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# Joint Public Protection Partnership

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<b>Committee considering report:</b>	Council
<b>Date of Committee:</b>	08 December 2016
<b>Portfolio Member:</b>	Councillor Marcus Franks
<b>Date Portfolio Member agreed report:</b>	29 November 2016
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## 1. Purpose of the Report

- 1.1 West Berkshire District Council currently delivers its Trading Standards, Environmental Health and Licensing functions as part of a shared service arrangement with Wokingham Borough Council. The current agreements end on the 8<sup>th</sup> January 2017.
- 1.2 This report proposes the creation of a Joint Committee to deliver a shared service arrangement between West Berkshire, Wokingham and Bracknell Forest Councils. The new arrangement will be known as the Public Protection Partnership (PPP).
- 1.3 This report follows the decision by all three Councils Executives to enter into this arrangement.

## 2. Recommendations

- 2.1 Insofar as the functions and arrangements are for the Council it resolves:-
- 2.2 To authorise the arrangements set out in this report including the creation of a Joint Committee with Wokingham Borough Council and Bracknell Forest Council through the Public Protection Partnership (PPP) with effect from the 9<sup>th</sup> January 2017.
- 2.3 To delegate authority to the Head of Legal Services, in consultation with the Head of Finance and Head of Culture and Environmental Protection, to finalise the terms of the PPP as set out in the draft Inter Authority Agreement (IAA) between the three Councils and to make any necessary drafting or other amendments to the terms of the draft Agreement which are necessary to reach final agreement but do not materially affect the intent and substance of the Agreement.
- 2.4 To authorise the Joint Committee to determine policy, strategy and oversee the performance monitoring and management of the new PPP and have the powers set out in the terms of reference contained in Schedule 1 of the draft Inter Authority Agreement.
- 2.5 To authorise the Head of Culture and Environmental Protection and Public Protection Service Managers (Currently known as Trading Standards and Building Control Manager and Environmental Health and Licensing Manager) to receive a delegation of Trading Standards, Environmental Health and Licensing functions from Bracknell Forest Council and Wokingham Borough Council and to exercise

those functions jointly with West Berkshire District Council functions under the strategy direction and oversight of the Joint Committee.

- 2.6 The proposed agreement authorises West Berkshire District Council to institute and defend proceedings on behalf of Wokingham and Bracknell. This does not preclude the other authorities from taking their own legal actions.
- 2.7 To receive a TUPE transfer of the staff of Bracknell Forest Council currently providing the Trading Standards, Environmental Health and Licensing functions on the terms set out in the draft Inter Authority Agreement and authorise any relevant pensions and employment implications.
- 2.8 To appoint Head of Culture and Environmental Protection as the Council's Lead Officer to manage the Councils arrangements under the Agreement on the Council's behalf and to authorise the Monitoring Officer to make any necessary variations to the Agreement as may be required from time to time in consultation with the Leader of the Council.
- 2.9 To appoint Councillor Emma Webster to represent the Council on the Joint Committee. The Executive previously approved the appointment of Cllr Marcus Franks as its Member on the Joint Committee and Cllr Dominic Boeck as substitute Member
- 2.10 To authorise the Joint Committee and the Head of Culture and Environmental Protection to enter into arrangements with other local authorities, shared services or other bodies for the provision of Trading Standards, Licensing or Environmental Health Services, up to the limits permitted within the Council's Contract Rules (pursuant to the Local Authorities (Goods and Services) Act 1970, sections 111 and 113 Local Government Act 1972 and other enabling legislation

### 3. Implications

- 3.1 **Financial:** The model which governs the PPP budget has a flexible approach which accommodates fluctuating demands and the potential for partner authorities to request changes in the activity levels.

An initial full year budget (for 2017/18) has been set based on agreed levels from each of the partner authorities using retrospective activity level data. Ongoing activity levels will be monitored to inform subsequent budgets to be considered and proposed annually by the Joint Committee. Each Council will subsequently approve the budget, retaining control of allocations to the Joint Committee at all times. This process is set out in more detail in Schedule 4 of the legal agreement.

The initial budget for the part year (9<sup>th</sup> Jan 2017 – 31<sup>st</sup> Mar 2017) will be based on existing budgets.

