

Divisions / Wards Affected - All

JOINT SHARED SERVICES & PERSONNEL COMMITTEE

25 April 2022

Joint Officer Transition Working Group (JOTWG) Update and Recommendations

Report by the Chief Executive (Cherwell District Council) and the Interim Chief Executive (Oxfordshire County Council)

RECOMMENDATION

1. **The Joint Shared Services and Personnel Committee is RECOMMENDED to:**
 - a) Note the programme update set out in Annex A.
 - b) Agree to the establishment of revised partnership working arrangements for the following services, as set out in exempt Annex B, subject to the conclusion of suitable agreements between the Councils:
 - Internal Audit
 - Counter-Fraud
 - c) Support the decoupling of the partnership working arrangements managed through the current s.113 agreement and establish a revised partnership working arrangement for the following services, as set out in exempt Annex B, subject to the conclusion of suitable agreements between the Councils:
 - Climate Action
 - d) Delegate the completion of such agreements and any actions necessary to establish the revised partnership arrangements to the Assistant Director Law and Governance (CDC) and the Director of Law and Governance (OCC), in consultation with the Leaders of each Council.
 - e) Support the decoupling of partnership working arrangements managed through the current s.113 agreement in the following services, as set out in exempt Annex B:

- Corporate Health and Safety
 - Policy and Strategy
 - Healthy Place Shaping
- f) Delegate the final arrangements and actions necessary for transition in these services to the Chief Executive (CDC) and Interim Chief Executive (OCC) working through the Joint Officer Transition Working Group (JOTWG).

Executive Summary

2. In February 2022, both Councils agreed to give notice to terminate the current s.113 partnerships between the Councils. In-line with this decision and the subsequent direction of travel for future working endorsed by the JSS&P Committee on 14 March, this report sets out recommendations for future working arrangements for the six services now within Phase 1 of the transition programme approved by the Committee.

Exempt Information

3. Due to the small number of roles within each of the six service areas within Phase 1, Annex B, while not naming individuals, clearly identifies specific posts. Annex B is therefore exempt from publication.

Matters for consideration

4. In February 2022, Cherwell District Council and Oxfordshire County Council agreed to the required six months' notice for the termination of the s113 agreement dated 31 August 2018 which governs joint working between the two councils.
5. 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 agreed to separate Housing Services with immediate effect.
6. In the decision agreeing to terminate the agreement, both councils agreed an ongoing role of the Joint Shared Services and Personnel Committee (JSS&P Committee) 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) has been established and a programme of due diligence and service reviews is underway, with the aim of keeping the best interests of residents at the centre of decision making.
7. Subsequently the roles of Director of Law and Governance and Director of Human Resources were separated effective 1 April. From 1 April, it was also

agreed to separate the roles of Corporate Director Customers, Organisational Development and Resources and Director of Customer and Cultural Services would be separated following a notice period. As a consequence of these changes, Executive Support arrangements for these roles were also decoupled effective from 11 April.

8. Where appropriate for each council, revised partnership arrangements will remain in-place supported by new agreements as per paragraph 1 d) to commence from a date agreed between the two Councils.
9. An update to the work programme is attached to this report as Annex A. The JOTWG has agreed to maintain flexibility within the ordering of each phase of decoupling to adhere to the principles set out in the joint approach to termination and bring forward new arrangements as soon as possible, while ensuring that all appropriate due diligence and planning is in place to ensure a smooth transition, in the interests of residents
10. Exempt Annex B sets out a summary of the proposal for the future of each services area brought forward by the JOTWG following the due diligence and service review process.

Financial Implications

11. A summary of the financial implications of each service review are set out within exempt Annex B. Detailed implications of the transition will need to be factored into 2022/23 budget management and incorporated within the detailed 2023/24 budget and business planning process of each Council.

Comments checked by:

Lorna Baxter, Director of Finance, Oxfordshire County Council,
lorna.baxter@oxfordshire.gov.uk

Michael Furness, Assistant Director – Finance, Cherwell District Council,
Michael.Furness@cherwell-dc.gov.uk

Legal Implications

12. To the extent that services are delivered under the revised partnership arrangements both Oxfordshire County Council (OCC) and Cherwell District Council (CDC) have 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 OCC and CDC 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.

13. In order to rely upon Regulation 12(7), an arrangement needs to satisfy the following criteria:
- (a) it must be implementing or establishing a co-operation between contracting authorities (Co-operation);
 - (b) the Co-operation must have the aim of “ensuring that public services they have to perform are provided with a view to achieving objectives they have in common”;
 - (c) the implementation of the Co-operation is governed solely by considerations relating to the public interest; and
 - (d) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the Co-operation.

Comments checked by:

Anita Bradley, Director of Law & Governance and Monitoring Officers,
Oxfordshire County Council, anita.bradley@oxfordshire.gov.uk

Shahin Ismail, Monitoring Officer & Assistant Director – Law, Governance and
Democratic Services (Interim), shahin.ismail@cherwell-dc.gov.uk

Staff Implications

14. The staffing implications of each Service Review are set out within exempt Annex B. No specific posts are put at direct risks through these recommendations. However, both Council’s 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.

Equality & Inclusion Implications

15. 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

16. Risks for the Councils are considered at a high level with exempt Annex B. More detailed programme management documentation is monitoring and where necessary escalating the risks of transition within the risk management arrangements of each Council.

Yvonne Rees, Chief Executive, Cherwell District Council
Stephen Chandler, Interim Chief Executive, Oxfordshire County Council

Annex A: Decoupling Update
Annex B: Service reviews: summaries and proposals (exempt)

Contact Officer: Nathan Elvery, Chief Operating Officer, (Interim), Cherwell District Council, nathan.elvery@cherwell-dc.gov.uk

Robin Rogers, Programme Director, Oxfordshire County Council, robin.rogers@oxfordshire.gov.uk

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