



City of Westminster

Cabinet Agenda

Title: **Special Cabinet**

Meeting Date: **Monday 27th March, 2017**

Time: **7.00 pm**

Venue: **Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP**

Members:

Councillors:

Nickie Aiken (Chairman)	Robert Davis MBE, DL
Heather Acton	David Harvey
Daniel Astaire	Richard Holloway
Danny Chalkley	Tim Mitchell
Antonia Cox	Rachael Robathan

Also invited:

Councillor Richard Beddoe
Councillor Angela Harvey



Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Mick Steward, Head of Committee and Governance Services.

**Tel: 7641 3134; Email: msteward@westminster.gov.uk
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. WELCOME

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

3. TRI-BOROUGH REVIEW OF SECTION 113 AGREEMENTS

Report of the Chief Executive and the Director of Law.

**4. ANY OTHER BUSINESS WHICH THE CHAIRMAN
CONSIDERS URGENT**

(Pages 1 - 12)

**Charlie Parker
Chief Executive
17 March 2017**



City of Westminster

Cabinet Report

Meeting	Special Cabinet
Date:	27th March 2017
Classification:	General Release
Title:	TRI-BOROUGH SHARED SERVICES ARRANGEMENTS
Report of:	Charlie Parker, Chief Executive

**If you have any queries about this Report or wish to inspect any of the
Background Papers please contact: Tasnim Shawkat
tshawkat@westminster.gov.uk**

1. EXECUTIVE SUMMARY

2. This report sets out the issues arising from the intention of the London Borough of Hammersmith & Fulham (LBHF) to withdraw from certain tri-borough services and the steps the Royal Borough of Kensington and Chelsea (RBKC) and Westminster City Council (WCC) wish to take in order to safeguard these vital services for the residents of each authority, and to provide future certainty to staff delivering those services.
3. Following a meeting of the Leaders of all three Councils on 23 March, both RBKC and WCC believe they are obliged to serve notice to terminate the tri-borough arrangements in order to effectively manage the operational implications of LBHF's intention to disaggregate three services: tri-borough Children Services, tri-borough Adult Social Care and Public Health Services. This decision is urgent because the tri-borough agreements require a year's notice to terminate the shared arrangements; and ideally any new arrangements need to be fully in place before the next financial year beginning April 2018; and as soon as possible in order that staff can be clearer about their future options.
4. RBKC and WCC consider that the tri-borough shared arrangements have been a resounding success and that the partnership with between LBHF, WCC and RBKC is a key reason why residents in our boroughs have been spared the financial consequences of deep service cuts incurred elsewhere in local government. There have of course been some challenges in the tri-borough partnership including areas of joint procurement, however, these have not necessarily been directly attributable to the partnership. Overall, the shared services have been successful and that is why RBKC and WCC have been keen to work with LBHF to keep and develop the Tri-borough arrangements, despite the fact that LBHF, since the change of administration in 2014, has consistently indicated their wish to withdraw from a number of the shared arrangements.
5. However, since January 2017 it has become clear that LBHF has been actively making alternative arrangements for Children, Adult and Public Health Services and it is no longer tenable to continue sharing those services in circumstances where one borough is seeking its own alternative arrangements. RBKC and WCC had expected and still expect formal notice of termination to be served by LBHF under the shared services agreements currently in place. However, at the meeting with the Leaders of RBKC and WCC on 23 March 2017 the Leader of LBHF said that it was his intention to serve notice within the next few months to bring to an end the shared service arrangements for these three services.

6. Therefore, it is not clear exactly when such a notice will be served by LBHF. This delay in formalising the clear intention of LBHF to dismantle key front line services is creating significant uncertainties amongst staff. The relevant Cabinet Members are concerned that the quality of our services will be adversely affected, unless action is taken by RBKC and WCC to provide some certainty.
7. RBKC and WCC are cognisant of the fact that LBHF's withdrawal from large shared services such as Adult Social Care, Public Health and Children's Services, will impose additional costs on its partners and on itself. At this stage that cost cannot be properly calculated but it is likely to be over £0.5 million each and very probably more. A further report will be brought to Cabinet once the financial assessment is completed and alternative proposals are shaped.

