

Divisions / Wards Affected - All

CABINET 19 July 2022

Transition arrangements and financial implications following the decision to discontinue the Oxfordshire County Council – Cherwell District Council s.113 Agreement.

Report of the Interim Chief Executive

RECOMMENDATION

1. **Cabinet is RECOMMENDED to:**
 - a) Note the conclusions of the Joint Shared Services and Personnel Committee (JSSP) as set out in Table 1;
 - b) Agree the transition arrangements as set out in Table 1;
 - c) Note the financial implications as set out in Annex A, which are incorporated in the Business Management & Monitoring Report for 2022/23 elsewhere on this agenda;
 - d) Note that the on-going financial impact will be addressed as part of the Budget and Business Planning process for 2023/24;
 - e) Delegate to the Interim Chief Executive powers to operate, terminate, extend or vary the new arrangements with Cherwell District Council where they relate to executive functions.

Executive Summary

2. In February 2022, Oxfordshire County Council and Cherwell District Council agreed to give notice to terminate the current s.113 partnership between the two Councils. In-line with this decision and associated delegations, subsequent detailed decisions have been made on the future of individual services by the Joint Shared Services and Personnel Committee (JSSP). This report sets out the decisions made on each service, the transition arrangements away from the current partnership, and the financial implications of the termination.

Matters for consideration

3. In February 2022, Cherwell District Council and Oxfordshire County Council agreed to the required six months' notice for the termination of the s.113 agreement dated 31 August 2018 which governs joint working between the two councils.
4. In order to ensure appropriate separation of decision making and to fully serve the interests of each council through the termination process, the Councils also agreed to separate the statutory roles of Head of Paid Service (Chief Executive), Monitoring Officer and s151 Officer, with immediate effect. The Councils also subsequently agreed to separate Housing Services. A further set of decisions were taken on the partnership role of individual senior officers as their responsibilities with respect to Cherwell District Council ended. The decisions on senior officers and Housing Services are collectively termed as 'Phase 0'.
5. In the decision to terminate the agreement, both councils agreed an ongoing role of the Joint Shared Services and Personnel Committee (JSSP) with revised terms of reference, to provide suitable oversight and decision-making concerning the termination of the agreement. A Joint Officer Transition Working Group (JOTWG) was established and a three-phase programme of due diligence and service reviews was undertaken, with the aim of keeping the best interests of residents at the centre of decision making.
6. This process has now concluded with the final JSSP held on 4 July 2022. The JSSP has decided for all affected services whether partnership arrangements should be decoupled or, where future partnership would be beneficial to both Councils, what the form of future partnership should be. Termination arrangements and the agreements of new forms of partnership were delegated to officers where relevant. Finally, as future partnership arrangements are of significantly narrower scope and impact to the previous arrangements, the JSSP agreed to recommend to each Council that it should be disbanded with the future management of ongoing partnerships reverting to the respective Chief Executives. Appropriate recommendations are being made to County Council on 12 July 2022 to disband the JSSP, delegate any necessary non-executive functions to the Interim Chief Executive and make the resultant changes to the Council's Constitution.
7. Table 1. below sets out a summary of the future state agreed for each service. Transition plans to new arrangements are now underway, also summarised in Table 1. All service delivery under the existing s.113 agreement will cease from on 31 August 2022 or before, with any ongoing partnership functions requiring new agreements to be in place from that date or agreed subsequently for newly developed initiatives.

	SERVICE	FUTURE STATE DECISION	TRANSITION ARRANGEMENTS
Phase 0	Chief Exec, s151 and Monitoring Officer Functions	Full separation of statutory officer functions	Implemented from 9 February 2022 with interim Chief Executive in-post
	Housing Services	Full separation of joint management	Implemented from 21 February 2022
	SLT Separation	Full separation of the senior leadership team and support arrangements.	Full implementation completed from 1 July 2022
Phase 1	Climate Action Team	Decouple joint working with provision of specialist services to CDC via a service level agreement (SLA)	Joint activity ceased 17 June 2022 with a new SLA for delivery of specialist services to be developed.
	Healthy Place Shaping	Full separation	Implemented from 1 May 2022
	Corporate Health and Safety	Full separation	Implemented from 1 May 2022
	Communications, Strategy and Insight (Policy and Strategy)	Full separation	Implemented from 1 May 2022
	Internal Audit	Ongoing provision of service to CDC via an SLA	New SLA in development
	Counter Fraud	Ongoing provision of service to CDC via an SLA	New SLA in development
Phase 2	Communications, Strategy and Insight (Strategic Marketing)	Decouple joint working with provision of specialist services to CDC via an SLA	Joint working arrangements ceased from 1 July 2022 with ongoing support via the existing s113 until new arrangements are in place
	Communications, Strategy and Insight (Communications)	Full separation	Implemented from 1 July 2022
	Communications, Strategy and Insight (Consultation and Engagement)	Decouple joint working with provision of specialist services to CDC via an SLA	Joint working arrangements ceased from 1 July 2022 with ongoing support via the existing s113 until new arrangements are in place
	Communications, Strategy and Insight (Performance and Insight)	Full separation	Implemented from 1 May 2022

