

**TO: EXECUTIVE
27 SEPTEMBER 2016**

**REGULATORY SERVICES – JOINT SERVICES PROPOSAL
Director of Environment, Culture & Communities**

1 PURPOSE OF REPORT

- 1.1 Regulatory Services within Bracknell Forest Council comprises of environmental health, trading standards and licensing. The services were combined to form one business unit several years ago in order to drive out efficiencies and to help reduce the inspection burden on businesses.
- 1.2 This report proposes the creation of a combined unit with West Berkshire and Wokingham Councils proposed to be known as the Public Protection Partnership (PPP). The proposals will enable further efficiencies to be realised whilst still ensuring the mandatory duties are undertaken on behalf of the Council.

2 RECOMMENDATIONS

2.1 In so far as the following are Executive functions that the Executive agrees:

- (i) to authorise the arrangements set out in this report including the creation of a Joint Committee for the strategic policy and oversight of the delivery of public protection services with Wokingham Borough Council and West Berkshire Council through the Public Protection Partnership (PPP) with effect from 13 January 2017,**
- (ii) that the Monitoring Officer, in consultation with the Borough Treasurer and Director of Environment, Culture & Communities, be authorised to finalise the terms of the PPP as set out in the draft Inter Authority Agreement between the three Councils (Annex 1) 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,**
- (iii) 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,**
- (iv) that the Council's representatives on the Joint Committee will be the Executive Member for Culture, Corporate Services and Public Protection and the Chairman of the Licensing and Safety Committee with any Member of the Executive being able to act as a substitute,**
- (v) that all existing service specific specialist equipment and the associated ongoing liability be transferred to West Berkshire from the 13 January 2017,**
- (vi) that any associated existing contracts with the Council are transferred to West Berkshire to administer on this Council's behalf until such time as they can be renegotiated,**

(vii) that, as a consequence of this proposal, the disabled facilities grants, Home Improvement Loans, home energy functions and all associated staff and budgets be transferred to the ASCHH Department, as soon as it is practical to do so.

2.2 In so far as any of the foregoing provisions also relate to the exercise of non Executive functions, to recommend to Council to authorise the same.

2.3 That the Executive notes that as a consequence of this proposal the disabled facilities grants, Home Improvement Loans, home energy functions and all associated staff and budgets be transferred to the ASCHH Department, as soon as it is practical to do so.

3 REASONS FOR RECOMMENDATIONS

3.1 As a small unit, the regulatory services team can no longer continue to offer any significant level of savings whilst still fulfilling the mandatory functions of the Council. A merger with others provides the most sustainable option relative to the Council's fiscal and legal obligations. Furthermore, the proposal provides the best job opportunity for those in the relevant professions which are increasingly challenging to recruit to.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 Whilst outsourcing to a private company is an option taken by some councils, the proposed approach builds on the learning from the re3 officer/Member joint management structure in respect of governance. It also takes into account the experience coming out of West Berkshire and Wokingham in respect of their current delivery models for their shared trading standards and their shared environmental health functions. 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 drive out further 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 SUPPORTING INFORMATION

5.1 Wokingham and West Berkshire's shared environmental health and trading standards functions currently operate as two separate units. As such they have already delivered significant savings for those authorities primarily through reducing management overheads, merging of systems and procurement savings. Over the same period of time BFC has, through a different approach, also been able to significantly reduce costs and introduce efficiencies. The proposal seeks to take the learning from all three councils and combine it into one service department.

5.2 There are several drivers for seeking change within all three councils, not least the need to contribute to the savings targets. A merger enables the realisation of significant savings whilst also providing greater opportunity for job enrichment and advancement. The proposals would result in one large team of about 100 staff. Bigger teams working across a wider area provide a greater range of professional challenge as well as scope for operational and management efficiencies. The alternative is limited to ongoing small cuts year on year potentially making the service

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unviable and filling vacant posts almost impossible without the payment of significant premiums.