2. RECOMMENDATIONS

THAT WESTMINSTER CITY COUNCIL:

- 1) Notes that LBHF has given informal notice that they wish to withdraw from a number of Tri-borough services including Adult Social Care, Children Services and Public Health.
- 2) Notes that significant monetary savings have been achieved as a result of the Tri-borough project and that the financial implications of the decision to terminate the arrangements are likely to be considerable for all three Councils and this financial impact is being assessed.
- 3) Notes that in addition to the financial savings there have been non-cashable benefits through efficiencies, transformation and improvements in the quality of services, recognised nationally, as set out in this report.
- 4) Notes that a year's notice is required under the Shared Services Agreements to terminate any tri and bi borough services but that no formal notice has yet been issued by LBHF.
- 5) Notes that once notice is served it may be withdrawn only if all parties agree.
- 6) Delegates authority to the Chief Executive to serve notice to terminate the s113 agreements for Adult Social Care, Children Services and Public Health.
- 7) Delegates further authority to the Chief Executive to serve notice to terminate any other s113 agreements as necessary or prudent in conjunction with the Leader of the Council and relevant Cabinet Members.
- 8) Delegates authority to the Chief Executive to take all such actions and all such decisions as may be necessary or prudent to manage the transition of services and any other matters arising whether directly or indirectly as a consequence of serving termination notices in respect of the s113 agreements in respect of Adult Social Care, Children Services and Public Health or any other similar agreements.

- 9) Notes that efforts will be made to continue the sharing arrangements wherever possible, subject to the views of our partners, in order to preserve the benefits to the residents, and that the priority will be to maintain the high quality of services and provide staff with employment protection.

3. REASONS FOR DECISION

1. Cabinet Members for Adult Social Care, Public Health and Children Services have recently become aware that LBHF is intending to terminate the current shared service arrangements for these services and is making alternative plans to create mono borough People Services in LBHF. This is evident from Mrs Redmond's review of Adult Social Care Services and her conversations with Cabinet Members as outlined in her recent report. In a meeting with the Leaders of RBKC and WCC on 23 March 2017 the Leader of LBHF said that it was his intention to serve notice within the next few months to bring to an end the shared service arrangements for these three services.
2. However, as it is not clear exactly when the formal notice that is required will be served by LBHF, this is causing uncertainty and has the potential to have an adverse impact on service delivery. Therefore, RBKC and WCC wish to serve the necessary notice to terminate the arrangements so that there is sufficient time to make alternative plans and implement them by April 2018.
3. Terminating the shared arrangements following the service of the notice will have significant financial implications and therefore it is a key decision, which can only be taken by the Leader or Cabinet. The reason for this urgent decision is that a decision needs to be made to fit in with the financial year end or as close to it as possible; and to confirm to staff that a process of transition with a deadline has begun.

4. BACKGROUND

1. Significant and sustained cuts in local authority funding has posed unprecedented challenges for local government. In response to this, in 2010, LBHF, RBKC and WCC initiated the tri-borough arrangement and agreed to share certain services. The three Councils entered into agreements to share staff under s113 of the Local Government Act 1972. The arrangements were supported by a comprehensive legal agreement for the sharing arrangements based on a "high trust" model.
2. This model for collaborative working provided maximum flexibility for the three Councils to retain a sovereignty guarantee while providing a framework for collaborative working. The aim was to enable the councils to do more with less, sharing resources and management, and reducing costs whilst improving services. Both RBKC and WCC consider these shared

arrangements to be an outstanding success based on the significant financial savings the three councils have achieved, as well as non-cashable efficiencies and improvements in the quality of services.

3. Since entering into sharing arrangements, each council generates an estimated gross average of £14 million in annual on-going savings across the shared services. In addition, working at scale the Tri-borough Services have been able to achieve innovation and transformation to improve efficiency and quality of services. Set out below are a few notable examples of the achievements of tri-borough working.
4. The Ofsted inspection of Children's Services, which reported in March 2016, found that the partnership across the three boroughs contributed to the high quality of each. Tri-borough working has reduced the average length of care proceedings by 45% (from 49 weeks to 26 weeks), reducing the cost to our Councils from £27k per case to £17k. A single service across the three boroughs has enabled us to share foster and adoption placements across the three, avoiding the additional cost of having to use independent Fostering Agency carers and helping find looked-after children a permanent home, faster. The tri-borough has introduced a shared Multi-Agency Safeguarding Hub which has improved information sharing at the point of referral so that we make better, quicker assessments about risk to children, as well as driving improved practice in relation to Child Sexual Exploitation and Missing Children.
5. Officers have supported schools to improve Key Stage 2 and GCSE results in all three boroughs with a far smaller school standards service, helping to achieve a high percentage of schools judged by Ofsted to be good or outstanding -well above national averages in each borough.
6. Joint working has led the national redesign of re-offending prevention: commissioning a shared service has delivered £1 million of cashable savings and will achieve a 10% reduction in reconviction rates and reduce local spending on tackling re-offending by up to £6.1 million over five years. In January 2016, HM Inspectorate of Probation commented on the shared Youth Offending Service (YOS):

We found that the YOS was performing very well. Staff were enthusiastic, committed and their knowledge of cases was impressive. The quality of work was good enough across all areas of practice in the vast majority of cases. Engagement with children and young people was excellent. There were no areas of significant weakness although some improvements could be made to reviews and some aspects of planning and management oversight.

