

CABINET
4 FEBRUARY 2021**CORPORATE LANDLORD AND FACILITIES MANAGEMENT**
DELIVERY MODEL

Relevant Cabinet Member

Ms K May

Relevant Chief Officer

Strategic Director of Commercial and Change

Recommendation

1. The Cabinet Member with Responsibility for Transformation and Commissioning recommends that Cabinet:

(a) notes the progress to date and endorses the actions taken;

(b) approves the delivery model for Corporate Landlord and Facilities Management as outlined in this report;

(c) agrees to the dissolution of Place Partnership Limited (PPL) by way of Members Voluntary Liquidation and authorises the Strategic Director of Commercial and Change in consultation with the Cabinet Member with Responsibility for Transformation and Commissioning and Chief Finance Officer to finalise the arrangements for this and for all necessary actions to be taken to give effect to this decision; and

(d) notwithstanding the above recommendations, authorises the Strategic Director of Commercial and Change in consultation with the Cabinet Member with Responsibility for Transformation and Commissioning and Chief Finance Officer to finalise the financial arrangements for the closing down of PPL, which may include leaving Place Partnership on 31 March 2021 prior to the dissolution, as is the current formal position.

Background

2. Place Partnership Ltd (PPL) was established in March 2015 to provide full spectrum property management services to the six partners (Worcestershire County Council, Worcestershire City Council, Hereford and Worcester Fire and Rescue, West Mercia Police, Warwickshire Police and Redditch Borough Council). In March 2018, Worcestershire City Council and Redditch Borough Council gave notice to exit the agreement. The two entities represented approximately 10% of the over-all turn-over of PPL.

3. Following the report to Cabinet relating to Corporate Landlord and Facilities Management on 26 March 2020 and related decisions, notice was served by

Worcestershire County Council to terminate the contract with Place Partnership Limited (PPL) from 31 March 2021.

4. In June 2020, all partners (including Worcestershire County Council) met to discuss and agree the future of PPL. With three partners now either having left, or proposing to leave the arrangements, the remaining partners wished to consider the sustainability of the model moving forward, and following those discussions, it was agreed in principle to bring the PPL company to a close from 31 March 2021.

5. Subsequent to the agreement in principle, the partners have formally committed to pursue a Members Voluntary Liquidation (MVL) which would take effect around September 2021.

6. It should be noted that a MVL requires the company to be solvent at the point of winding up, and that all obligations (contractual and otherwise) be fully satisfied. A Supplemental Shareholders Agreement will require drafting and signing by all partners to allow a MVL to be undertaken. This will also govern the wider requirements and particulars of the company windup, including the distribution of assets/addressing of liabilities, revoking of notice for the Council, removal of partner obligations to renew Service Level Agreements (SLAs), a commitment to winding up the company via a MLV by no later than September 2021, and a commitment not to undertake any further trading activities beyond 31 March 2021.

7. All service provision will cease to either partners or third parties (including schools) from 31 March 2021.

8. Subject to formalising a Supplemental Shareholder Agreement, the Council will no longer exit from PPL or, as a consequence, dispose of its shareholding as stated in the previous report but will work with the other shareholders to support the company closing down process as a collective endeavour.

Actions Taken to Date

Governance

9. A programme team and governance process have been established with representatives from the relevant service teams and support by external technical experts covering all aspects of the insourcing, including HR, IT, Service Design, Commercial and Contracts, Finance and Programmes. Steering Committees are undertaken monthly, and programme review meetings fortnightly. Individuals workstreams meet as necessary between meetings.

10. Alongside the internal governance, workstreams and governance forums have been established to facilitate engagement and decision making between the partners. A steering committee, partner programme board and six workstreams have been established to coordinate the exit arrangements.

Summary Status

11. A summary status has been provided reflecting a high-level position for each workstream at the time of writing. Further detail is contained within the relevant sections of this report.

