

PARTNERSHIP WORKING AGREEMENT BETWEEN DARTFORD BOROUGH COUNCIL (DBC) AND SEVENOAKS DISTRICT COUNCIL (SDC) (THE COUNCILS)

Report of the: Deputy Chief Executive and Director of Corporate Resources

Status: For Decision

Key Decision: Yes

Executive Summary: To agree to enter into a Partnership Working Agreement with DBC in respect of joint working arrangements for shared services with commensurate delegations to be given to and received from DBC.

This report supports the Key Aim of Effective Management of Council Resources

Portfolio Holder Cllr. Ramsay

Head of Service Head of Finance and Human Resources – Tricia Marshall and
Head of Legal and Democratic Services – Christine Nuttall

Recommendation to Cabinet and Council : It be RESOLVED that:

Cabinet agrees and recommends to Council that:

- (a) authority be delegated to the Chief Executive in consultation with the Leader and the Finance and Value for Money Portfolio Holder to agree the terms of a Partnership Working Agreement with DBC in respect of joint working arrangements for shared services; and
 - (b) that Council under s.113 of the Local Government Act 1972 agrees to placing at the disposal of DBC for the purposes of their functions, the services of officers employed by SDC.
 - (c) that Cabinet (in relation to executive functions) and Council in relation to (council functions) authorises the Managing Director being the Head of Paid Service at DBC to exercise the powers and functions as set out in the Appendix to this report and the necessary amendments to the Constitution.
 - (d) that Cabinet (in relation to executive functions) and Council in relation to (council functions) amends its Scheme of Delegation so as to authorise the Chief Executive being the Head of Paid Service at SDC to exercise the powers and functions delegated by DBC as set out in the Appendix to this report and the necessary amendments to the Constitution.
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Reason for recommendation: To put in place the necessary Partnership Working Agreement and delegations to protect the legal position of both Councils.

Introduction

- 1 It is proposed that SDC enters into an administrative partnership working arrangement with DBC in respect of joint working arrangements for shared services.
- 2 On the 8th July 2010 SDC's Cabinet agreed that the Leader of the Council and the Finance and Value for Money Portfolio Holder be delegated the authority to agree the Heads of Terms for the Partnership Agreement.
- 3 Negotiations with DBC have gone well and Cabinet and Council are now asked to give delegated authority to the Chief Executive in consultation with the Leader and the Finance and Value for Money Portfolio Holder to agree the terms of a Partnership Working Agreement with DBC in respect of the joint working arrangements for shared services.

Legal Model

- 4 There are three types of legal models which local authorities can use to develop shared services:
 - Firstly, a contractual arrangement, for example under the Local Authorities (Goods and Services) Act 1970;
 - Secondly, an administrative model, i.e. delegation of a function to another local authority or a joint committee or an officer of a local authority and/or including the secondment of staff under s.113 of the Local Government Act 1972; and
 - Thirdly, the creation of a new corporate body, such as a company or Limited Liability Partnership.

Both Councils have chosen the second model this being the administrative model sometimes called a "Collaboration Agreement". The advantage of this model is that EU procurement issues will not arise because it is a delegation of functions not a contract for services. In addition, this model also avoids the issues associated with TUPE transfers.

Power to Share Staff

- 5 The Local Government Act 1972 (s.113) allows a local authority to enter into an agreement with another authority to place its officers at the disposal of the other authority, subject to consultation with the staff although staff consent is not required.
- 6 Staff who are made available under such an arrangement are then treated as officers of the other authority for the purposes of their functions, although they

remain an employee of their original authority for employment and superannuation purposes.

Partnership Working Agreement

- 7 The Councils have been working towards a shared Revenues and Benefit Service as well as a shared Internal Audit and Fraud Service and would hope to extend this collaborative working model over time. The Councils see this as a valid option for the cost effective delivery of public services together with creating improved resilience and on the 8th July 2010 the SDC Cabinet approved the proposed operating model for the shared service. Since then, the implementation plan has proceeded at a rapid pace. The shared Internal Audit and Fraud Service moved to DBC at the beginning of September and the shared Revenues and Benefits Service will be in place from 13th December.
- 8 There is now a need to enter into a Partnership Working Agreement so that important aspects of the shared services arrangements can be given legal status thus protecting the interests of both Councils.
- 9 The Partnership Working Agreement will set out the governance relationship between the Councils and cover important matters, for example, funding, savings, termination, dispute resolution, insurance and delegation of functions.
- 10 Earlier in the year both Councils paid a visit to Three Rivers District Council who in collaboration with Watford Borough Council have established a partnership working relationship in respect of many of their functions including Revenues and Benefits. Their shared services appear to be working well and as a result we are working to a similar legal agreement to what they have adopted based on an Eversheds' precedent.