7. A single Adults Safeguarding Board, and a single Local Safeguarding of Children Board operate across the three boroughs. Our three Councils are better able to influence the NHS and local Care Commissioning Groups to develop strategy based on known common challenges and shared improvements (eg Better Care Fund). That increased scale has also enabled success in the following projects: whole systems health and social care across eight boroughs; hospital discharge standardisation; Homecare, placements monitoring including a single market price and market management; and the Community Independence Service. Shared working has enabled a larger volunteer network of Community Health Champions to meet and train together, sharing experiences and sparking off new projects based on what someone else is doing successfully.
8. There is one library card across the three boroughs, giving residents, workers and students unprecedented access to more than one million library books and a range of specialist collections. Shared working has enabled the sharing of good practice in sales and debt recovery across the three boroughs and has increased commercialisation.
9. We know that sharing services across the three boroughs has not always worked well: the struggle to obtain reliable 'managed services' from British Telecom is the most obvious recent example. An earlier example is the initial problems following the outsourcing of the SEN Transport contract. However, the problems have not arisen because of sharing services alone and there are many contributing factors why some projects may not have been successful.
10. Councillors in Westminster, and Kensington and Chelsea, are profoundly grateful to staff in all three Councils, for the successes and efficiencies achieved, which have avoided reductions to front line services. Such success has been down to the professionalism and dedication of all staff to quality and innovation in public service.

5. PROPOSAL AND ISSUES

1. In the light of the very significant successes outlined above RBKC and WCC are reluctantly having to consider the option of serving notice to terminate the shared services arrangements in relation to Children, Adult and Public Health Services. This option is only being considered to manage the timing of LBHF's intention to terminate the arrangements.
2. Cabinet Members responsible for Children, Education, Adult Social Care and Public Health have been briefed by officers that LBHF intend to create a People Services Department, which will be a solo borough service combining the services in their Portfolio. This proposal arises from a recent review that was commissioned jointly, but at the request of LBHF, as to the future of the

tri-borough Social Care, following the resignation of Mrs Bruce, Executive Director for Adult Social Care and Public Health (who is moving to another shared services post in London).

3. The review has been undertaken by Mrs Sue Redmond. In her feedback to the three Chief Executives, Mrs Redmond, has stated that during her discussions with LBHF Councillors, the Leader of LBHF made it clear that LBHF is looking to establish a mono-borough/sovereign arrangements for a People's Service.
4. It is understood that LBHF have gone so far as to appoint a consultant to redesign the new service and oversee the transition. It is therefore imperative that RBKC and WCC also take steps to make the necessary arrangements to design a joint service for RBKC and WCC namely, Bi-borough Children Services, Bi-borough Adult Social Care Services and Bi-borough Public Health Services.
5. It is possible that LBHF might be persuaded to keep some parts of those services together (e.g fostering and adoption) but as we understand it the larger sections of the services will be disaggregated from the Tri-borough structure to form a mono borough People's Service.
6. Significant numbers of staff will be affected by this. At one level under the s113 agreements staff would return to their employing borough. However, given the services have been integrated for over five years, the disaggregation of staff will not be a simple exercise. In some cases, one borough has more staff than they would need for a solo borough or bi-borough service and in other cases there are not enough staff for a particular council if the services were to be split.
7. A detailed assessment of staffing needs for a bi-borough services (for RBKC and WCC) and a single borough service (for LBHF) will need to be undertaken and adjustments to staff numbers will need to be made. RBKC and WCC councils have reassured staff that there will not be any redundancies as a result of these changes.
8. RBKC and WCC will need to advertise for a new Bi-borough Executive Director for Adult Social Care. Mrs Redmond will replace Mrs Bruce on an interim basis.
9. We do not envisage difficulties in recruiting to the Bi-borough post of Adult Social Care. Also, Members may feel assured that we are confident that we will be able to retain our staff, given we are considered an employer of choice and perform well in our Your Voice staff survey results across both Councils.