Service Design and Staff Transfers

12. An options appraisal of delivery models has been undertaken and is set out in paragraph 28 of this report. A structure for the in-house service team has been developed based on the recommended delivery model. This includes delivery of Building Energy Management System (BEMS) and Energy Management Services to West Mercia Police and Schools.

13. A detailed analysis of the Council's property estate and facilities management activities is being undertaken to baseline the current position. In parallel, work is ongoing to review the Covid19 Secure arrangements that have been put in place and any impact this may have on ongoing maintenance and management of buildings.

14. Process mapping has commenced, and a review of scheme of delegations will begin shortly.

15. The proposed service delivery model represents the best solution for the Council's requirements from 1 April. During the first 12 months of operation, officers will work to re-engineer and redesign the service where appropriate, streamlining services as they begin to settle into business as usual practices.

16. The current proposals are forecast to achieve a saving of £419k when compared to the current PPL costs against a savings target of £300k. This includes provisional posts for both IT and Finance. Inflationary pressures next year (which are not budgeted) are estimated to create a further pressure of £155k and we will work to mitigate this throughout the year. It should be noted that the PPL costs would have increased by significantly more than £155k had the contract continued, representing further cost avoidance.

HR

17. TUPE consultation concluded on 6 January 2021, with a number of roles proposed to transfer to the Council from 1 April 2021. All bar 4 roles have been mapped into the new structure.

18. Redundancy consultations for staff that have not transferred will commence in January 2021. In an effort to minimise potential redundancies, partners have agreed to open up all internal vacancies (organisation wide) for those staff at risk to apply.

Contracts and Commercial

19. A contracting strategy for the compliance, repairs, maintenance, cleaning and professional services currently outsourced by PPL has been developed.

20. Officers have commenced negotiations with all 52 contracted providers of services, with agreements to be in place from 1 April onwards on the same terms and conditions, with the exception of Graham FM. We have agreed in principle to utilise the Solihull Access Agreements from 1 April onwards for FM and M&E services currently provided by Graham FM.

IT

21. The requirements for system implementation, data migration and Building Energy Management are being developed. Orders have been placed for associated services and licensing.

22. It has been determined that the Council will continue to utilise TF Cloud for its asset management solution in the short to medium-term in order to ensure ongoing service continuity from 1 April onwards. This will be reviewed in the first 12 months as part of the wider service optimisation review that will be undertaken.

Finance

23. It is proposed to complete a closedown of accounts by 31 January 2021, with work ongoing to understand the company's financial accounting position.

24. Pension obligations will not be fully quantified until September 2021, however indicative assessments suggest no unfunded liabilities.

25. Initial indications suggest that company assets should be sufficient to address any potential liabilities that arise from the winding up of PPL.

Legal

26. A Supplemental Shareholders Agreement is being drafted to govern partner obligations in respect of winding up the company.

27. A Deed of Assurance is being drafted to provide clarity on the partners' position in respect of a solvent winding up, and to detail the distribution of any assets/liabilities post winding up.

Delivery Model Options

28. The following delivery model options were outlined in the Cabinet report in March 2020:

- (a) Externalise the contract
- (b) Fully in-house service
- (c) Hybrid model of (a) and (b)
- (d) Establish a new shared service model with partners.

29. The scope of the PPL contract includes a wide range of works and services and to determine the overall best option an analysis of each element has been undertaken against the following:

- In-house
- Council only procurement
- Joint procurement with partners
- Council provide on behalf of partners either with in-house staff or contracted
- Contract with another partner for this service
- No longer provide
- Absorb activities within existing functions

30. The following principles were taken into account in determining the best option:

- The Council retains the decision-making responsibility for allocating resources, i.e. budget allocation, works prioritisation and project funding
- The best utilisation of resources is achieved, e.g. specialist services are only paid for when needed
- The provider market is competitive and does not result in an unbalanced dependency being created that would be detrimental to the Council
- Mitigating any risk of disruption to service delivery.

