

COUNCIL
12 NOVEMBER 2015**WORCESTERSHIRE REGULATORY SERVICES**

Recommendation

1. **The Leader of the Council recommends that Council agrees that:**
 - (a) **the County Council withdraws from the Worcestershire Shared Services Joint Committee on 31 March 2016;**
 - (b) **the County regulatory functions currently discharged through Worcestershire Regulatory Services (WRS) including Trading Standards and Animal Health are brought back in-house to the County Council from 1 April 2016 or as soon thereafter as may be determined in accordance with (d);**
 - (c) **should those County regulatory functions not be brought back in-house on 1 April 2016 then they may be delivered through WRS via a short-term Services Contract until they are; and**
 - (d) **authority be delegated to the Director of Business, Environment and Community, in consultation with the Cabinet Member with Responsibility for Localism and Communities, to negotiate with the Management Board of WRS and other member authorities of the Joint Committee and take all necessary steps to put recommendations (a), (b) and (c) into effect, including giving appropriate notice for withdrawal from the Joint Committee, determining the arrangements and timetable for termination of the current arrangements for delivery and the service being brought back in-house, and agreeing any interim arrangements under a short-term Services Contract and the use of Directorate reserves to support those interim arrangements.**

Background

2. The County Council as a commissioning council keeps its services under continuing review as necessary to ensure the best use of public money. The Worcestershire Shared Services Joint Committee (*the Joint Committee*) was established on 1 June 2010 by the County Council and the six district councils in Worcestershire as the vehicle to deliver regulatory services which include the county functions of:

- Food Standards
- Fair Trading
- Animal Health
- Weights and Measures
- Product Safety
- Petroleum and Explosives Licensing.

3. The delivery model for provision of the services has been through Worcestershire Regulatory Services (WRS) hosted by Bromsgrove District Council (BDC). This governance model was based upon established arrangements for shared service delivery operating within the county and was structured to allow for the addition of other shared services in the future.

4. The Joint Committee and WRS were established in response to the Government's challenge that service delivery in two-tier local government areas should be no less efficient than in unitary ones. The original business case for WRS was founded on all partner councils having closely aligned policy positions and service levels enabling efficiency gains of 17% to be made, compared with the cost of predecessor arrangements.

5. WRS has been successful in delivering savings to its partners and gaining recognition from national regulators including the Better Regulation Delivery Office. However, in recent years there has been increasing challenge within the partnership arising from differences in partner service requirements, driven by the individual financial pressures on partners. Most notably the County Council has had to make difficult choices regarding the future level of trading standards service provision, with current financial plans identifying net expenditure reducing by £360,000, to £450,000 in 2016/17.

6. In February 2015, the Joint Committee endorsed proposals to restructure the current partnership into a smaller partnership of the district councils, continuing to have closely aligned policies and service levels, and the County Council leaving the Joint Committee but entering into a service level agreement with BDC for the provision of trading standards services through WRS. The Joint Committee considered that this model would best maintain the strengths and benefits of the original business case whilst protecting individual partner councils from the pressures and risks of diverging financial positions.

7. However, under the proposed arrangements outlined above, reducing the budget to £450,000 in 2016/17 would carry a series of risks as it is envisaged that the new shared service would only be able to employ 7.5fte dealing with county functions which would struggle to deliver our statutory duties. Risks include:

- Judicial review
- Inability to reach agreement with the Joint Committee on delivery model – financial, reputational, operational impacts
- Reputational impacts of failing to delivery statutory duties
- Risks with capacity in a disease outbreak situation.

Governance Options

8. The County Council as a commissioning council undertook a review of these services. This led to County Officers carrying out a high level assessment of a number of options for the future delivery of the service. A summary of these options is set out below:

- Retain current budget and governance arrangements

This option is not viable as increasing pressures on the County Council's finances require savings to be made where possible.

- Reconstitute Joint Committee, with the County Council leaving the Joint Committee and using a long term (5 + 2 years) Service Level Agreement (SLA) with BDC as the host authority to deliver service through WRS.

