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# Update on Wokingham BC Exit from the PPP

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<b>Committee considering report:</b>	JPPC
<b>Date of Committee:</b>	13 <sup>th</sup> September 2021
<b>Portfolio Member:</b>	Councillor Hilary Cole
<b>Date Portfolio Member agreed report:</b>	1 <sup>st</sup> September 2021
<b>Report Author:</b>	Paul Anstey
<b>Forward Plan Ref:</b>	N/a

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## 1 Purpose of the Report

- 1.1 To provide an update on the progress of the project detailing the withdrawal of Wokingham BC from the partnership in line with the requirements of the Inter Authority Agreement (IAA).
- 1.2 To clarify the approach being taken on 'Buy-Back', which is essentially the agreement between the Council and Wokingham to maintain a contractual relationship for elements of the public protection service and reduce the overall financial risks for all parties.

## 2 Recommendation

- 2.1 To support principles of 'Buy-Back' and recommend that each partner authority approves the draft heads of terms through their most appropriate governance route.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	<p>A series of worst case scenarios have been developed to manage financial risks and all partners are working together to maximise mitigation measures.</p> <p>The cost of the project is being managed separately through each partner authority and do not form part of the PPP budget.</p> <p>The total value of the Buy-Back is £439k in year 1. In broad terms the successful conclusion of a Buy-Back agreement reduces the financial liabilities (redundancy and pension strain)</p>

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	<p>for all parties by an estimated third and supports the two Authority model in future service delivery.</p> <p>The PPP has identified vacant posts and the Joint Management Board is evaluating the ability to utilise them as a way to further reduce financial risk i.e. early recruitment into Wokingham's new structure.</p>
<b>Human Resource:</b>	<p>Step 1 of the organisational change process has been concluded, this asks for feedback on the process itself. The next step will be to engage with individuals who have been categorised according to criteria agreed by all partners.</p>
<b>Legal:</b>	<p>The draft Heads of Terms are being prepared.</p> <p>The Exit Plan is due to be agreed by 15<sup>th</sup> September.</p>
<b>Risk Management:</b>	<p>The partners have identified the following risks that will require mitigation measures (in no particular order):</p> <ul style="list-style-type: none"> <li>- Management capacity</li> <li>- Staff morale</li> <li>- Operational response to Covid matters</li> <li>- TUPE (interpretation dispute and operational disruption)</li> <li>- Media communication/coverage</li> <li>- Financial liabilities</li> <li>- Contracts with suppliers</li> <li>- Single Case Management System project</li> <li>- Inter Authority Agreement interpretation dispute</li> </ul>
<b>Property:</b>	<p>There are no direct property implications from this report. Consideration will need to be given to the use of Theale Gateway as part of future PPP operations but this is not a short term issue.</p>
<b>Policy:</b>	<p>Consideration will need to be given to the PPP policy framework as part of the process. At this stage nothing has been identified.</p>

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	Positive	Neutral	Negative	Commentary
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
<b>Environmental Impact:</b>		X		
<b>Health Impact:</b>		X		
<b>ICT Impact:</b>		X		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>		X		Plans have been put in place to support website redesign.
<b>Council Strategy Priorities:</b>		X		With careful planning and mitigation measures the PPP should be able to continue delivering a sustainable service.
<b>Core Business:</b>			X	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 and other BAU.
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	Damian James – Bracknell Forest Council Stephen Brown – Wokingham Borough Council Sean Murphy – PPP Manager			

## 4 Executive Summary

- 4.1 There has been progress since the last update report was considered by the Committee and all negotiations have been conducted positively and constructively. Inevitably there are some key areas which remain unresolved.
- 4.2 Initial estimates on cost liabilities appear to be higher than first feared with a range of effective mitigation measures being agreed.
- 4.3 Of those cost mitigation measures, 'Buy-Back' has demonstrable benefits and is broadly supported by officers.

## 5 Supporting Information

### Introduction

- 5.1 The Committee considered a report on 'The Future of the PPP' in March 2021. The report explained how the PPP would approach the process, what the key legal, financial and operational considerations were and the next steps.
- 5.2 This report updates the Committee on progress since that time and explains what actions have been taken to deal with those key risks.

### Background

- 5.3 Governance arrangements have been put in place to ensure the smooth running of the project.
- 5.4 An Operational Group (OG) has been established:

Council	Name	Role
WBerks/Bracknell (PPP)	Paul Anstey	Head of Public Protection & Culture (West Berks)
Wokingham	David Thrale	Interim Public Protection Consultant

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5.5 A Governance Group (GG) has been established:

<b>Council</b>	<b>Name</b>	<b>Role</b>
Bracknell	Kevin Gibbs	Executive Director
WBerks	Sue Halliwell	Executive Director
Wokingham	Steve Moore	Executive Director

5.6 A Disputes Group (DG) has been established:

<b>Council</b>	<b>Name</b>	<b>Role</b>
Bracknell	Tim Wheadon	Chief Executive
WBerks	Sue Halliwell	Chief Executive (Acting)
Wokingham	Susan Parsonage	Chief Executive

5.7 On a day to day basis the OG have been collating information, negotiating on key areas and reporting back to their respective authorities to ensure effective lines of communication. A range of Council staff have been engaged at various stages to address the key risks and design appropriate mitigation plans.

### Costs Liabilities

5.8 These break down as follows:

- Redundancy and pension strain (for staff in the PPP who are 55 years old or over);
- Any termination compensation;
- Organisational change challenge risk (Employment Tribunal);
- Project costs; and
- Capital repayments.

5.9 The extent to which any of these liabilities apply to any partner are being explored through detailed negotiations with the support of legal teams.