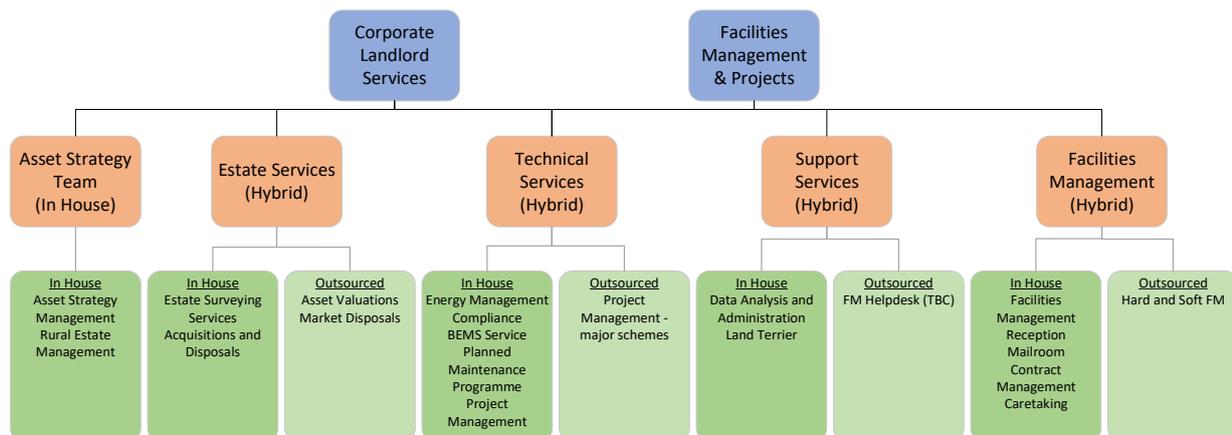
Preferred Option to be Implemented

31. Following the appraisal, it is recommended that the preferred option is to establish a hybrid model with some services delivered in-house and others through external providers, determined based on the achievement of the design principles outlined in paragraph 29 above.

32. This model will give the best value approach and is deliverable within the timescales.

33. The hybrid model proposed is set out in the diagram below.

Proposed Service Structure:



34. This model has been developed based on the information available and will continue to be reviewed as more detailed management information is received from PPL. This may result in changes to the detailed staff structure ahead of final implementation.

35. The proposed structure is based on in-house teams where responsiveness is a priority and external suppliers where the service can be delivered more cost effectively, with specialist advice and services brought in when required.

36. A review will be undertaken of the entire property service during the first 12 months to identify potential efficiencies and opportunities to enhance operational performance. This service structure is therefore subject to change.

37. BEMS and Energy Management are revenue generating.

Asset Strategy – In-house

38. The Asset Strategy team are responsible for determining the Council's approach to property utilisation and accommodation strategy. This team determines which buildings the Council occupies, improves, acquires or disposes. As this is decision making on the allocation of resources it is recommended that this is an in-house team. This activity is currently undertaken by a PPL in-house team therefore the relevant members of the team will transfer in accordance with TUPE regulations.

Estates Services – Hybrid

39. The Estates team are responsible for managing and administering the Council's property portfolio. There is an ongoing workload to ensure that the Council complies with relevant legislation e.g. where the Council is the landlord and leases buildings to third parties, putting in place lease and licence agreements and reviewing at relevant periods, collecting rent, advertising and marketing void properties. The disposal of buildings which are no longer required is also a key activity of this team. It is recommended that the ongoing workload will be undertaken by an in-house team with specialist consultancy support engaged when required for peaks in workload or individual projects where additional knowledge of specific markets is required.

Facilities Management – Hybrid

40. The Facilities Management activities can be divided into two parts. Firstly, the day to day operation of buildings and secondly the inspection, compliance testing, maintenance and repairs.

