

Report for: Leader Signing - 22 August 2016

Item number: 3

Title Shared ICT and Digital Services: Joint Committee: Terms of References

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Ward(s) affected: ALL

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

In March 2016, Cabinet agreed to create a shared ICT and Digital Service between Camden, Haringey and Islington and that the service would be governed by a Joint Committee, made up of representatives from each local authority. The Joint Committee will provide democratic oversight for the Shared Service and this report sets out its proposed Terms of Reference.

The service goes live on 1st October 2016.

This report also sets out the further governance arrangements, namely legal and managerial, that will be required to underpin the shared service.

2. Cabinet Member introduction

In March 2016, the Cabinet agreed for Haringey council to join a Shared ICT and Digital Service with Camden and Islington.

This shared services proposal is an innovative approach to deliver savings while protecting critical services and support that is required for the council to transform the way we deliver our services.

This report proposes an agreement of the Terms of References for the Joint Committee which strengthens the framework under which the shared digital service will be governed and monitored.

3. Recommendations

That the Leader:

- 3.1 Agrees the Terms of the Reference for the Joint Committee as set out in Appendix A with it to come into effect from 1 October 2016,
- 3.2 Delegates authority to the Chief Operating Officer and the Borough Solicitor, in consultation with the Cabinet Member for IT, to negotiate, agree and enter into any necessary legal arrangements that will govern and underpin the operation of the shared service and to give effect to this decision
- 3.3 Appoint two members of the Cabinet (the Cabinet Member for Corporate Resources and the Cabinet Member for Finance & Health) to be members of the Joint Committee for the remainder of the municipal year 2016/17.

4. Background

- 4.1 In March 2016, Cabinet agreed to create a shared ICT and Digital service between Camden, Haringey and Islington and that a Joint Committee be established to oversee the shared service. It remains the case that a long term strategic option for the shared service is to operate under a public service company model.
- 4.2 As part of the decision in March, Cabinet agreed that the Leader would, in consultation with the Cabinet Member for IT, make any further decisions required (and makes any appropriate delegations to officers) as to the terms of reference and operation of the Joint Committee and agreements between the Councils required to underpin the arrangements.
- 4.3 This report sets out a range of proposals that will determine how the shared service is governed through the Joint Committee and the legal arrangements that would underpin this.
- 4.4 The council, in partnership with Camden and Islington, is creating a shared ICT and digital service. These proposals will create one integrated operating ICT and digital service with an existing combined net revenue budget of c.£43m and 405 Full Time Equivalent (FTEs). Once fully operation, these proposals are designed to deliver a savings target of £6m per annum.
- 4.5 Three overarching objectives continue to underpin our development work, namely:
- Consolidating the expertise and best practice from each ICT service into one integrated and high-performing service,
 - Creating a public service structure that is resilient and is able to better withstand market conditions from both local government and beyond, and
 - Delivering value for money and cashable financial savings.
- 4.6 In creating this shared service, it is crucial that effective governance arrangements are in place to ensure both political and managerial oversight. The Joint Committee will provide the opportunity for Members to have democratic oversight over the strategic direction of the service and its ongoing performance and to make decisions about high value procurements undertaken by this service.

5. Alternative options considered

- 5.1 The report proposes terms of reference for the operation of the shared ICT and Digital Services Joint Committee. This sets out to strike a balance between what is delegated by the Joint Committee to the Chief Digital Information Officer (CDIO) overseen by the Management Board and what remains with the Joint Committee. It would be possible to either further increase or to reduce the work and decision making powers retained by the joint committee, but it is considered that the distribution of responsibilities set out in the draft terms of reference in Appendix A strikes the right balance in the light of the four overarching principles set out in paragraph 5.3
- 5.2 It should be noted that decisions of the Joint Committee will be made by a simple majority of those present and able to vote, this means that Haringey's members of the Joint Committee may be out voted by the other members of the committee.
- 5.3 In considering the options for the Joint Committee and related legal agreement, four overarching principles have been used that are consistent with the wider objectives of the proposals. Any arrangement should:
- Be as light touch as possible to ensure that decisions can be made in the most efficient and effective way possible,
 - Avoid any form of 'duplicate decision' making within the organisations that undermine the integrated nature and spirit of the undertaking,
 - Facilitate, and not undermine, a potential move towards a more public services company model in the future and
 - Ensure appropriate levels of input and scrutiny for each council.
- 5.4 Options exist to pursue a different governance structure than a Joint Committee, including the creation of a public services company. As part of the development of these proposals, Cabinet agreed that the Joint Committee approach would be implemented for October 2016. It was felt that this provided the quickest route to operation, but it was recognised that further consideration should be given to other long term strategic options. Officers have been asked to prepare a review of governance arrangements for consideration by the Joint Committee within one year of its inception. This has been captured within the proposed terms of reference.