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	Communications, Strategy and Insight (Corporate Programmes)	Full separation	Joint posts ceased 1 July with some provision of Programme support agreed to 31 August 2022 under existing s.113
	Legal Services	Full separation	Implemented from 16 May 2022
	Democratic Services	Full separation	Implemented from 1 July 2022
	Information Governance	Full separation	To be implemented from 1 September 2022
	Freedom of Information	Full separation	To be implemented from 1 September 2022
Phase 3	IT and Digital Services	Separation of joint management arrangements with future services delivered to CDC via an SLA	To be implemented from 1 September 2022
	Procurement and Contracts	Full separation	To be implemented from 1 September 2022
	Property, Investment and Facilities Management	Full separation	To be implemented from 1 August 2022
	Customer Service and Continuous Improvement (including Land Charges)	Full separation	Joint management ceased from 1 July 2022 with close-down of joint improvement projects ongoing to 31 August 2022.
	Emergency Planning	Separation of joint management arrangements with future services delivered to CDC via an SLA	To be implemented from 1 August 2022
	Regulatory Services and Community Safety	Delivery of joint management arrangements through the agreement of a new s113 agreement	To be implemented from 1 August 2022

Table 1: Future state and transition summary

Future Opportunities

8. With the future state agreed, County Council services will now review the design of services to ensure they meet current needs. Services will need to consider future capacity required, available resources, and mitigations for the costs of separation. The Council also now has an opportunity to review future opportunities for wider partnership development, building on the positive lessons of the partnership with Cherwell District Council. This may include, for example, pursuing further opportunities for joint procurement, property rationalisation and improvements to customer services. The Council prioritises collaboration and will need to retain the resources and skills needed for successful partnership building, in the interests of residents. In addition, with a single leadership team fully focused on whole-county objectives, decoupling from the current arrangements with Cherwell District Council will improve capacity to address challenges, deliver service improvement and develop new collaborative opportunities.

Financial Implications

9. Annex A sets out the financial implications to the Council of each service review for 2022/23 and the full year effect in 2023/24. Some initial mitigation measures have already been identified and further work will be required. The overall impact of the termination following the implementation of initial mitigation measures is assessed to be £0.7m in 2022/23 rising to £0.9m in 2023/24. As set out in the report to Council in February, the potential impact has been incorporated in the Business Management & Monitoring Report for 2022/23 elsewhere on the agenda and will be addressed on a permanent basis through the Budget and Business Planning process for 2023/24.

Comments checked by:

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Legal Implications

10. To the extent that services are delivered under the revised partnership arrangements the Council has the relevant statutory powers to do so under either s1 of the Local Authorities (Good and Services) Act 1970 or section 9EA of the Local Government Act 2000. In addition, the application of the public procurement regime will have to be considered in each case. The most likely route to being able to provide the Services between Oxfordshire County Council and Cherwell District Council without triggering the Public Contracts Regulations 2015 (PCR 2015) is a shared service collaboration/cooperation arrangement under the Hamburg Waste exemption as codified in Regulation 12(7) of the PCR 2015.

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11. The council will need to make constitutional changes in the event the Joint Committee is disbanded.

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Staff Implications

12. The high-level staffing implications of each Service Review are set out within the report to the JSSP. No specific posts are put at direct risk through the termination plan set out in this report. However, both Councils will wish to review their future structure and establishment subsequent to the termination of the partnership to ensure that their operating models are fit for purpose and affordable
13. Through the transition process, the general principle has been followed that staff have been retained by their current contracted employer. However, in a small number of cases this would have led to overprovision of resources in one council and under provision in the other. Therefore, through transition planning, the councils have agreed to make specific transfers that support continuity of service provision and minimise risk to individuals. All of the staff members affected have been engaged and transfers have only taken place through mutual consent.

Equality & Inclusion Implications

14. There are no direct equality implications of the recommendations of this report. Any future changes to staffing, policy and operations subsequent to the termination of the partnership, will need to undergo review in the normal way.

Risk Management

15. Risks for the Councils have been considered throughout the review phases presented to the JSSP. No longer term risks for Oxfordshire County Council services related to the termination have been identified beyond the financial implications set out above. Those services putting in place new partnership arrangements will now need to consider any operational and strategic risk register through their service planning processes.

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Annex A: Financial implications of decoupling the OCC/CDC partnership

Supplemental paper: Transition arrangements summary

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