- a) It is recommended that the day to day operation of the buildings e.g. building managers, reception staff, mail room are provided by an in-house team. Employment of these staff will ensure that the Council has direct control of the 'front of house' interaction with public and visitors and also how rooms within the buildings are used each day. The mail room is currently operated by PPL employees and a specific review of this service will be undertaken post transfer;
- b) It is recommended that the delivery of the inspection, testing, maintenance and repair works required to support building operation are provided by external contractors. These works are specialist and require specific technical training and 'trade' experience. Employment of direct labour would be uneconomic as a significant proportion are reactive in response to faults being reported;
- c) The cleaning service is currently mainly delivered by a single outsourced service provider with some local arrangements for a small number of buildings. It is recommended that the current outsourced arrangement remains, and a review is undertaken post transfer;
- d) The catering arrangements that the Council currently has in place for County Hall and Wildwood buildings have been reviewed and a new agreement is being negotiated with the provider as a result of suspension/reduction in service due to the Covid-19 pandemic.

Technical Services – Hybrid

41. The Technical Services team have three responsibilities:

- a) Provide specialist engineering, construction and energy management advice:
It is recommended that this is delivered as a hybrid model. There is a need for prompt and timely advice day to day, particularly in relation to compliance, and this will be provided by an in-house team. Where there are peaks in work e.g. for projects or where specialist advice is required, this will be provided by external consultancies;
- b) Determine and manage the work programmes to support delivery of the Asset Management Strategy:
The Council has annual programmes of capital renewal works for buildings (windows, roofing, decoration etc), mechanical (heating, boilers etc), electrical (re-wiring, switchgear etc) and external works (paving, fencing, landscaping etc). It is recommended that the management of these will be undertaken by the respective member of the in-house team;
- c) Project management of new build, renewal and refurbishment projects:
The Council will use the principle of an 'intelligent client' when undertaking projects. The Council will develop the programme and retain the decision making of which projects are progressed including the prioritisation of delivery. It is recommended that an in-house team of Project Managers will undertake the 'intelligent client' role and manage the delivery of smaller and simpler projects. Where projects are large and/or complex the need for dedicated and specialist project management resource will be included within the project budget and procured from external consultancies;
- d) Building Energy Management System:
The Council have a number of buildings that use Building Energy Management Systems. These services are currently managed by PPL from an office at the Police HQ at Hindlip.

Following a review undertaken in collaboration with partners, the preferred model for the delivery of the BEMS Service has been agreed. The Council will take on the service and deliver on behalf of partners. Service Level agreements will be developed to ensure that there is no detriment (financial) to the Council for taking this on. The BEMS and Energy contracts will be assigned from PPL to the Council.

The BEMS equipment and team will move from Hindlip to County Hall in due course (timeline to be agreed, not necessarily required at point of transfer on 1 April 2021).

There is an opportunity for further revenue generation once services are insourced, with a number of other public sector entities expressing an interest in the service.

Maintaining a BEMS service is critical in supporting the Council's carbon reduction agenda and allows it to deliver significant energy savings year on year across the estate.

Support Services – Hybrid

42. The Support Services comprise two elements:

- a) Data management:
It is recommended that this service is delivered in-house as accurate consistent data is fundamental to the efficient and effective operation of the service overall;
- b) Helpdesk:

Consideration of the helpdesk model is still ongoing. Two options are being assessed:

- i. Utilising the existing helpdesk, with support by the FM managers once calls are logged
- ii. Utilising the Solihull Helpdesk, systems and scripts which would be provided on an open-book not for profit basis.

A decision will be reached on the preferred model by end of January 2021.

Corporate Services – In-house

43. It is recommended that any Corporate Services e.g. Human Resources, Finance, Procurement, IT Systems Support etc are incorporated into existing Council teams. A support model that enhances the capacity and capability of in-house teams with PPL roles is being developed where required. This will ensure a consistency of approach and the organisational design principle of centralisation of similar services.

Support for Schools

44. PPL currently offer an annual service level agreement to schools to purchase building energy management services. There are currently 150 schools who use this service and are both Council maintained and academy schools.

