



Cabinet Meeting

4 February 2015

Report title	Anti-Social Behaviour Service – Authorisations to support TUPE transfer	
Decision designation	AMBER	
Cabinet member with lead responsibility	Cllr Elias Mattu Leisure and Communities	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All	
Accountable director	Linda Sanders, People Directorate	
Originating service	Community Safety	
Accountable employee(s)	Name	Karen Samuels
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Report has been considered by	Strategic Executive Board	18 September 2014
	Vibrant, Safe and Sustainable Communities Scrutiny Panel	2 October 2014
	Cabinet	12 November 2014

Recommendation(s) for action or decision:

Cabinet is recommended to:

1. Authorise the Council entering into a Business Transfer Agreement dealing with the transfer of employees from the Council to Wolverhampton Homes. The details of the Business Transfer Agreement are set out in paragraph 4.2 of this Report
2. Authorise the Council entering into a Service Contract setting out that Wolverhampton Homes will provide services to the Council in respect of Anti-social behaviour. The details of the Service Contract are set out in paragraph 4.3 of this Report.
3. Authorise the Council entering into any ancillary agreements necessary for transfer of employees to Wolverhampton Homes as set out in paragraphs 4.4 of this Report

1.0 Purpose

- 1.1. To provide the required authorisations to proceed with Transfer of Undertakings (Protection of Employment) (TUPE) transfer of staff and associated services currently delivered by Wolverhampton City Council to Wolverhampton Homes. In particular, to
- i) Enter into a business transfer agreement dealing with the transfer of Council employees from the Anti-social Behaviour (ASB) team.
 - ii) Enter into a service contract specifying the future delivery of services provided by Wolverhampton Homes to the City Council in respect of ASB.
 - iii) Enter into any required ancillary agreements necessary to complete the transfer of employees and services to Wolverhampton Homes.

2.0 Background

- 2.1 Following a Scrutiny review of the city's ASB services during 2011 and 2012, Cabinet approval was secured in November 2012 for a pilot co-location of the Council and Wolverhampton Homes ASB teams to trial the feasibility of a single cross-tenure service to Wolverhampton residents. In May 2013, the new Wolverhampton ASB Team was launched with WH undertaking overall management responsibility of the service, delivered through a service level agreement (SLA) with WCC. Under this arrangement, Council employees previously assigned to the ASB Unit are seconded to WH.
- 2.2 A comprehensive review of the co-located ASB service was undertaken following a full year of delivery. The outcomes of the review were overwhelmingly positive, with service improvement, cost effectiveness and customer satisfaction clearly evidenced. The findings from the review were considered at Strategic Executive Board and at a meeting of the Vibrant, Safe and Sustainable Communities Scrutiny Panel (VSSC) on 2 October 2014 as a pre-decision item. At the meeting, Scrutiny Panel Members endorsed recommendations to sustain the current operating model and for the TUPE transfer of WCC staff within the ASB team to Wolverhampton Homes.
- 2.3 Cabinet agreed these recommendations at its meeting on 12 November 2015 which:
- i) Approved the preferred option which recommended:
 - Overall management of the city's anti-social behaviour service by Wolverhampton Homes under a contractual arrangement with Wolverhampton City Council;
 - Monitoring of the contract through a robust performance management framework;
 - Transfer of Undertakings (Protection of Employment) (TUPE) of Wolverhampton City Council staff to Wolverhampton Homes and a revised staffing model.
 - ii) Approved the proposal to retain the existing arrangements (within Regulatory Services) for the management of domestic noise complaints.
 - iii) Approved the proposal to procure a single supplier for legal services for anti-social behaviour legal work.

iv) Approved the application of a consistent approach to managing anti-social behaviour cases in Tenant Management Organisation (TMO) properties by the introduction of a city-wide anti-social behaviour policy.

2.4 The approvals detailed above were informed by the need to realise savings from the existing WCC ASB service whilst aiming to sustain the service improvement realised from the co-location; accepting the increasing demands of the service with the introduction of new ASB legislation (ASB, Crime and Policing Act 2014) and recognising the need to implement a long term sustainable model of delivery for the city with addressed the human resources implications of managing staff within a single service employed by different employers with varying terms and conditions.

3.0 The Future Model of ASB Delivery

3.1 The option agreed at Cabinet on 12 November 2014 transfers overall management responsibility of the city's ASB service to Wolverhampton Homes under a contractual arrangement with the Council. The Council maintains oversight and influence over the service through contractual arrangements and service monitoring through a robust performance management framework.

3.2 The proposed structure retains the same number of posts, with existing Council employees TUPE transferring to Wolverhampton Homes. When fully implemented, the overall cost of the proposed new structure will realise savings of £78,000, but with a net increased cost to Wolverhampton Homes of around £11,000. This reflects that the funding provided by the Council will reduce as part of its approved financial reductions.

4.0 Implementation of Proposals

4.1 In order to formally progress implementation of the proposals detailed in section 3 above, further authorisations are sought from Cabinet to enter into the necessary contractual arrangements between the City Council and Wolverhampton Homes.

4.2 A Business Transfer Agreement will be prepared which will transfer the employees and provide the Council with the necessary indemnities. This includes:

- Transfer of undertaking and assets to Wolverhampton Homes subject to Cabinet endorsement of these proposals.
- Clarification of future liabilities and conduct of claims between the City council and Wolverhampton Homes.
- Transfer of the seven council employees currently employed to deliver services within the ASB team to include provision for remuneration, benefits and entitlements; equipment not exceeding a value of £5,000.
- Compliance with pre-transfer activities and provision of information.
- Clarification of indemnities and arrangements for resolution of disputes.

