the in-house service including the settlement reached between parties.

### **Resourcing and Organisational Change**

- 4.7 The decisions taken by Wokingham BC to leave the Partnership by the 31<sup>st</sup> March 2022 has naturally required a great deal to be delivered in a relatively short period of time. This has all taken place whilst the service has had to manage the impact of Covid and maintain vacancies to mitigate some elements of risk associated with staffing. It has also meant a number of staff being put at risk of redundancy as we worked together with Wokingham BC colleagues to balance services with budgets.
- 4.8 The re-organisation process resulting in the reduction of 21 posts from the establishment has now been completed. The restructure will take effect from April 1<sup>st</sup> 2022. The PPP has adapted its budget to manage the 34% reduction as a result of Wokingham BC leaving the Partnership. Whilst, not without challenge, the process has been conducted in a positive way and has only resulted in one voluntary redundancy. The rest of the post holders were either TUPE'd or voluntarily transferred to Wokingham BC or the posts were vacant.
- 4.9 It was agreed that the existing management structure would be retained due to the level of operational risk, as assessed by the Joint Management Board (JMB).
- 4.10 Commissioned Services arrangements have been approved 'in principal' by Bracknell, Wokingham and West Berkshire Executives and this will assist the PPP to offset a third of all overheads costs. In addition the PPP successfully received approval for additional funding for 2022/23 in respect of housing and environmental protection work.

### **Outline of Settlement Arrangements**

- 4.11 Subject to approval by this Executive and the Executive of Wokingham Borough Council on the 31<sup>st</sup> March 2022 Wokingham have agreed to pay the sum of £416,681 with respect to the decision to leave the existing partnership on the 31<sup>st</sup> March 2022. Subject to agreement Wokingham will pay the sums set out in below:

### Current Commitments

Cost (£)	Reason for Expenditure
98,600	Current commitment to the ongoing Single System IT project transferring data from Civic App. This is the 34% of the costs of the work.
7,813	Current commitment to the ongoing Theale Gateway refurbishment costs. This is the balance of the 34% cost of these works.

### Project Costs

Cost (£)	Reason for Expenditure
108,050	Project management costs, external legal costs and West Berkshire officer times costs.

### Employee Costs

Cost (£)	Reason for Expenditure
202,218	Contribution to the employee costs

4.12 The payment schedule is as set out below:

Financial Year	Amount & Date
22/23	£108,050 payable 01 April 2022

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22/23	£154,316 payable 30 April 2022
23/24	£154,315 payable 30 April 2023

- 4.13 Additionally the Council will provide Wokingham BC with one dog warden van and one leased Electric Vehicle pool car.
- 4.14 Wokingham BC would indemnify the Council, up to an agreed sum, for any Employment Tribunal claims brought against the Council (on or before 31 March 2023) as a direct consequence of Wokingham BC terminating the IAA.
- 4.15 In terms of food hygiene inspections and standards the PPP is proposing that it will meet all the Food Standards Agency requirements in terms of the Covid Recovery Plan but that this would need to be balanced against other trading standards service pressures. It is therefore proposed that the final food standards unrated work will be finalised in Q1 of 2022/23. Food Safety work which will be returning to Wokingham BC will be brought in line with the Food Standards Agency recovery plan at the point of transfer.
- 4.16 While the PPP will be moving to a new integrated IT system to manage its cases early in the new financial year Wokingham BC Commissioned Services will be hosted on the existing system for a further twelve months during which time the data will be transferred to the PPP single system. The PPP will work with Wokingham BC ICT to determine the best approach to data, record keeping and processing between 1st April 2022 and the commencement date.

### Inter-Authority Agreement (IAA)

- 4.17 An important part of the financial risk mitigation was the common agreement that specific elements of the PPP could and would be delivered more efficiently if they continued to be paid for collectively by all three councils. The Council agreed to support the negotiation parameters for Traded (Commissioned) Services at the Executive meeting on the [14<sup>th</sup> October 2021](#). The services that will be covered by this proposed IAA include: Trading Standards, Food Standards, Animal Health, Intelligence, Case Management and Air Quality Monitoring. The negotiation parameters agreed at the October Executive meeting can be summarised as follows:
- Do not agree to a term shorter than that of the existing IAA;
  - Identify clear termination provisions;
  - Allow for break clauses based around performance and costs issues; and
  - Negotiate on liabilities for break clause subjects.
- 4.18 Heads of Terms were drafted and Wokingham BC approved a year 1 budget of £459k to maintain a level of service. Bracknell Forest and the Council approved this approach and noted that it reduced financial risk by approximately one third (based on a

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budget/headcount split). The fee would be reviewable each year to ensure cost recovery objectives are met.