45. PPL have issued an initial comms to schools to let them know that the PPL service will no longer be available to them from 1 April 2021. An alternative arrangement for the provision of services to schools is in the process of being agreed. It is anticipated that the Core SLA contracts will be assigned to a third party, subject to satisfactory conclusion of due diligence at the end of January 2021. The Council issued a comms to schools following the school's forum on 21 January confirming its position and offering support with future arrangement.

46. BEMS and Energy Management Services will be separated from the existing service provision and provided directly by the Council.

47. Other services that are required by schools will be provided in accordance with the recommended model. Further work is ongoing with Worcestershire Children First to engage them in the process and develop a shared future strategy.

Closedown of PPL

48. The shareholders of PPL have formed a steering group to oversee the transfer of services back in-house to each of the respective partners, and to provide direction on the company wind-up to the board directors and company. The Council has two representatives on this group (the Strategic Director of Commercial and Change and the Assistant Director for Transformation and Commercial) and will take the relevant actions needed to ensure a controlled and orderly closedown of the company. In addition, the Council has a board director that sits on the company board (the Assistant Director for Legal and Governance).

Key Dates

Deliverable	Timeframe
PPL TUPE staff consultation end date	6 January 2021
Commencement of redundancy consultation	19 January 2021*
Commencement of ringfenced recruitment appointments process	w/c 25 January 2021*
Commencement of external recruitment appointments process if required	2 February 2021*
Conclusion of redundancy consultation	19 February 2021*
Business process designs signed off	5 March 2021*
System go live and staff onboarding	15 March 2021*
Soft launch testing of services and systems	15 March 2021*
Go/no go decision date (WCC Steer Co)	23 March 2021
Planned staff transfer date	31 March 2021
New service delivery model live from	1 April 2021

**Dates to be confirmed with partners/PPL*

Legal, Financial and HR Implications

49. The key legal and governance issues relating to this matter concern the role of shareholders, the Council's Director and the obligations to terminate the contract with PPL as set out in the Cabinet report in March 2020. The Service Agreement between the Council and PPL states that in the event that the Council terminates the agreement it is liable to meet:

- Any reasonable redundancy payments and associated costs for employees that arise as a direct result of the termination
- Any breakage costs incurred as a result of terminating a third-party contract necessitated by the termination
- Any costs involved in the termination of any tenancy or service agreement necessitated by the termination.

50. Following the Council notice of exit, the partners collectively reviewed their options in respect of maintaining PPL as a going concern and elected to support, in principle, a closedown of the company. At present, the legal status of the Council is that of an exiting partner, with no rights, nor obligations, in respect of closing of the company following exit. The Council has offered to support the closedown process, including sharing any financial obligations that may arise as a result, but in lieu of exit and not in addition to. This has been agreed in principle but will not be formalised until the Supplemental Shareholders Agreement is signed.

51. Where the Council continues to undertake certain services, either directly or via a third party, it has the potential to give rise to staff transfers under Transfer of Undertakings (Protection of Employment) Regulations 2006. Indeed, in excess of 40 staff have been identified as TUPE transfers to the Council. As noted under Legal and Governance Implications, the County Council is a signatory to a Pensions Guarantee relating to PPL's admission to the Local Government Pension Scheme. This liability will cease on termination.

52. PPL will incur costs when the company is closed down. These costs are still being quantified; however, the principle costs will relate to redundancy of those posts that do not transfer and are not able to secure alternative roles with the respective partners. At the time of writing, the forecast financial position for the company based on a conservative but realistic estimate of assets and liabilities, is a net positive one. There are however still a number of unknowns or variable costs which could increase or decrease between now and 31 March.

53. The partners are seeking to enter into a deed of assurance pertaining to, amongst other things, the solvency of the company and how we resolve matters related to assets and liabilities. In our worst realistic forecast scenario, we envisage a potential cost of wind-up would equate to £195,000. In the best realistic case scenario, this would equate to £189,000 returned to the Council.

54. In March 2020, the Cabinet set aside £700,000 to fund the exit from PPL. This includes direct exit liabilities, service set-up costs, external resource costs. It is believed this will be sufficient to satisfy the liabilities arising from exit/winding up.