5.10 There are a range of mitigation measures which are available to the negotiation teams and the general view is this will be concluded amicably. Dispute resolution is considered a last resort but a framework is being agreed for contingency purposes.

### 'Buy-Back'

5.11 Heads of Terms have been drafted and agreement should be reached September.

5.12 The key elements of buy back are limited to the following services:

- Trading Standards:
  - Food Standards including quality, labelling and food fraud;
  - Animal Health and Welfare – on farm and establishments including contingency planning;
  - Fair Trading including: travel, estate agency, lettings;

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- Fraud, theft and money laundering including doorstep crime;
- Intellectual property crime;
- Metrology (weights and measures);
- Product safety;
- Age restricted products;
- Road traffic – weight restrictions, overloads;
- Support with confidence; and
- Tobacco and alcohol harm reduction programme.
- Intelligence:
  - Assessment of Client data to provide day to day operational support in effective investigation and resource planning; and
  - Contribution towards Client strategic and tactical assessment.
- Case Management:
  - Case management and legal advice from beginning to end of case for all public protection cases in-house or contracted;
  - Court file preparation;
  - Court Work;
  - Trial work (if not instructed to external Counsel);
  - First Tier and Employment Tribunal Input;
  - Financial Investigator;
  - Advice and checking of procedural applications;
  - Checking notices and expert instructions; and
  - Senior Appropriate Officer provision for Proceeds of Crime.
- Air Quality:
  - Changing and maintenance of air quality monitoring stations and diffusion tubes;
  - Keeping under review action areas:
  - Appropriate liaison Client internal services to enable effective co-ordination of air quality data for Client decision making;
  - Analysis of data and drafting and submission of annual status reports; and
  - Management of the DEFRA funded particulate project on behalf of the Client.
- General Service Development; a commitment to support Wokingham in implementing Microsoft PowerBI for the listed Functions and Services.

### 5.13 Cost Benefit Analysis of Buy-Back

The PPP has always and continues to have a range of successful traded and grant funded services. This activity accounts for a good proportion of income and the management team are well accustomed to managing client relationships. In financial terms it is worth £439k (A third of Wokingham's current payment for Services under the IAA) in year 1 revenue and has a positive impact of between £30k and £180k on the PPP's overall redundancy liability (accounting for different levels of recruitment into the new Wokingham structure). It would

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also mean retaining approximately 6.5FTE within the service which assists with overall service capacity.

Service/Function	Future Service Levels without Buy-Back	Future Service Levels with Buy-Back	Redundancy Costs RAG Rating	Resilience RAG Rating
Trading Standards	R	G	R	A
Intelligence	R	G	A	R
Case Management	A	G	A	R
Air Quality	R	G	A	A
Management	A	G	A	R

### 5.14 Risks associated with no Buy-Back (applicable to all three Authorities)

- Reduced ability to seek and succeed in attracting external funding.
- Loss of specialisms across the profession.
- Reduced resilience in the following areas:
  - Online investigations;
  - Vulnerable witness support;
  - Victim support;
  - Accredited financial investigations;
  - Directed surveillance and Covert Human Intelligence;
  - Investigation procedure and oversight;
  - Links with partner organisations e.g. Thames Valley Police;
  - Data analysis for developing strategic and tactical assessments;
  - Court file preparation;
  - Advocacy at Magistrates and Crown Court;
  - Trial and tribunal work; and
  - Proceeds of Crime arrangements.

5.15 The key area requiring clarification and the most likely topic of disagreement is the termination liabilities. All parties agree that 'Buy-Back' should be designed in such a way that it protects the IAA's principles of acting in good faith, reasonable endeavour and fairness in relation to cost liability.

### Organisational Change

5.16 There has been ongoing dialogue with HR colleagues to establish the approach to organisational change. The Step 1 consultation started on 13<sup>th</sup> August and closed on 27<sup>th</sup> August 2021 and the results have been considered and staff have been responded too. The Step 2 consultation will commence the week commencing the 6<sup>th</sup> September.

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5.17 Feedback was collated and the report published on 2<sup>nd</sup> September detailing any amendments to the process, along with a collation of question and answers for staff.

5.18 All parties have been working together to minimise any redundancy risk.

### **ICT**

5.19 The Councils have agreed a way forward. Wokingham will operate their data using their current supplier Civica. PPP will continue on their project to migrate all data to Tascomi. Should 'Buy-Back' be agreed, all commissioned services will operate on PPP systems.

### **Exit Plan**

5.20 This document brings together all the elements of the withdrawal process, as laid out in the IAA.

5.21 The negotiations are ongoing about liabilities and the dispute resolution process to be followed. This document must be finalised by the 27<sup>th</sup> September 2021.

### **Next Steps**

5.22 The negotiation teams will resolve the Exit Plan, Organisational Change Process and 'Buy-Back'.

5.23 Should the recommendation be accepted in each of the 3 partner authorities, service plans can be drafted to reflect the new arrangements ready for 2022/23.

### **Proposals**

5.24 To support principles of 'Buy-Back' and recommend that each partner authority approves the draft heads of terms through their most appropriate governance route.

## **6 Other options considered**

6.1 Joint Management Board have evaluated the impact of not proceeding with 'Buy-Back' as a part of the overall cost mitigation activity and determined that the financial impact is unacceptable and that future service resilience would be compromised.

## **7 Conclusion**

7.1 There has been much progress made since the Committee last considered this issue. There is an improved understanding of the legal, HR and financial risks and the relationship between partners remains productive.

7.2 Every effort should be made to conclude the important Exit Plan document by the deadline and the importance of 'Buy-Back' in cost mitigation should be recognised.

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### **Background Papers:**

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

Item is Urgent Key Decision

Report is to note only

**Wards affected:** All

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