



City of Westminster

Audit and Performance Committee Report

Meeting:	Audit and Performance Committee
Date:	Thursday 23rd November 2017
Classification:	For General Release
Title:	Agreement of Bi-borough Services in Children's Services, Adult Social Care and Public Health
Wards Affected:	All
Financial Summary:	The financial summary will be fully set out in the report to Cabinet
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1. Executive Summary

- 1.1 This report updates the committee on progress in establishing a bi-borough agreement with the Royal Borough of Kensington and Chelsea for the delivery of Children's Services, Adult Social Care and Public Health. These proposals are being put forward as a result of the decision (made by Cabinet on 27 March 2017) to serve notice on London Borough of Hammersmith and Fulham to terminate the tri-borough s113 agreements currently in place to deliver these services.
- 1.2 Proposed new structures have sought to retain the principles that underpinned the original tri-borough agreement. A summary of the key changes are outlined in the body of this report and have been agreed with relevant Cabinet Members and will be subject to Cabinet approval in December 2017. The structures have been subject to consultation with staff. Considerable effort has been spent mitigating the potential financial impact of the move to a bi-borough service, as well as ensuring that current service provision does not suffer as a result of the uncertainty being experienced by staff.

- 1.3 A plan is in place to ensure a smooth transition so that minimise any risk to ongoing service delivery. The majority changes will 'go live' by 1st April 2018. Where this is not the case, there are sound business reasons for this and agreement has been reached with LBHF in respect of timings.

2. Recommendations

- 2.1 That the Audit and Performance Committee:

Notes the progress being made in moving from a tri-borough to bi-borough structure in Adult Social Care, Children's Services and Public Health.

3. Reasons for Decision

- 3.1 In March 2017, Cabinet endorsed a recommendation to serve notice to London Borough of Hammersmith and Fulham (LBHF) to terminate the s113 agreements that have been in place since 2012 to share Children's Services, Adult Social Care and Public Health. LBHF had signalled their intent to withdraw but with no indication of when they would serve notice. In order to reduce the uncertainty for staff and the potential impact this might have on service delivery, Westminster City Council (WCC) and the Royal Borough of Kensington and Chelsea (RBKC) agreed to issue termination notices. Both Councils were keen to ensure that new arrangements were in place by April 2018.
- 3.2 Since that time, officers have worked to develop alternative structures which maintain the principles of the original tri-borough proposition of collaborative working and delivering efficiencies through scale whilst retaining sovereignty. New s113 agreements must be established with RBKC, setting out the new sharing arrangements. It is proposed that a small number of services in both Adult Social Care and Children's Services will continue to be shared with both RBKC and LBHF. Endorsement is sought to continue those arrangements.

4. Background

- 4.1 Significant and sustained cuts in local authority funding have 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. This was supported by a comprehensive legal agreement for the sharing arrangements based on a high trust model.
- 4.2 The model for collaborative working provided maximum flexibility for the three Councils to maintain sovereignty. The aim was to enable the three Councils to do more with less, sharing resources and management, and reducing costs whilst improving services. Both WCC and RBKC consider these arrangements to have been an outstanding success based on the significant financial savings the three Councils have achieved as well as non-cashable efficiencies and improvements to the quality of services.

- 4.3 Since entering into sharing arrangements, each council generates an estimated gross average of £14m in annual ongoing savings across the shared services. In addition, working at scale the Tri-borough services have been able to innovate and transform at scale to improve efficiency and quality of services. It is acknowledged that sharing services has not always worked well, but where problems have occurred, the shared service concept has generally not been at the root of the problem and there has been significant learning as a result of these experiences.

5. Programme Update

- 5.1 The following paragraphs outline the key structural changes that will take place in response to the need to withdraw from the partnership with LBHF.

6. Children's Services

- 6.1 Within the Tri-borough arrangements, WCC retained sovereign family services and that will remain the case in the Bi-borough arrangement with RBKC. This includes Early Help, Assessment and the Multi-Agency Safeguarding Hub (MASH), Looked after Children and Leaving Care, Child Protection and Social Work and Clinical Practice.
- 6.2 A number of services that have been tri-borough will become bi-borough. These include the majority of education functions including school standards, school places planning and special educational needs and disabilities.
- 6.3 A small number of services will remain tri-borough and this has been agreed with the cabinet members and leaders of each of the three boroughs. These are services that are generally considered to be performing well and where economies of scale are such that disaggregating teams would render them unviable.
- 6.4 The need to review structures as a result of the move to bi-borough has provided an opportunity to review the location of a number of functions. A bi-borough corporate bi-borough ICT function is now in place so responsibility for children's services ICT will transfer to that team. Likewise, the Bi-Borough Children's finance service will transfer to the City Treasurer's team with effect from 1st April 2018.