55. We continue to mitigate potential costs where possible and work is ongoing to identify opportunities e.g. novation of contracts, offering job opportunities, to those PPL staff who do not have the right to transfer their employment and are at risk of redundancy, etc.

56. The Council is a co-signatory on a Pensions Guarantee under PPL's admission into the LGPS. Under this agreement, all pensions risk is borne by the four shareholder partners. As the PPL Pension Fund is in surplus at the moment, a risk of funding is not expected, however actuarial advice will need to be obtained in due course to understand the extent of the Council's liability.

57. The Council's liability as a co-signatory would cease on termination subject to the Council notifying the Pension Fund of termination and completing all required employer pension contributions to date.

58. It should be noted that the company have appointed RSM, a specialist insolvency practitioner, to manage the winding up of the company in accordance with the MVL requirements post 31 March.

Human Resources Implications

59. A number of PPL staff will have the right to transfer their employment to the Council in accordance with the Transfer of Undertakings (Protection of Employment) "TUPE" Regulations.

60. All PPL staff who do not have the right to transfer their employment will be offered the opportunity to apply for vacancies in the new property teams across all partners following

the TUPE consultation. This will mitigate the cost of redundancies that would need to be met by PPL and subsequently the shareholders.

61. Consultation has been undertaken and concluded on 6 January. Staff have been mapped to roles, with 3 roles that have transferred at risk. A number of further roles have been identified as at risk within the company (for which the Council will share the liability in respect of redundancy costs), and vacancies within the partners respective structures will be ring fenced initially to allow those individuals to apply.

62. Discussions are ongoing in respect of notice periods and when redundancy consultation will commence, and notices issued. Senior roles are on 3 month notice periods and partners are seeking to ensure notice is given to those individuals as soon as possible to mitigate costs beyond 1 April.

Risk Implications

63. There is a recognised risk to service continuity until the new service model is implemented and structure appointed, this includes what other partners do in response to any decision made by the Council. The Council has committed to a 12-month budget covering 2020/21 and has entered discussions with PPL regarding its responsibilities for exit costs as well as TUPE and novation of contracts. This should ensure an element of the risk is mitigated in a managed way. As such, at this stage the expected costs declared within the financial comments in this report seek to mitigate and reflect this.

64. There is also a risk that key staff within PPL choose to leave the company and this has an impact on our delivery of service. All elements of service can be procured in the open market or delivered by agency/interim staff, although this could have a higher cost impact initially and would thus seek to be avoided where possible.

65. There is a risk that the Council is liable for more costs associated with the financial standing of PPL. At this stage an assessment has been based on the position that a number of costs can be avoided, for example providing alternate use for PPL offices. However, further due diligence is needed to assess any liability to the Council arising from the decision that impacts for example on PPL third party contracts. The level of income PPL secured from third parties, excluding schools, is relatively small based on their management accounts and officers assume any breakage liability will be minimal, but without further due diligence it remains a risk. Consequently, the costs could increase.

66. There is a risk to reputation and to staff morale, and in both cases we will work with PPL to mitigate this through communications with our partners and staff. We will also follow TUPE processes regarding those staff affected and work with PPL and Trade Unions on this.

Joint Equality, Public Health, Data Protection and Sustainability Impact Assessments

67. The JIA screening did not identify any potential considerations requiring further assessment during implementation.

Contact Points

County Council Contact Points
County Council: 01905 763763

Specific Contact Points for this report

Name: Andrew Spice Strategic - Director Commercial and Change

Tel: +441905 844254

Email: ASpice@worcestershire.gov.uk

Name: Jonathan Fitzgerald-Guy – Assistant Director Transformation and Commercial

Tel: 07498 752 101

Email: JFitzgerald-Guy@worcestershire.gov.uk

List of Background Papers

In the opinion of the proper officer (in this case the Strategic Director of Commercial and Change) the following are the background papers relating to the subject matter of this report:

Agenda and minutes for the meeting of Cabinet held on 26 March 2020