
Update on Wokingham Exit from the PPP

Committee considering report:	Executive
Date of Committee:	14 October 2021
Portfolio Member:	Councillor Hilary Cole
Date Portfolio Member agreed report:	23 September 2021
Report Author:	Paul Anstey
Forward Plan Ref:	EX4115 and EX4145 merged

1 Purpose of the Report

- 1.1 To provide an update on the progress of the project detailing the withdrawal of Wokingham Borough Council (Wokingham) from the Public Protection Partnership (PPP) in line with the requirements of the Inter Authority Agreement (IAA) (EX4145).
- 1.2 To clarify the approach being taken on 'Traded Services', which is essentially the agreement between West Berkshire Council (the Council) and WOK to maintain a contractual relationship for elements of the public protection service and reduce the overall financial risks for all parties (EX4115).

2 Recommendations

- 2.1 Agree to the principle of pursuing 2 years of efficiency loss compensation as detailed at 5.4.
- 2.2 Agree to consider the proposed revenue investment bids as detailed at 5.7 within the Council's budget setting process.
- 2.3 Support the negotiation parameters for Traded Services, as listed at 5.14.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	The Councils aim is for this project to be cost neutral. As a contingency, the project has a budget of £55k (based on the request to Wokingham via Joint Public Protection Committee [JPPC] in March 2021). With a revised project closure date of 31/3/2022 the new forecast is £78k. This remains subject to liability negotiation.

	<p>Parameters for the risks of redundancy costs for the PPP have now been estimated. A detailed analysis can be found at Appendix A.</p> <p>In summary:</p> <ol style="list-style-type: none"> 1. Central risk to overall cost is the ability of Wokingham to attract staff. 2. There are currently disagreements in the approach towards operational structures and how they are implemented. 3. Based on this we have profiled cost estimates on a 25%, 50%, 75% and 100% recruitment success profile. This does not include a technical assessment of job matching and the impact of Traded Services. 4. WOK have requested to see the figures both as averages and worst case. This means taking the staff in each group and collating their individual redundancy calculations. 5. WOK worst case is therefore 25% recruitment at 100% liability = £837k 6. WOK best case is therefore 100% recruitment at 34% liability = £19k 7. PPP worst case is 25% recruitment at WOK 34% liability = £552k 8. Traded Services, in value terms, accounts for about a 1/3rd of the WOK budget so will reduce any bill by that amount. <p>Another factor to consider is the ability to use vacant posts as a negotiation tool. There is currently approx. £200k of vacant posts and the project teams are evaluating the situation. Most likely time to make the decision will be after step 2 consultation i.e. when we know how many expressions of interest we have for the Wokingham structure.</p>
<p>Human Resource:</p>	<p>Step 1 consultation for Organisational Change closed on 27th August with Step 2 documents issued on 7th September. Full documentation is at Appendix B.</p>
<p>Legal:</p>	<p>A 'without prejudice' meeting has taken place, key actions are:</p> <ol style="list-style-type: none"> 1. Agree the content of the Exit Plan. Outstanding items include: <ol style="list-style-type: none"> a. Finalised costs/liabilities for redundancies, pension strain and capital projects. 2. Finalise the Heads of Terms for Traded Services.

Update on Wokingham Exit from the PPP

	<p>3. Make a provisional 'offer' to Wokingham on a without prejudice basis.</p> <p>This will enable both parties to consider their options under the dispute resolution process as outlined in the IAA. These matters were confirmed by email.</p>			
<p>Risk Management:</p>	<p>The project governance board have been provided a series of project highlight reports to identify risks and proposed mitigation, the broad categories of risk is as follows:</p> <ul style="list-style-type: none"> - Management capacity - Staff morale - Operational response to COVID -19 matters - Transfer of Undertaking (Protection of Employment) (TUPE) (interpretation dispute and operational disruption) - Media communication/coverage - Financial liabilities - Contracts with suppliers - Single Case Management System project - Inter Authority Agreement interpretation dispute - Availability of key staff over summer holiday period 			
<p>Property:</p>	<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>			
<p>Policy:</p>	<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>			
	<p>Positive</p>	<p>Neutral</p>	<p>Negative</p>	<p>Commentary</p>
<p>Equalities Impact:</p>				