This option is not considered as viable as the overheads associated with being part of the wider service mean that the staffing levels for county functions (estimated 7.5fte) would carry a high risk of not being considered as sufficient to fulfil the County Council's statutory duties. This would leave the County Council at risk of judicial review; at reputational risk, and there would be a high risk of lack of staff capacity in a disease outbreak situation.

- County Council leaves Joint Committee and brings service back in-house

This option is considered to be the most viable for the County Council; it still carries risks regarding potential judicial review, capacity and potential financial consequences of leaving the JC. However this option is most likely to allow the County Council to deliver the most capacity (estimated 11fte) within the service for the budget assigned.

9. After consideration of these options, and consultation with the WRS Management Committee, it is considered that the County Council leaving the Joint Committee, as outlined above, and bringing the Trading Standards and Animal Health etc. functions back in-house carries the least risk for the delivery of the County Council's statutory duties in regard to this function and is the most suitable model for future delivery.

10. The current process for converting the County Council's participation in WRS from partner status to contractual arrangements through a services contract is already underway, with five of the partners having agreed this approach through their own corporate governance arrangements. To avoid any further need for formal consideration it is proposed to utilise as needed this existing process as a vehicle to facilitate the Council's exit from the arrangements.

11. It is proposed that the County Council leaves the Joint Committee on 31 March 2016 and then puts in place a short-term (approximately 3-4 months) services contract with Bromsgrove District Council for the continued delivery of county functions through the WRS, at the end of which the functions outlined above will transfer back into direct control of the Council. It is proposed that the Director of Business, Environment and Community be authorised to negotiate and decide the timetable and detailed terms for such a transfer, in consultation with the Cabinet Member with Responsibility for Localism and Communities.

12. The proposed option will still allow for joint working between the County Council and District Councils on specific cross-functional issues, such as carrying out joint investigations, sharing information where appropriate and producing joint guidance and advice to the General Public.

Legal, Financial and HR Implications

13. As a hybrid service containing executive and non-executive functions, the original Joint Committee arrangements were agreed by both the Cabinet and full Council. Both bodies will therefore be asked to agree the proposed changes in those

arrangements. Notice can be given to terminate the shared services arrangements, with negotiation over the financial consequences of so doing.

14. The Council would be required to use Business, Environment and Community reserves in 2016/17 in order to maintain staffing levels within the Trading Standards and Animal Health functions during the period of any short-term services contract. This would also negate the need for unnecessary redundancies prior to the TUPE transfer of relevant staff back into direct Council control. The final decision for commitment of these one-off costs would be delegated to the Director of Business, Environment and Community in consultation with the CMR for this service.

15. The one-off costs associated with the delivery of the recommended option will include:

- Cost of maintaining staffing levels during the period of the service contract
- Contribution to the costs to allow WRS to realign internal overheads
- Costs associated with TUPE transfer
- Commissioning of specialist IT systems.

Privacy Impact Assessment

16. There are no Privacy Impacts arising from this report.

Risks

17. The aim to reduce the budget for the Trading Standards and Animal Health function carries inherent risks to delivery of the service and its statutory functions. These are summarised below:

Potential for judicial review if the Council is perceived as not delivering its statutory duties

18. The risk of this is minimised by bringing the service back in-house and therefore eliminating direct overhead costs associated with the service being delivered by BDC, this will enable the Council to maintain current staffing levels (11fte estimated). It is worth noting that Liverpool City Council is currently reviewing how its local trading standards service is structured following a legal challenge from a Liverpool resident. The implications of any court decision will of course be borne in mind.

Potential capacity issue in the event of a major disease outbreak

19. Again the risk of this is minimised by retaining staffing levels as part of bringing the service back in-house.

Ability to secure specialist IT systems

20. Specialist IT systems would need to be secured in order to fulfil statutory reporting duties.

Equality and Diversity Implications

21. Whilst the delivery model for the service will be changing as part of the proposals above, the service itself will not change. Therefore we do not anticipate any equality and diversity implications.

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Business, Environment and Community) there are no background papers relating to the subject matter of this report.