- 5.3 The proposals enable overall savings of 15%, circa £151k in salaries plus savings in supplies and services with a client budget of £35k remaining. These savings arise from reductions in staffing and operational budgets. Any loss of income can be offset by the associated cost reductions. The cost of the staff being transferred is circa £1,035k and along with its associated transferred budget of £987k reflects the need to realise a managed vacancy factor. If the decision were not to enter into this agreement, it is believed that the service could only offer a saving of circa £61k in staffing costs accepting the same reduction to direct service provision as would be the case with this proposal (refer to para 5.15). It is important to recognise that the service is already bottom quartile relative to the level of resources committed hence why the scope for any more savings within the existing arrangements is considered to be limited without serious risk of compromise to the mandatory obligations that would otherwise arise. Details of the current and proposed structures are set out in Annex 4 and the savings mentioned above in Annex 5.

Other associated opportunities

- 5.4 In the year 2016/17 the total service as currently structured attracted £696k in support costs. There are no set savings targets set as part of this review against these costs. This is because other than HR the existing support arrangements will continue largely unchanged on commencement of the new service. Staff will still be in BFC offices, supported by BFC ICT and customer services for example. However, the proposal does enable negotiations as regards to how the new service may assume certain additional responsibilities thereby giving rise to mutually beneficial opportunities. For example BFC might in time wish to realise office space, or perhaps have the new service take on its own legal work. This will be a matter for negotiation later. The service does not have to have an operational base within Time Square. If the Council was minded to reshape its arrangements in respect of its customer interface, for example with timed appointments, web links and back office support moved off site, then further opportunities might arise.
- 5.5 There are some service areas that are not considered suitable for the merger. Having reviewed the options, and regardless of the proposal for a merger, the conclusion formed is that there is no service or customer benefit including the Disabled Facility Grant (DFG) service in these arrangements. Some minor changes to current practice will enable efficiencies to be realised whilst also improving the level of service. Accordingly, it is proposed that this service area be transferred to the ASCHH Department. For much the same reasons it is also proposed that the home improvement loans and the home energy functions also be transferred to this department. The enforcement of housing standards would remain a regulatory service function undertaken by the new service. The effect of this is that 4 posts and their associated budgets, would be transferred out of the ECC department (Annex 3, table B).
- 5.6 The way that we provide for pest control is also different to that offered in Wokingham and West Berks. There is no legal obligation to provide a pest service and it is proposed that the current post be deleted from the existing establishment. This is an area of service reduction that would have been proposed next year regardless of the decision in respect of the new service. A small operational budget will however need to be retained at least for the first year to aid any transitional and unforeseen needs.

- 5.7 The service also has a number of small contracts for example in relation to stray dogs and air quality monitoring. These would be transferred as part of the arrangements and in time they would be renegotiated by the new organisation to establish common arrangements to cover all three councils.

Governance arrangements

- 5.8 The proposed Governance arrangements are illustrated in the Joint Service Delivery Plan (The Plan) Annex 2. These are very similar to those of the re3 partnership that this and Wokingham already have experience of at both senior officer and Member levels. As can be seen from that detail the proposal is for the new service to be given the strategic direction and be held to account through joint management arrangements led by a formal joint member led Executive Board. This is essentially a statutory Joint Committee and will comprise of two members from each council. Legislation requires one of the nominees to be an Executive Member. For BFC it is suggested that this would be The Executive Member for Culture, Corporate Services and Public Protection and the Chairman of the Licensing and Safety Committee.
- 5.9 The Joint Executive Board would not assume any responsibility that already falls to the Licencing and Safety Committee. Each council would retain its own licensing functions, associated legal processes and appeal panels.
- 5.10 The Board would be supported by the Joint (Officer) Management Group. This Group would, again be similar to those set up as part of re3 and would comprise of nominated senior (client) officers from each of the three councils. It would also include the heads of the new combined service. The Group will be responsible for driving core business and ensuring the respective needs of the three councils are properly considered at an operational level. Overall daily management will be a function of the operational management team lead by the host authority. The Group would manage the overall operational needs and ensure progress against targets are reported to the Joint Executive Board through a number of pre determined key performance indicators.
- 5.11 In order to drive out efficiencies one of the early tasks would be to try to develop common policies and practices. When it comes to licensing for example the Executive Board would be responsible for ensuring that the necessary resources are available to do this. Each licensing Authority would then be asked to adopt them. When it comes to other plans and strategies e.g. the mandatory Food Safety Plan the Executive Board would be expected to seek comment from each of the Councils before approving them. The need is to ensure an effective interface between the organisations at all times. The Board would have the authority and responsibility to manage risk and deliver the required service levels within the approved budget.