Update on Wokingham Exit from the PPP

A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		The step 1 consultation aims to engage staff and unions to ensure the process is fair, open and transparent.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		As above
Environmental Impact:		X		No impact arising from this paper.
Health Impact:		X		None.
ICT Impact:			X	There will be some small resource requirements from ICT to support data migration. This has been discussed and confirmed with the Applications Development Manager who will act as gatekeeper.
Digital Services Impact:			X	As a result of this paper there will be workload demand on Digital Services to assist in changes to PPP online content. This is being mitigated through the project by using external resources, due to be paid for by Wokingham as part of negotiations on cost liabilities.
Council Strategy Priorities:			X	Termination of a long term partnership does impact on the Council's abilities to deliver its strategic priorities but there are a range of mitigation measures to reduce the impact.
Core Business:			X	There are inevitably demands placed on the PPP Management Team to facilitate

				requests for information from Wokingham.
Data Impact:			X	As part of the wider ICT implications there are a range of data risks to manage. This is being dealt with through the project governance in liaison with ICT colleagues.
Consultation and Engagement:	Rebecca Bird (HR), Shiraz Sheikh and Claire Say (Legal), Matt Scalpello (ICT), Ian Wiggington and Carolyn Loosen (Finance), Sean Murphy (PPP), Damian James and Kevin Gibbs (Bracknell Forest), PPP staff consultation.			

4 Executive Summary

- 4.1 Following the previous update to the Joint Public Protection Committee this paper combines items EX4145 and EX4115 on the Forward Plan.
- 4.2 The Council are clear that there should be no financial liabilities as a result of Wokingham's decision. As part of the risk management process a worst case scenario has been established which looks at an outcome from these negotiations where Wokingham's position on liabilities is confirmed and the PPP is due to pay 66% of the total cost (estimate at this stage) which is £552k. This assumes Wokingham recruit 25% of the required staff to their structure. A successful negotiation with Wokingham on Traded Services reduces this by 1/3rd i.e. adjusted liability of £368k. If the best case scenario arises the Council will have no costs to pay.
- 4.3 The project team have estimated Wokingham's termination to result in £315k total lost efficiency per year. This is based in the principles of the disinvestment methodology previously decided through the JPPC. In discussion with Bracknell Forest, it is considered a suitable negotiation position to seek 2 years compensation i.e. £630k, this would be in addition to the capital liabilities of £163k, making the opening without prejudice offer £793k (no adjustment for Traded Services).
- 4.4 The PPP has experienced large volume increases in workload during COVID-19 relating to matters beyond COVID-19 such as housing, environmental protection and trading standards and is not showing any signs of reducing in recovery. As a result revenue investment bids totalling £250k per year have been put forward. The reduction of 34% revenue contribution from Wokingham from April 2022 will inevitably impact on service resilience and loss of collective efficiency. Bracknell Forest have indicated their support for this approach and would be split 60/40 i.e. the Council would contribute £150k.
- 4.5 Step 1 of the organisational change consultation process has concluded on 27th August, staff had 3 opportunities to engage in person and feedback was minimal. A report was published on the 2nd September. Step 2 has begun, with a range of staff meetings and 1-1s where requested, and is due to complete on October 5th.

- 4.6 A draft Heads of Terms for Traded Services has now been exchanged with Wokingham, whilst many areas have been agreed there remains disagreement on the issue of financial liabilities. The key risk to manage is the legacy redundancy and pension strain costs of staff involved in the arrangements. This is being managed through negotiation with Head of Legal at Wokingham, the principle being to ensure no liabilities are passed back to the Council inadvertently. The estimated benefit is that all redundancy and pension strain costs would reduce by 1/3rd based on the relative budgets being negotiated.

5 Supporting Information

Introduction

- 5.1 The project has reached a critical phase, with detailed financial risk modelling and staff consultation beginning on the organisational change process required as a result of Wokingham's termination notification.

Background

- 5.2 Since Wokingham's decision to exit the PPP the Council has sort to:

- Support the legal position that negotiations proceed on the basis that Wokingham are 100% liable for redundancy costs.
- Support the ICT position that the Council does not offer to host PPP data for Wokingham beyond March 2022.
- Agree that any established pressure bids, resulting from operational gaps in the PPP as a consequence of budget reductions and increased workloads should be submitted to Budget Board in August 2021 (net of any costs recovered from Wokingham as part of negotiations).
- Support the principle of Traded Services where it is established that it reduces the financial risk to the Council and adds value to the new PPP that will form once Wokingham's exit is finalised.