The proposal will deliver a recurring saving in 2017-18 of £120K for West Berkshire.

The agreement also sets out in detail how unforeseen expenditure is managed. Examples of this would include major investigations or a major animal health disease outbreak. Initially this would need to be managed from existing budget but where this is not possible then the matter would need to be referred back to

the relevant council or councils.

It is important to note that any subsequent efficiencies made through the PPP will also be redistributed using the budget proportions, once agreed by the governing Committee. This is set out in the business plan and the agreement.

It has been acknowledged that there will be resource implications for the host in supporting the PPP a series of agreements for the following services have been made:

- Finance; ongoing accountancy support to contribute to discussions around in year budget management and year end reconciliation.
- Legal; direct costs as a result of initiating the project and any costs specifically incurred as a result of operating the PPP i.e. those over and above that covered by the legal agreement.
- Democratic services; direct support to the Committee.
- HR; to manage the initial TUPE process as part of the project.

These costs will be met by the PPP and in accordance with the model these costs will be split proportionately.

- 3.2 **Policy:** The PPP will be an important contributor to Council objectives around protecting vulnerable people and the operating model being considered shows strong, effective leadership which focuses on the most important issues affecting communities and business. The proposals build on increased resilience, reduced risk to the community and the Council, building expertise in areas where cost recovery is possible and giving employees improved professional opportunities. All policy will have input from the Joint Committee and wherever possible a common approach will be sought.
- 3.3 **Personnel:** This proposal will result in the TUPE transfer of 25 employees from Bracknell Forest Council. Whilst it will require existing West Berkshire employees to carry out their functions across a wider geographical area, they acknowledge the professional development opportunities that this will bring. The existing employees have been kept informed on a regular basis as the business case was developed. Appropriate indemnifications will be put in place as part of the finalisation of the legal arrangements.
- 3.4 **Legal:** The proposed shared service model is based on a Joint Committee under Section 102 of the Local Government Act 1972 which will have powers delegated to it by each of the participating authorities to take decisions on behalf of all of them.

As a Joint Committee is not a legal entity separate from its constituent authorities, it cannot enter into contracts, own land or employ staff in its own right but can have delegated authority to enter into arrangements conducive to the partnership. There is therefore a need for one of the Authorities (in this instance, West Berkshire Council) to take a lead authority role to undertake these activities on behalf of the other authorities. It is possible for one or more of the participating authorities to decide to pull out of the joint arrangements. Any financial implications arising from

this will be dealt with in accordance with the terms of the agreement.

An inter Authority Agreement will be entered into prior to the shared service becoming operational setting out the contractual obligations of the three parties under the arrangement including withdrawal by notice requirements.

As a Joint Committee is a voluntary arrangement, it is always possible for one or more of the participating authorities to decide to pull out of the joint arrangements. The IAA has provisions to require participating authority wishing to withdraw from the arrangements to have to give reasonable notice to the remaining authorities and to be liable to those remaining authorities for any loss which its withdrawal causes to the remaining authorities.

As the Joint Committee is intended to carry out a combination of Executive and Non-Executive functions the decision to set up the Joint Committee must be considered by Council, but both Council and the Executive must agree the arrangements and each must separately resolve to delegate their particular functions to the Joint Committee.

The Councils existing scrutiny arrangements are not affected by the transfer of functions to the Joint Committee i.e. the right to call in decisions remains in place.

To avoid the risk of procurement challenge the arrangement must demonstrate genuine cooperation between the parties. The Joint Committee arrangement and the IAA satisfy this requirement

- 3.5 **Risk Management:** These proposals if adopted will be notified to the Councils insurers. The legal agreement deals with allocation of risk and liability in significant detail. The underlying principal is one a shared liability. Safeguards exist to indemnify the parties against the actions of other parties in appropriate circumstances. One identified risk is that one or other of Executive or Council do not approve the recommendations.

In terms of insurance the relevant notifications will be made to the councils insurers. As with the existing shared service it is not anticipated that this would present any issues.

- 3.6 **Property:** There are no property implications as accommodation will be retained at Bracknell Forest Council Offices.