4.19 There are significant operational benefits to the Council in this approach, allowing the PPP to maintain levels of service to the community, improving public health, safety and welfare whilst also reducing the risk of criminal activity in the area.

4.20 The principle terms of the proposed arrangement are as set out below:

- (a) Staff operating in the PPP will continue to be employed by West Berkshire Council;
- (b) Wokingham BC cease to have any participation in the Joint Public Protection Committee but will be invited to attend as a guest for relevant agenda items;
- (c) Specific Key Performance Indicators will be agreed and monitored through the Joint Management Board, inviting the nominated officer from Wokingham BC (Head of Enforcement and Safety) to attend for relevant agenda items;
- (d) Any additional work required by Wokingham BC will be conducted on a cost recovery basis (hourly rate of £59 in year 1);
- (e) The management arrangements are through the Joint Management Board;
- (f) Annual business planning and annual report;
- (g) How to deal with incident and emergency response;
- (h) The termination date will be the 8<sup>th</sup> January 2027
- (i) The earliest date for early termination to be effective will be the 31<sup>st</sup> March 2024
- (j) Early termination, termination, default, delegations etc. will be dealt with through the IAA

### Revised Branding

4.21 Discussions have taken place to consider options for rebranding the service whilst still meeting the requirements of corporate standards in terms of sizing, clarity, colour blends etc. of the two authorities. Practical considerations in terms of the templates and what the logo would be used on (business cards, clothing, letterheads, forms, website, social media posts etc.) were also factored in to the discussions.

4.22 In addition to all of the technical elements of the logo, there is also quite a strong feeling that keeping close to the original branding has advantages online because of the increased publicity the PPP has been able to generate over the last two years.

4.23 It is therefore proposed that the following logos will be used going forward:



A shared service provided by  
Bracknell Forest Council and  
West Berkshire Council



- 4.24 It is also proposed that the Trading Standards Service that will operate across the three local authority areas will retain the branding that is in the current Inter-Authority Agreement. This will avoid the need for duplication of forms, paperwork etc. The branding is as follows and will be accompanied by the three local authority logos:



## Future Governance Arrangements

### Joint Management Board (JMB)

- 4.25 The JMB is formed under the requirements of the Inter-Authority Agreement (IAA). Future requirements for the two authority partnership will be set out in the amended IAA. All Public Protection Partnership risks have and will continue to be managed through the JMB who meet every two weeks.
- 4.26 From April 2022 all JMB meetings will have a two part agenda, separating the PPP management and the Commissioned Services management arrangements. The Wokingham BC Client Officer or their representative will attend the Commissioned Services element of the agenda which will oversee performance and risk.

## Joint Public Protection Committee (JPPC)

- 4.27 The Joint Public Protection Committee (JPPC) has been established to oversee the strategic leadership of the Public Protection Partnership. It is proposed that as of the 1<sup>st</sup> April 2022 the JPPC will comprise of four Members, two from each partner authority. The Chairmanship of the JPPC rotates between the two Councils on an annual cycle. The Chairmanship of the 2022/23 cycle will reside with West Berkshire Council. The quorum of a meeting of the JPPC will be three and it will continue to operate in accordance with West Berkshire Council's Constitution.
- 4.28 It is proposed that Wokingham Borough Council Members and Officers will be invited to attend the JPPC for relevant agenda items but will not be members of the JPPC and will therefore not be able to vote on any of the items.

## 5 Other options considered

- 5.1 As set out in the Part II report.

## 6 Conclusion

- 6.1 It was important to manage the financial risks from this project to minimise cost and disruption for all parties and these negotiations have been broadly successful. Overall this is seen by all parties as a positive, sensible and pragmatic outcome. This sentiment was echoed by the Joint Public Protection Committee on the 14<sup>th</sup> March 2022.
- 6.2 Looking forward for the PPP there is work to be done to re-balance the service albeit that the service has managed to retain a wealth of technical and operational expertise. The new service will be focussed on delivering against the priorities of the Councils and the Joint Public Protection Committee as a new two authority service working. This will include working closely with our Wokingham BC partners on areas of common interest through a commissioned approach delivering quality services to the public.

## 7 Appendices

None

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### Subject to Call-In:

Yes:  No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

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Item is Urgent Key Decision

Report is to note only

**Wards affected:** All

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