- 5.3 This report details the progress made in light of these decisions and the implications of the finalised organisational change document.

Costs Liabilities

- 5.4 These break down as follows:

- Redundancy – estimates detailed at **Appendix A**.
The Council position is that there should be no costs arising from Wokingham's exit. After conducting some risk management assessments the worst case scenario for the Council is that Wokingham's position on liabilities is upheld and the PPP is due to pay 66% of the total cost (estimate at this stage) which is £552k. This assumes Wokingham recruit 25% of the required staff to their structure. There are still a range of mitigation options which can positively impact on this position e.g. vacancies, job matching, suitable alternative employment, redeployment and Traded Services.

Update on Wokingham Exit from the PPP

- Compensation – loss of efficiency for the remainder of the IAA (5 years). This is based in the logic of the ‘Disinvestment Methodology’ which is disputed by Wokingham.

34% management team efficiency = £182k per year

34% case management efficiency = £64k per year

34% intelligence efficiency = £69k per year

Total lost efficiency per year estimated at £315k. If this was sought for the remainder of the contract total compensation would be £1.575M. This assumes that no staff would be made redundant in these areas and PPP would continue to employ to current levels. In discussion with Bracknell Forest, it is considered a suitable negotiation position to seek 2 years compensation i.e. £630k. More detailed work is being done to confirm the accuracy of the actual number.

These figures would significantly reduce if vacancies can be cashed and Traded Services are agreed based on current scope of functions and services to be commissioned.

- Organisational change challenge risks (Employment Tribunal)
This has been estimated by Bevans (external Counsel) as 1 year gross salary of each affected member of staff, capped at £84k.
- Project costs
Current forecast is £78k. This includes external legal costs.
- Capital repayments
These have been highlighted to Wokingham and estimated at £163k, broken down as follows:
 - Tascomi – 34% of £290k project = £98.6k (needs adjusting based on leave date and repayments already made)
 - Theale Gateway Lease – 34% for 5 years = £44k
 - Theale Gateway Building Works = £10k
 - 34% of Rental agreements for lease cars = £5.5k
 - Website and rebranding = £5k

5.5 It is also noted at this stage that costs arising from dispute resolution as laid out in the IAA could reach £50k.

ICT

5.6 This matter has now been resolved and Wokingham have progressed 2 new projects dealing with data migration and their customer journey (integrated with their customer contact centre) that should see data migration completed by March 2022.

Revenue Investment Bids

5.7 The PPP Manager has established 2 bids, the summary text for each bid is detailed below:

- ***Funding sought is 2 posts in private sector housing at Grade I and 1 post in Environment Quality at Grade I. Total annual cost with on costs of £150K with West Berkshire contribution being approximately 60% i.e. £90K.***

The Public Protection Service is facing unprecedented levels of demand. Demand in terms of service requests are some 35% higher than in 2019/20. Although these increases cut across all aspects of the service they are particularly marked in the areas of private sector housing standards (including caravan sites) and environmental quality.

A lot of this can be tracked to increased levels of demand resulting from increased development on the West Berkshire / Bracknell areas resulting in an increase in planning applications to be considered, commercial nuisance relating to development and matters arising from the types of development and significant increase in private sector rentals and issues related to private sector property arising from conversions of former commercial and industrial accommodation often to a poor standard or giving rise to safety issues.

There are also issues arising from the ways that people now live and work with a much bigger emphasis on home working and a lower tolerance of nuisance issues. Finally there is also work arising from changes to property safety with new legislation post Grenfell.

- ***The total amount sought is £100K per annum for management arrangements post Wokingham.***

Management of the new two authority service as a result of the decision by Wokingham to leave the shared service arrangement (34% reduction in financial contribution). This deals with investigation oversight, performance and risk monitoring, complaint and FOI response, policy and procedure development, governance and communications. Currently there are 4 managers reporting into the PPP Manager, 3 are part time and Joint Management Board has determined that this level is the minimum requirement to manage the service risks. If this bid is unsuccessful there will be a re-evaluation of pro-active service levels to accommodate the costs.

West Berkshire contribution would be approximately 60% with BFC funding the other 40%. BFC have indicated this is likely to get support from members.