#### 4. Other options considered

- 4.1 Alternatives considered would be to revert to West Berkshire only provision or retain the current combination of authorities i.e. West Berkshire and Wokingham. Neither option would deliver the savings identified above without further cuts to service provision which in turn would have the effect of reducing resilience which is one of the strengths in the proposal. The currently proposal allows for the management of potential further saving through providing services to others or developing the shared service through the admission of further Councils.
- 4.2 Another option taken by handful of Councils has been outsourcing to the private sector. There significant complexities around this arrangement not least of which are the fact that many of the functions can only be delegated to 'officers' of local

authorities and certain functions such as decisions on legal actions can only be made by the authority. These services are very much in their infancy and time will tell whether this is an effective way of delivering enforcement services. It is certainly clear that the current legislative framework with respect to the statutory duties of a local authority do not lend themselves easily to this model. For this reason it has not been explored further at this stage. It is of course something the joint committee could consider in due course.

- 4.3 In the final instance this proposed approach builds on the experience drawn from our own shared service and that of others. The proposal for a combined single service involves joining these service areas into one large unit with the licensing function. It is believed that the joining of these three service areas in this way provides the greatest opportunity to improve efficiencies, maintain service standards and further reduce costs. The model proposed allows for further expansion, income generation and should it ever be considered a better option, outsourcing to the benefit of the partner organisations.

## 5. Executive Summary

- 5.1 In June 2010 West Berkshire Council entered into a five year shared service arrangement with Wokingham Borough Council for the delivery of the Trading Standards Service. This was followed by a five year agreement for Environmental Health and Licensing Services in January 2012. These combined arrangements have delivered savings of £200K per annum for West Berkshire.
- 5.2 Additionally the new arrangements have assisted in a number of key areas of delivery around sustainability. They have also allowed the service to meet changing patterns of offending and the enforcement regime around them. For the Trading Standards service the integration of the National Intelligence Model into day to day delivery along with a new integrated operating model with Thames Valley Police has again further improved efficiency in targeting resource.
- 5.3 Whilst both of the shared services at their time of development were not exclusive nationally they were relatively pioneering. The prevailing economic climate since 2010 has seen a steady increase in the number of collaboration arrangements particularly in the area of Trading Standards and we have been consulted and advised on shared services by a number of county council's, unitary authorities and welsh unitary authorities. We have considered other models and particularly the merits of the joint Surrey / Buckinghamshire which developed the initial West Berkshire / Wokingham model to introduce governance by Joint Committee. This is now seen as the favourable model going forward.
- 5.4 The initial legal agreement for trading standards ran for five years to June 2015. This was extended by Executive decision to bring it into line with the Environmental Health and Licensing agreement which is due to end in January 2017.
- 5.5 Towards the end of 2015 we were approached by officers of Bracknell Forest District Council about the possibility of looking at a new shared service arrangement to cover West Berkshire, Wokingham and Bracknell Forest Councils areas. This matter was considered by Corporate Board and Operations Board and authority granted to work up a proposal for further consideration. There are ongoing discussions with Reading Borough Council and Royal Borough of Windsor and Maidenhead about they may engage with the new arrangement in the future.
- 5.6 A significant amount of work has now been conducted by officers across a number of work streams relating to legal, HR, finance, ICT and operational matters as well consideration of other models and in particular the merits of the joint Surrey / Buckinghamshire Joint Committee Model. This has concluded in draft inter-authority agreement (Appendix C) and recommendation at page 1.
- 5.7 Should these proposals be approved by Executive and its functions delegated as set out in the resolutions the matter will then go before full Council to consider the proposal to delegate its functions also.
- 5.8 Any additional costs for support services (including for any legal activity) will be met by the PPP.

## 6. Conclusion

- 6.1 These proposals will delivery further opportunities to reduce revenue costs of delivering Trading Standards, Environmental Health and Licensing. In addition the

potential for operational efficiencies, service resilience and the likelihood of income generating opportunities is enhanced. For these reasons this is the option recommended to Executive and Council.

## **7. Appendices**

- 7.1 Appendix A – Supporting Information
- 7.2 Appendix B – Equalities Impact Assessment
- 7.3 Appendix C – Draft Inter-Authority Agreement