7. Integrated Commissioning

- 7.1 In a significant departure from current structures, an Integrated Commissioning function is being established. This will bring together commissioners from Adult Social Care, Children's and Public Health. The new team will bring together a range of skills and experience to deliver against an ambitious change agenda to enhance tangible service outcomes and maximise value for money across the three functions.

7.2 Good commissioning is fundamental to achieving effective service outcomes for our residents and by integrating teams in this way, building on the professional disciplines in each of the departments, we will build a sustainable, innovative and efficient function that provides good career development opportunities for our staff.

8. Adult Social Care

8.1 The most significant changes within Adult Social Care are within the senior management team and within non-social work services such as commissioning and finance and operations. The majority of services are already operating on a sovereign basis.

8.2 There will be no changes to the following: care and assessment, learning disabilities, mental health services, hospital discharge, community independence services and all provided services (with the exception of the head of service role that will become bi-borough).

8.3 As with Children's services, a small number of services will remain tri-borough including the sensory services team and some aspects of the safeguarding function including mental capacity assessments and deprivation of liberty. Some finance and IT services will remain tri-borough in the short to medium term including client affairs and payments. It is likely these will become bi-borough over time, but the given the depth of integration in these areas, time and care will be needed manage the transition.

8.4 The remainder of the safeguarding and placements team will become bi-borough, along with a new bi-borough senior management team. The Home Care management team will also become bi-borough as will the transformation team.

9. Public Health

9.1 Public Health will be restructured to become a fully bi-borough service, with its commissioning function integrated into new commissioning team outlined in paras 14-15.

HR issues

9.2 As noted above, the move to a bi-borough service represents a significant restructure of resources across three services. However, in practice, the majority of staff (83% in WCC) will be unaffected. Their employing borough will remain the same as will their job description. Across the two boroughs (RBKC and WCC) approximately 330 staff will impacted and it is likely that a very small number of those will be displaced.

Contracts

- 9.3 Current WCC practice is to let sovereign contracts. However, there are a number of legacy contracts that were let by one authority on behalf of all three Councils. Therefore, as a result of the decision to exit the Tri-borough arrangements, best practice would be to reissue contracts on a sovereign basis where we have one contract covering more than one participating Council. The aim would be for the terms and conditions to remain the same including obligations for all three Councils to mitigate any risk of a supplier making changes. The Public Contract Regulations 2015 would consider these new contracts and there is a risk that there could be a claim that the Councils are disaggregating spend. There are a number of options available to mitigate this risk and the committee will be updated in due course, once it has been agreed.
- 9.4 Therefore, a Tri-Bi-Borough Contracts Working Group chaired by the Chief Procurement Officer. The Work Group includes representatives from ACS, CHS, Public Health and Procurement Services which have been completing an analysis of contracts in the Councils Contract Register on capitalSourcing. All three services have reviewed all contract data in capitalSourcing and made significant updates to the data in order to understand the impact of the move to Bi-borough. There is now a significant improvement in the quality of data and a focus on understanding the risks and issues. This work will be complete by the end of November. In addition, all three Services are required to ensure that there is sufficient knowledge transfer in the event a Contracts Manager leaves the Council. The Head of Procurement, Hammersmith & Fulham has been fully briefed on the activity.
- 9.5 In total there are 34 live contracts per Contracting Authority where the contract covers more than one participating Council. Discussions are underway to agree how to resolve any issues of concerns and whether a move to sovereign contracts is practical.

10. Consultation

- 10.1 Proposals for new service structures have been subject to extensive consultation with all staff affected by the changes. Consultation has led to a number of changes to structures and final structures were published on 15th November 2017.

11. Equality Implications

- 11.1 As with all reorganisations, consideration has been given to whether the changes being proposed might have a detrimental effect on any of the groups of people that are given protection under the Equality Act 2010, either as service users or as members of the workforce. If any detrimental issues have been identified, reasonable attempts must be made to mitigate them. Equality assessments were undertaken of each of the new departmental structures and can be provided on request.

12. Legal Implications

- 12.1 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.
- 12.2 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.
- 12.3 To be lawful, cooperation agreements therefore comply and demonstrably so with the restrictions set out above.
- 12.4 The agreements have been structured so as to be bi-borough arrangements but with an option for Hammersmith to join them in due course. This approach allows WCC and RBKC to have agreements in place in time to go live on 1 April 2018. It also allows LBHF to join the arrangements by signing a joining agreement with WCC and RBKC, under which LBHF will be able adopt the terms of the co-operation agreement.

13. Financial and Resources Implications

- 13.1 In agreeing to service notice on the s113 agreement with LBHF, WCC agreed to set aside a small budget to resource the restructure of the services. It is forecast that expenditure will reach c£800k.
- 13.2 It is also forecast that there will be increased revenue costs for each of the boroughs as a result of the new arrangements. Now that final structures have been agreed, cost implications are being worked through.