5.8 Bracknell Forest have indicated their support for both bids. This is in recognition of the inevitable backlog of pro-active workloads that have had to be paused whilst COVID-19 response work has been conducted. Local data, Regional and National organisations are all reporting that COVID-19 recovery will have a disproportionate impact on regulatory services and those who have been heavily involved with public health incident management. There is widespread coverage in both Trading Standards and Environmental Health professional journalism that there is a shortage of staff to deal

with these pressures. This is also magnified by the impending changes as a result of Brexit.

5.9 If these bids are unsuccessful the PPP will need to re-evaluate its service planning and key performance indicators to adjust for the reduced headcount and higher demands.

Organisational Change

5.10 There has been ongoing dialogue with Human Resources colleagues, both internally and with Wokingham, to establish the approach to organisational change. The Step 1 consultation (to establish the process) closed on 27th August. Step 2 (detailed consultation and the inclusion of Wokingham's proposed structure) was issued to staff on 7th September. The documents are details in **Appendix B**.

5.11 Based on current estimates the worst case scenario for the number of staff likely to be put at risk is 19. The cost for this is estimated to be £837k. If the Council's position on liability i.e. that Wokingham are 100% liable, is not upheld this would lead to a PPP liability of £552k.

'Traded Services'

5.12 The latest draft Heads of Terms are detailed in **Appendix C**.

In summary the Services being offered are as follows:

- 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;
 - 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;

Update on Wokingham Exit from the PPP

- 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 Traded Services. The PPP continues to have a range of successful 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 (1/3rd 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). The detailed profiles for redundancy liability estimates are at **Appendix A**.

Service/Function	Service Levels without Traded Services	Service Levels with Traded Services	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

PPP Joint Management Board have already stated that the management team must not be reduced, there are only 4 managers reporting to the PPP Manager, 3 of whom are part time.

Update on Wokingham Exit from the PPP

Case Management is also an area which provides high levels of operational efficiency and effectiveness. Both would be unchanged in the event of an unsuccessful negotiation on Traded Services.

Risks associated with no Traded Services

- 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.

5.14 The key area requiring clarification and the most likely topic of disagreement is the termination liabilities. The current negotiation parameters are as follows:

- Do not agree to a term shorter than that of the existing IAA;
- Do not have any general termination clauses that allow Wokingham to terminate/break early and therefore bypass the existing IAA arrangements, which based on Council interpretation is 100% liability;
- Allow for break clauses based around performance and costs issues; and
- Negotiate on liabilities for break clause subjects, but aim for no more than 40% (current agreed %age)

Proposals

5.15 Agree to the principle of pursuing 2 years of efficiency loss compensation as detailed at 5.4.

5.16 Agree to the revenue investment bids as detailed at 5.7 to be considered through the budget planning process.

5.17 Support the negotiation parameters for Traded Services, as listed at 5.14.

6 Other options considered

6.1 A more aggressive line of negotiation would be to seek greater levels of compensation given the IAA has a further 5 years to run post Wokingham termination i.e. the full £1.575m, but this is seen as counterproductive to the overall process i.e. project delays have wider organisational costs and reputation risks.

7 Conclusion

- 7.1 There has been progress made since the Council last considered this issue and there is an improved understanding of the legal, HR and financial risks, with the relationship with Wokingham remains productive.
- 7.2 The PPP has been very heavily impacted by COVID-19 and based on all available information from local, regional and national reports demand levels during recovery will remain. The revenue investment bids are a reflection of this and are inevitably impacted by the budget changes that will result from Wokingham's termination. The management team are regularly reviewing their operational risk and resilience registers to balance reactive and proactive workloads, loss of revenue budget has historically led to reduced proactive work being carried out.
- 7.3 The negotiations have led to agreement that a without prejudice offer should be made to establish whether there is a possible commercial decision to be made rather than pursuing formal dispute resolution as detailed in the Inter Authority Agreement, which have their own costs associated with them. The opening position should be sufficient to cover 2 years of potential structural pressures, giving suitable flexibility to assess impact and encourage dialogue with Wokingham representatives.
- 7.4 The remaining cost liability mitigation options of Traded Services, vacancies, job matching, suitable alternative employment and redeployment should all be viewed positively and it remains the position of the Project Team that a deal can be done that works for all parties.

8 Appendices

- 8.1 Appendix A – Analysis of financial risk from redundancy
- 8.2 Appendix B – Organisational Change Process Document
- 8.3 Appendix C – Draft Traded Services Document

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
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Wards affected: all

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