10. It is the view of the Leaders that by taking this position, staff will be reassured to know that both Councils in giving notice of termination, will help to end the current uncertainties.
11. In addition to financial and staffing implications there will also be implications for contracts and accommodation matters.

6. OPTIONS AND ANALYSIS

1. An option would be to do nothing. This means that we will have to wait for LBHF to serve notice of termination. This will leave RBKC and WCC at a significant disadvantage while LBHF designs its new service. It will leave staff uncertain and anxious. Service delivery may be adversely affected if this uncertainty is allowed to continue.
2. Another option would be to not serve notice of termination but simply proceed to redesigning the services, much like LBHF. However, this would not be in the spirit of the sharing arrangements and there is a risk that such unilateral actions could, in certain circumstances, be construed as material breach of the s113 agreements in place.
3. Therefore, it is recommended that formal notice is served on LBHF with effect from the end of March, so that all parties are aware of the timescales for terminating the current shared services arrangements for tri-borough Children, Adult and Public Health Services. This will provide certainty to staff that alternative arrangements are being made for continuity of services on a Bi-borough basis between RBKC and WCC.

7. CONSULTATION

1. Formal staff consultation may be necessary, at least in some areas, if there are significant changes to the service design. However, direct assimilation or internal recruitment may be considered instead. Informally Heads of Services and Directors in the three services have been briefed about the situation and assurances have been provided to staff.
2. No other consultation has taken place at this stage.

8. EQUALITY IMPLICATIONS

1. An Equality Impact Assessment will be undertaken as necessary.

9. LEGAL IMPLICATIONS

1. LBHF, RBKC and WCC agreed to share certain services by entering into agreements under s113 of the Local Government Act 1972 to share staff to deliver services and collaborate. The s113 agreements are fairly

comprehensive and provides HR, finance and information sharing protocols as well as change control process. It sets out exit arrangements and has the usual terms for a contract, however, they are based on a 'high trust' model. As a result, the s113 agreements are high level and not drafted in a way a contract with third parties would be drafted.

2. The s113 Agreements in relation to Children and Adult Services are dated 10 March 2012, commenced on 1st April 2012 and continues until it is terminated under its clause 25. The Public Health Services s113 Agreement was entered into on 2 May 2013.
3. The agreement may be terminated in whole or in part at any time by agreement of the parties (clause 25.1 for Children services and Adult Services or clause 24.1 for Public Services Health Services) or by service of 12 months' written notice (clause 25.1 for Children Services and Adult Services or clause 24.2 for Public Health Services).
4. The s113 agreement can also be terminated for material breach of the obligations in the agreement by giving 20 working days' notice. Each Party is required to indemnify the others for any breach of its obligations including for all damages, loss, claims, actions, liabilities under any statute, contract or common law including any third party claims. Loss is a defined term in the agreements.
5. Terminating a s113 has staffing, financial and other implications, as described in the body of the report. There will also be implications for contracts held by the services. Contracts that span the three councils may need to continue on a shared basis but legal advice should be sought in relation to specific contracts. This will include large number of contracts in relation to Public Health.

10. FINANCIAL AND RESOURCES IMPLICATIONS

1. There will be financial implications arising from disaggregating shared services, which have made significant savings over the period of joint working. The nature of the impact will be complex and is likely to encompass a number of issues
2. The Council will ensure that the impact can be dealt with within its finances, albeit this will be at a cost – one off and recurrent
3. The issues which may have a financial impact will include potentially less favourable terms under contracts due to reduce economies of scale, staffing consequences as sharing takes place across two instead of three boroughs and possible temporary recruitment costs and interim contractor costs if certain key staff do not in the short term work for Bi Borough. Dependent on

the approach to contracts penalties may be incurred if existing contracts are decided to be terminated early. Clearly these issues will be managed through and there may be opportunities to create savings in designing the new Bi-borough arrangements but these are likely to be less significant than the potential cost increases from the earlier noted issues

4. The actual financial impact will be assessed and dealt with during the notice period as proposed operating models are worked through

Cleared by Finance (officer's initials)	SM
Cleared by Legal (officer's initials)	TS

Local Government Act 1972 (as amended) – Background papers used in the preparation of this report

None

Contact officer(s): Charlie Parker, Chief Executive and Tasnim Shawkat, Director of Law

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Mick Steward
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