


London Borough of Hammersmith & Fulham CABINET MEMBER DECISION MARCH 2018		 hammersmith & fulham
DECISION TO ENTER INTO CO-OPERATION AGREEMENT WITH ROYAL BOROUGH OF KENSINGTON & CHELSEA (RBKC) AND WESTMINSTER CITY COUNCIL (WCC) FOR COLLABORATIVE DELIVERY SERVICES		
Report of the Leader – Councillor Stephen Cowan		
Open Report		
Classification - For Decision		
Key Decision: No		
Other services consulted:		
Wards Affected: All		
Accountable Director: Rachael Wright-Turner, Public Services Reform		
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AUTHORISED BY:

The Leader has signed this report.

DATE: 29 March 2018.....

1. EXECUTIVE SUMMARY

- 1.1. This report seeks agreement to enter into a Co-operation Agreement, from 1st April 2018, for collaborative delivery of services following the termination of previous shared services arrangements (Section 113, Local Government Act 1972) on 31st March 2018. The Agreement involves H&F providing and hosting services. Moving On is the name given to the programme to end shared services with the Royal Borough of Kensington & Chelsea (RBKC) and

Westminster City Council (WCC), for Children's Services, Adult Social Care, and Public Health, from April 2017 and ends April 2018.

2. RECOMMENDATIONS

- 2.1. That authority be delegated to the Chief Executive Officer to approve the Co-operation Agreement for collaborative delivery services with RBKC and WCC and associated managements, for services set out within Appendix 1.
- 2.2. It is recommended that the funding of £8,500 is approved from the Corporate Demands and Pressures Reserve for external legal costs for advice on the Co-operation Agreement.

3. REASONS FOR DECISION

- 3.1. In March 2017 RBKC and WCC served LBHF with notice of their intention to end the Section 113 Agreements for Adult Social Care, Children's Services, and Public Health on 31st March 2018.
- 3.2. The vast majority of the services are safely transitioning to sovereign delivery arrangements for the 1st April 2018.
- 3.3. Some services will continue to be delivered in collaboration with RBKC and WCC, whilst options for longer term delivery are assessed, or to enable time limited collaboration on specific projects. These services require a legal framework to underpin the continued collaboration to deliver the services.
- 3.4. H&F sovereign Directors of Children's Services, Adult Social Care, and Public Services Reform (PSR) will continue to have oversight of collaborative delivery of services to ensure H&F's statutory duties are met, and that sovereign control and accountability is achieved through these arrangements.
- 3.5. Appropriate due diligence and risk assessments have been undertaken.
- 3.6. In addition, of the services covered by this agreement, 6 are only required for a short period of time to enable transition to full sovereign arrangements.

4. PROPOSAL AND ISSUES

- 4.1. It is proposed that a Co-operation Agreement is entered for the delivery of collaborative delivery services with RBKC and WCC.
- 4.2. The proposed list of services and hosting arrangements can be found at Appendix 1.
- 4.3. Full legal, HR, ICT, service schedules, financial framework, information sharing protocols have been developed and approved by lead officers.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. Options were developed in consultation with service departments and legal services.
- 5.2. The proposed arrangement ensures strong sovereign control and assurance and appropriate sharing of costs.

- 5.3. Directors have been engaged throughout to provide assurance on proposals to meet LBHF requirements.
- 5.4. An option to put in place a service contract model was considered. The financial and operational service delivery risks of a procurement challenge were evaluated and the model discounted to mitigate.
- 5.5. An option of a full delegation model was considered. The implications to and reduction of sovereign operational and strategic control were evaluated and the model discounted due to reduced sovereignty.

6. EQUALITY IMPLICATIONS

- 6.1. The proposal ensures statutory duties continue to be met. No adverse equality impact has been identified relating to this proposal. Further equality impact assessment will be made if changes are made to delivery - for example: a move to a sovereign service delivery model.
- 6.2. *Implications verified/completed by: Joanna McCormick, Corporate Policy, and Performance Manager - 020 8753 2486*