Staff implications

- 5.12 All three councils are looking to be able to realise savings through the merger. Within BFC it will require the loss of 4 posts and 3 current post holders through redundancy as identified in Annex 3. Some savings can also arise from giving up some vacant posts where we have been able to realign work over past months as we prepare for a potential merger. Some posts have also been covered by agency and overtime in order to give maximum flexibility to the new service and reduce the need for redundancies. Annex 3 (table C) details the current staff and posts that would be TUPE'd to West Berkshire.

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- 5.13 West Berkshire would under the proposals become the employing and administrative authority. They are the current employer for the Wokingham and West Berks joint services arrangements and there is no merit in changing this arrangement. To get the efficiencies needed there can only be one central body with such responsibilities. West Berkshire has the necessary experience and is willing to take the lead and the associated risks. A draft Inter Authority agreement is attached as Annex 1. This sets out the respective rights and responsibilities of each party under the proposed arrangement
- 5.14 The nature of a proposal like this inevitably gives rise to concerns within the current workforce. For some months now all potentially affected staff have been aware of the option being considered and kept apprised of the relevant detail. More recently they have been given more detailed information as to the proposals and the implications. The Trade Union has also been apprised of the proposals. Over the months any concerns raised have been discussed and where possible addressed. Most staff recognise that the prospect of there being such a proposal has been around for some years. Within regulatory services the proposed model is becoming more common across the country. The main concern that has been raised to date has been in relation to the prospect of there being continued employment, followed perhaps by 'who will be my manager?' In respect of the former whilst there will be some job losses these are envisaged to be by agreement. As for the 'who will be in what position' type of question this will not be known until an equitable matching process has been completed under the TUPE rules.

Service Impact

- 5.15 Taking 15% out of the budget cannot be done without there being some service reduction. The proposed arrangements will achieve the most significant level of saving by a reduction in management costs and service efficiencies from day one. However, there will be some other operational changes relative to what and how we currently deliver services. Perhaps the most significant direct change will be that in common with the other two authorities we will no longer offer a pest control service. The reduction in service resources requires an acceptance that we can no longer deal with matters in the same way that we used to. The work that will be carried out will be based upon risk and impact. Going forward the new service will use the National Intelligence Model to set priorities and will respond immediately only to those matters which are considered to be of high risk or impact. In addition, the licensing officers will no longer be providing the link between the Police and landowners when it comes to travellers. That function would be taken up by the Community Safety Team who is best placed to build on their links with crime and disorder and close working with Thames Valley Police.
- 5.16 Until such time as maybe otherwise agreed the client function of the new arrangement would remain with the Chief Officer: Environment and Public Protection. It is important to note that unlike most other contractual arrangements there is no client team associated with this function and it is possible that in future years the senior officer representing the Council's interests at the Board would have no relevant professional experience. A small client budget of circa £35k will be retained to aid transition. The need to keep that budget would be reviewed in the next budget round.
- 5.17 One of the major service benefits to all councils is that the arrangements improve the overall resilience. With a team of circa 100 staff there is more scope for developing professional expertise in specialist areas thereby reducing the need for consultants

for example. Additionally a larger business is better able to accommodate staff turnover, sickness and the seasonal pressures due to leave.

Opportunities for the future

- 5.18 The new service would be able to seek new sources of income. It will also be expected to deliver service economies and cashable savings over the term. The proposals provide a mechanism for equitable profit sharing or reallocation of any future savings based on the original cost basis. The Executive Board would be responsible for setting targets and monitoring performance.