Delegations

- 11 The Local Government Act 1972 s.101 provides a local authority with the power to make arrangements for the discharge of its functions by a committee, sub-committee or officer of the local authority or by another local authority. When an executive function is involved the relevant powers are in sections 19 and 20 of the Local Government Act 2000.
- 12 It is necessary for the Councils to delegate and empower each other to discharge certain Agreed Functions via its Heads of Paid Service and these will be set out within the Partnership Working Agreement.
- 13 As the functions will involve both executive and non-executive functions the arrangements need to be approved by both Cabinet and Council, with Council approving the necessary changes to the Constitutional scheme of Delegation as set out within the Appendix to this report.
- 14 Such arrangements do not prevent the authority making the delegation from exercising the functions itself.

Key Implications

Financial

- 15 The current SDC Financial Plan assumes that the Council will achieve joint working savings of £200,000 per annum from 2011/12 onwards. The successful delivery of this joint working project will contribute towards the achievement of those savings.
- 16 The proposal is based on savings and implementation costs being split equally between DBC and SDC. The authorities have broadly similar caseloads/workloads so this is a reasonable and equitable assumption. The model includes a cost sharing mechanism to reflect changes in workload at either or both authorities.
- 17 It is estimated that implementation of the joint working proposals would deliver savings of £500,000 a year, totalling over £2.5m over a five year period, rising to £525,000 a year from year three onwards. The initial investment costs required to implement joint working were estimated at £834,000. Writing off these set-up costs over five years would deliver net joint savings of around £350,000 a year in the first five years and £525,000 a year thereafter. As set out above, these savings and investment costs would be split 50:50 between the two authorities.
- 18 The costs include a number of estimates and these will be refined as the project progresses. However, as the implementation costs have been limited it is likely that in order to allow successful implementation, under spends in some areas will be needed to support any areas of over spend. As at the end of November it is estimated that implementation costs and ongoing savings will be in line with the original estimates.

Community Impact and Outcomes

- 17 The provision of face to face and other customer facing services is a key part of the planned service provision. Achieving significant savings whilst protecting service standards will be a clear benefit to residents of Dartford and Sevenoaks.

Legal, Human Rights etc.

- 18 It is important that a generic Partnership Working Agreement is entered into in order to clarify the relationship between the Councils thus protecting the legal position of the Councils for the future.
- 19 Delegation of functions also need to be put in place in order to delegate the responsibility for the day to day operation of the shared services to the Heads of Paid Service. However, Council will still retain the responsibility for employing their own staff within the services and entering into contracts for the benefit of the shared service will also be in the name of either DBC or SDC.

Equality

- 19 There are no specific activities covered in this report that would need a Equalities Impact Assessment.

Conclusions

- 19 Entering into a Partnership Working Agreement will regularise the increasing collaboration that is taking place between DBC and SDC and give legal status to the relationship thus providing the Councils with clarity and a certain amount of protection.
- 20 Amending the Scheme of Delegations will facilitate the instances of increased collaboration allowing the Head of Paid Service of each Council to undertake particular functions of the shared services and to sub delegate such functions to other officers including officers placed at the Councils' disposal, as if that officer were an officer employed directly by the Council.

Risk Assessment Statement

- 21 A detailed risk analysis in relation to DBC and SDC's Revenues, Benefits, Internal Audit and Fraud joint working project and the proposed forward operating model has been carried out and was set out in the report to Cabinet dated 8th July 2010.
- 22 The risks associated with shared partnership working can be ameliorated by ensuring a Partnership Working Agreement is in place that clearly sets out the relationship between DBC and SDC especially in relation to matters such as:

RISK of entering into joint working for Shared Services	IMPACT	CONTROL	RESIDUAL RISK
Delegations	M	Delegations given and to be set out in Constitution	L
Reporting requirements	H	Reports to S.151 Officer	L
Functions to be provided	M	To be clearly set out in Partnership Working Agreement	L
Functions to be retained by the Councils	M	To be clearly set out in Partnership Working Agreement	L
How are the finances to be	H	According to a Distribution Formula to be set out in Partnership Working	M/L

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worked out		Agreement	
What happens if there is a falling out between the Councils	L	Internal Dispute Resolution	L
What happens if a Council wants to pull out from the Partnership	H	Termination and withdrawal clauses with financial consequences for the Council who withdraws	L
At what limit will insurance be fixed	M	Suitable amount agreed and to be set out in Partnership Working Agreement	L
How will costs and liabilities be shared	H	Shared according to Distribution Formula to be set out in Partnership Working Agreement	M/L
How will the shared services be funded	H	Shared according to Distribution Formula to be set out in Partnership Working Agreement	M/L
Will there be a provision for arbitration if things go wrong	L	Yes	L
Will information and confidentiality be maintained	L	Yes	L

23 Such a document will have legal status thus making the provisions fully enforceable.

Background Papers:

Reports to Cabinet 17 December 2009, 18th March 2010 and Cabinet on the 8th July 2010.

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