7. LEGAL IMPLICATIONS

- 7.1. The Public Contracts Regulations 2015 provide that certain agreements between public authorities are exempt from those regulations and therefore the obligation in them to seek competitive tenders for the provision of services. To qualify for the exemption, the arrangements must; establish cooperation between the public authorities, with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common and which (cooperation) is governed solely by considerations relating to the public interest. It is also a requirement that each of the authorities perform less than 20% of the services on the open market. To be lawful, cooperation agreements therefore must comply and demonstrably so with the restrictions set out above.
- 7.2. Section 113 of the Local Government Act 1972 allows local authorities to share staff and to enter into such agreements as described in the report. Before entering into an agreement under Section 113 the affected staff must be consulted.
- 7.3. The proposed co-operation agreement provides the right for a party to terminate the agreement upon 3 months' notice in writing.
- 7.4. Legal implications completed by Kar-Yee Chan, Principal Solicitor (Contracts and Employment), Shared Legal Services

8. FINANCIAL IMPLICATIONS

- 8.1. The Collaborative Delivery Agreement (the Agreement) entails a Hosting Authority being responsible for managing agreed services on behalf of the other parties in accordance with the agreement. The agreement includes a

financial protocol which includes the sharing of costs relating to the agreed services.

- 8.2. The Collaborative Delivery Board will monitor arrangements (in line with the overall service budgets agreed by Council) for the services delivered such as performance, including financial performance, during the year.
- 8.3. The key principles of the financial protocol and cost sharing arrangements are that:
 - Each party will bear its fair share of the costs of agreed services, there cannot be any cross subsidisation between boroughs.
 - Cost allocation methodologies need to be agreed in advance and variations must be agreed in advance by all boroughs, through the Collaborative Delivery Board.
 - The methodology should reflect the benefits from the work of the agreed services and should be simple to administer. Cost apportionment will be informed by high quality data and meet audit requirements.
- 8.4. Entering into the Agreement will not have any significant revenue nor capital implications. Services delivered under these arrangements will need to be delivered within the current budget envelopes agreed as part of the 2018/19 budget process. Therefore, any cost pressures arising from the costs of the agreed services provided or received under the Agreement will be carefully monitored and corrective action will be taken to bring any overspend in line with agreed budgets.
- 8.5. Additional costs were incurred in the drafting and provision of advice in relation to the Co-operation Agreement amounting to £8,500, for specific technical advice. It is proposed this is funded from the Corporate Demands and Pressures Reserve.
- 8.6. *Implications verified/completed by: Emily Hill, Head of Corporate Finance, 020 8753 3145.*

9. IMPLICATIONS FOR BUSINESS

9.1. The proposal outlined in this report ensures the Council's statutory duties continue to be met. There are no direct implications for businesses in the borough as a result of this report.

9.3. Implications completed by: (David McNulty, Regeneration, Planning and Housing 07867 160527)

10. COMMERCIAL IMPLICATIONS

10.1 This report seeks approval for a Co-operation Agreement for collaborative delivery services with the Royal Borough of Kensington & Chelsea (RBKC) and Westminster City Council (WCC).

10.2 The proposal ensures sovereign control for Hammersmith & Fulham while being commercially viable for the Council by appropriate sharing of costs between the three Authorities.

10.3 There are no procurement risks associated with the proposal.
Implications completed by Andra Ulianov, Procurement Consultant, tel. 020 8753 2284

11. IT IMPLICATIONS

11.1. There is an existing S113 for sharing of IT resources which will continue as a delivery model for infrastructure and application support for on-going shared services.

11.2. The IT team is supporting the Moving On programme with information governance expertise on data sharing agreements and privacy impact assessments.

11.3. *Implications completed by: Veronica Barella, interim Chief Information Officer, tel. 020 8753 2927.*

12. RISK MANAGEMENT

12.1. Moving On presents an opportunity to re-establish certain services as sovereign to the London Borough of Hammersmith and Fulham Council. Where retained shared service arrangements are being proposed the legal Co-operation Agreement provides a legal framework enabling the continuity of collaboration of services where they are of benefit to the London Borough of Hammersmith and Fulham. Moving On is an improving corporate risk noted on the Council's Corporate Risk Register, a Programme risk log has been compiled and is maintained and reviewed by the Programme Manager within PSR and the Corporate Level Risk periodically reviewed by the Council's Strategic Leadership Team at monthly Assurance meetings and quarterly reviewed by the Audit Pensions and Standards Committee. Arrangements are already underway to ensure that sovereign and retained shared service arrangements are reflected appropriately in the Council's Business Continuity Plans.

12.2. *Implications verified by: Michael Sloniowski, Risk Manager tel. 020 8753 2587*

13. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None

LIST OF APPENDICES:

Appendix 1. Table of services to be delivered through collaboration