4.3 A service contract will be developed which details the level of service to be delivered by Wolverhampton Homes to the Council. The contract will include requirements for Wolverhampton Homes to deliver against a robust performance management framework which will be regularly monitored; provision will be made for termination of contract where issues of poor performance are not adequately addressed. The service contract shall not exceed a term of 15 years and will be subject to a 5 year cycle of review in addition to the regular monitoring arrangements. The service contract to include details regarding:

- Standards and components of the service to be delivered.
- Service obligations to include provision of ASB functions, advice and support, information exchange and compliance with ASB enforcement legislation.
- Engagement with service users, communities and stakeholders.
- Performance outcomes, monitoring and reporting
- Provision of legal services
- Arrangements for managing service complaints
- Provision for confidential exchange and requests for information
- Arrangements for review of the service following the 5 year period and provision for modification of the contract.

4.4 The need for further ancillary agreements has not yet been identified, however, authorisation is sought for these to be prepared and entered into to complete the transfer of employees and to support the new contractual arrangements between the Council and Wolverhampton Homes if required.

5.0 Financial implications

5.1 The 2015/16 estimated cost to the Council for the staff transferring under the TUPE arrangements is £236,000. This takes account of savings of £35,000 approved by Cabinet in October and achieved through a 50% contribution from Wolverhampton Homes to two posts fully funded by the Council in 2014/15. Wolverhampton Homes has agreed to meet the full costs of these posts in 2017/18 which will help deliver further savings identified in the Council's Medium Term Financial Strategy. In addition to staffing costs the ASB service has a non-staffing budget of £7,500 and pays for legal fees of £10,000 which will also transfer over and form part of the agreed fee following the transfer. The costs will be adjusted annually to reflect pay awards and staff increments.
[MF/22012015/R]

6.0 Legal implications

- 6.1 Sections 5 and 6 of the Crime and Disorder Act 1998 require the Council and other responsible authorities to formulate and implement strategies to reduce crime and disorder in the area.
- 6.2 Section 17 of the Crime and Disorder Act 1998 (amended) requires the Council along with the other Responsible Authorities to exercise their functions with due regard to do all that they reasonably can by way of preventing crime and disorder, ASB, substance misuse and re-offending in the locality.
- 6.3 The ASB, Policing and Crime Act came into force from 20 October 2014 with the final delayed element due to be introduced early in 2015. A report on the new legislation was presented to Cabinet on 12 November 2014.
- 6.4 The Business Transfer Agreement will ensure that the employees are transferred to Wolverhampton Homes and that the Council is provided with the necessary protection.
- 6.5 The Service Agreement will ensure that the Services referred to in 4.3 are provided by Wolverhampton Homes to the Council on the terms referred to.
- 6.6 Both the Service Agreement and Business Transfer Agreement are in accordance with the Council's constitution. [RB/22012015/X]

7.0 Equalities implications

- 7.1 A full equality analysis has been completed which outlines the impact of proposed cuts to the Council ASB service from 2017/18. Whilst a higher than average number of women and disabled clients access the service, the retention of existing staffing levels under the agreed model mitigates any negative impact through potential loss of service.
- 7.2 The performance framework will continue to capture data regarding accessibility of the service to enable identification of mitigating actions. If the equalities' data reveals a lack of take-up from certain groups with protected characteristics, then targeted promotion of the service will be carried out amongst those groups of people.

8.0 Environmental implications

- 8.1 There are no environmental implications associated with this report.

9.0 HR implications

- 9.1 Wolverhampton ASB Team is a co-located service comprising of 7 Council and 13 Wolverhampton Homes staff. Council employees are seconded to Wolverhampton Homes but remain on Council terms and conditions which include a significantly higher basic salary level following Single Status. Since the implementation of the new ASB team, significant disparities have been highlighted between Council and Wolverhampton Homes terms and conditions and policies. When the TUPE transfer goes ahead,

Wolverhampton Homes would be in a position to renegotiate, after 12 months, terms and conditions from the collective agreement, provided that overall the employee's contract is no less favourable as a result. In addition, changes to transferred employees' terms and conditions as a result of the transfer itself are invalid; however, a change could be valid if the principal reason for it is, for example, an economic, technical or organisational reason, which brings about changes to the numbers or functions of the workforce.

10.0 Corporate landlord implications

10.1 The ASB Team will continue to be housed within WH premises. There are no corporate landlord implications relating to the proposals contained within this report.

11.0 Schedule of background papers

- 11.1 Report to Safer Communities Scrutiny Panel on 26 January 2012, ASB Service Review (Agenda Item 7).
- 11.2 Report to Safer Communities Scrutiny Panel on 13 September 2012, ASB Service Review (Agenda Item 5)
- 11.3 Report to Cabinet on 14 November 2012, ASB Service Review (Agenda Item 5D).
- 11.4 Report to VSSC Scrutiny Panel on 13 March 2014, Progress report on the Wolverhampton Anti-social Behaviour (ASB) Team and scoping paper for one year service review (Agenda Item 9).
- 11.5 Report to VSSC Scrutiny Panel on 2 October 2014, Report on ASB Service Review and options' appraisal for future service delivery (Agenda Item 5).
- 11.6 Report to Cabinet on 12 November 2014, ASB Service Review and options' appraisal for future service delivery (Agenda Item 5).