Contract term and time table

- 5.19 The timetable for any change is tight and the proposal is to enter into an agreement commencing 13 January 2017. The initial agreement is for a ten year term. The agreement includes for break clauses and extensions.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The report proposes the setting up of a shared Berkshire Public Protection Service (BPPS) between three Local Authorities including Bracknell Forest Council (BFC). The service is intended to cover Trading Standards, Environmental Health and some Licensing functions. Licensing functions which fall under the Licencing Act 2003 and the Gambling Act 2005 cannot in law be delegated and will therefore remain exercisable by the BFC Licencing Committee.

The proposed shared service model is based on a Statutory Joint Committee (referred to in the report as a Joint Executive Board) 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. 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. 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. Affected staff will be transferred to West Berkshire Council and placed at the disposal of all three participating Authorities pursuant to S113 of the Local Government Act 1972.

Where, as in this case, 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 taken 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. A separate report for approval will therefore need to be presented before a future Council meeting delegating those functions.

Borough Treasurer

- 6.2 The financial implications are contained within the body of the report (paragraph 5.3). The need to transfer the staffing costs less the budgeted vacancy factor was discussed with West Berkshire and the figures reflect this accordingly. The ongoing annual savings of £151k will be achieved from 2017-18, with a part year effect to be realised in the current financial year.

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There will be severance costs due to the 3 proposed redundancies, the costs of which will need to be met from the structural changes reserve.

Chief Officer: Customer Services

- 6.3 The issue of customer access to the service has been considered throughout the research and planning stage, and there are no concerns about how this will be managed through the new arrangement. Work to develop enhanced online service provision and self-service has been deferred, pending any changes to working processes or procedures. This work will be re-established, once the decision about the future shape of the service has been made.

Chief Officer: Information Services

- 6.4 It is anticipated that staff transferring will continue to use Bracknell Forest equipment in the short to medium term. It will continue to be supported by the ICT Helpdesk. This is the model currently being operated by Wokingham and West Berkshire. At this stage they will also continue to use the local software system, IDox. Again this the current model used in the other partner authorities. In the longer term the goal is to have a single shared instance of the business support software and the ICT delivery and support model will need to be addressed by all the partner authorities at that time.

Chief Officer: Housing

- 6.5 The proposals to locate the Home Improvement Agency and Disabled Facility Grants, and flexible Home loans with the Adult Social Care Health and Housing Department is a logical proposal both strategically and operationally. Disabled facility grants are now funded from the Better care fund. Meeting the needs of disabled people and families in terms of housing can be met from either adaptations or provision of suitable alternative accommodation whichever is the best course of action and most economic. Thus there is service synergy in locating the services within the Welfare and Housing Service.

Human Resources

- 6.6 All staff involved in the proposed changes have been consulted and the Trade Unions have also been appraised. Where possible due account has been given to any concerns made and officers with such concerns have had one to one discussions with those leading the process. Once all councils have determined their intentions should there be an agreement to go forward then a series of meetings will be arranged starting in early October with a meeting of all staff from across the three councils where all will be given the detail about how the proposed new structure, business planning and operational management arrangements that have to be in place by January 2017. Those individuals in posts which are proposed to be removed from the Establishment list will be put at risk and the appropriate processes followed according to the Organisational Change Protocols. ECC HR will work closely with the West Berkshire HR team to ensure effective communication and consultation is provided and that TUPE regulations are followed, for those being transferred across to West Berkshire.

Equalities Impact Assessment

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- 6.7 Access arrangements to services are not going to change as a result of these proposals should they be agreed.

Strategic Risk Management Issues

- 6.8 The proposal seeks to ensure continued delivery of mandatory services within a reduced budget.

7 CONSULTATION

Principal Groups Consulted

- 7.1 All staff involved in the potential TUPE transfer and all service areas providing support to the existing function. The Union were invited and attended the formal briefing prior to this report being produced on the 9 August.

Method of Consultation

- 7.2 Emails and meetings

Representations Received

- 7.3 Comments made during the consultation have helped inform the proposals for the new service. Any further comments received will be reported verbally

Background Papers

Joint Services Delivery Plan
Draft Legal Agreement

Contacts for further information

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