6. Reasons for decision

- 6.1 In creating the Joint Committee, it is felt that this approach has the following benefits:
- It allows a clear and straightforward delegation of authority functions,
 - A joint committee is a governance structure that is tried and tested across local government,
 - It represents the fastest way to establish the shared service,
 - It does not limit any potential options that the council may wish to consider in terms of longer-term governance structures – i.e. it can still form the basis of a move to a public services company structure if desirable,

- Democratic accountability is maintained – member involvement is at the heart of the arrangement
 - There is an opportunity to create a separate ‘brand’ that provides a distinctive identity and which provides the basis for culture change.
- 6.2 The proposed Terms of Reference are set out in Appendix A. The following key points of note are as follows:
- The Joint Committee is planned to go-live on 1 October 2016 and will meet at least twice a year.
 - Haringey will be represented by two Cabinet members on the Joint Committee as will both Islington and Camden, noting the rotating chair and majority voting.
 - It will provide democratic oversight over the strategic delivery of the joint digital service,
 - It will approve the strategic service and financial plan for the service, including performance measures.
 - It will agree the procurement strategy for contracts relating to the Joint Service the estimated value of which exceeds £2m revenue or £5m capital and to award such contracts.
- 6.3 There will also need to be a legal agreement that underpins the creation and delivery of the integrated ICT and Digital Service. This will address the operational issues of the service and govern the day-to-day running of the services and how the three boroughs interact. Work across the three councils is currently underway to develop this agreement and it builds on the learning from both the Camden/Islington public health arrangement as well as the OneSource agreement between London boroughs of Havering and Newham.
- 6.4 In particular the agreement will provide for the following:
- (i) The establishment of the Joint Committee with the terms of reference set out in Appendix A;
 - (ii) The establishment of the Management Board with an emerging draft terms of reference set out in Appendix B;
 - (iii) That existing staff employed in the ICT service of each of the councils will remain employed by their current council but that all new employees in the shared service will be appointed as employees of Camden;
 - (iv) Key elements of the funding schedule;
 - (v) Termination of the agreement in the event that the shared service can no longer be lawfully provided or if all three councils wish to bring it to an end and provision for withdrawal by any one council on notice;
 - (vi) Arrangements that will apply in the event of withdrawal of a council from the shared service or in the event of its termination to ensure an orderly withdrawal or termination and appropriate distribution of assets, resources and liabilities;
 - (vii) The sharing of liability in the event of a claim
 - (viii) The party’s arrangements with regard to data protection.
- 6.5 In March 2016 Cabinet delegated the power to agree this arrangement to the Chief Operating Officer. It is now proposed that authority is delgated to the

Chief Operating Officer and the Borough Solicitor, in consultation with the Cabinet Member with responsibility for IT, to negotiate, agree and enter into any necessary legal arrangements that will govern and underpin the operation of the shared service and to give effect to this decision.

7. Risks and risk mitigation

- 7.1 While the bringing together of three distinct services into one shared service inevitably carries a range of significant challenges and risks as well as opportunities. Experience from across local government shows that the creation, and ongoing operation, of a shared service can be challenging. The proposals in this report have been designed to ensure that there is appropriate democratic oversight and accountability for the operation of the shared service. The agreement will provide that the shared service will be subject to the formal Member scrutiny arrangements at each council as well as access to the accounts of the service for audit purposes.
- 7.2 Supporting the Joint Committee will be a managerial framework and legal agreement that will ensure that the operational performance and risks of the service are suitably managed. A Management Board will be responsible for the delivery of the overall service strategy and for managing overall operational and financial performance. The Board membership will be three senior officers from each council and the Chief Digital and Information Officer. Representatives from each borough will include the respective director of finance, the Chief Operating Officer in Haringey and two senior service users.

8. Consultation

- 8.1 There has been no formal public consultation. A more formal organisational change process will follow for staff in all three councils as the proposals move towards a shared service model. The proposals contained within this report do not affect that process.

9 Contribution to strategic outcomes

- 9.1 This report seeks approval to create a shared service which in principle will allow the ICT service access to more resources, thus improving its ability to support all current corporate priority and transformation programmes.
- 9.2 The shared service approach will also allow the Council to reduce the current costs of short term resources required by transformation programmes and priority outcomes.

10 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities

Head of Procurement

- 10.1 Procurement does not need to comment on matters relating to terms of reference for the Joint Committee.

Chief Finance Officer

10.2 Cabinet approved a one-off investment of £2.5m as a contribution to the creation of the shared service, the same financial requirement from each of the three Councils. The savings/benefits arising for each Council will be monitored and tracked. There are no additional resource requirements arising from this decision. Haringey's contribution to the ongoing funding of the shared service will form part of the Council's wider medium term financial planning process and will be reported within that planning cycle and process.

Assistant Director of Corporate Governance

10.3 The Local Government Act 2000 empowers the Secretary of State to make regulations enabling a Cabinet / Executive of a local authority to arrange for the discharge of its functions by other means. The Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 1012/1019 apply. The regulations empower the Leader and Executive to make arrangements to discharge their Executive functions jointly with another local authority through a Joint Committee created for that purpose. The Regulations confirm that when the arrangements are between three local authorities and relate to Executive functions (which the IT function in a council is) then the arrangements are to be between the three Executives/Cabinets. Decisions of joint committees are binding on the participating councils. The decision making powers of the joint committee includes authority to make decisions about high value procurements and award such contracts on behalf of the shared service. Arrangements will need to be agreed and put in place for the procurement and award of contracts on behalf of the shared service which fall below the value of contracts retained by the joint committee. These arrangements must be made in accordance with a participating Council's constitutional requirements including but not limited to, procurement rules and financial procedures.

10.4 However, subject to the terms of the arrangement, the council retains the ability to discharge the IT function itself.

10.5 The appointment of the joint committee, number of members, and term of office and scope of the committee is to be fixed by the Leader and not the council. In addition, the Leader (in agreement with Islington/Camden/Haringey) agree whether for example the Joint Committee can create a sub-committee(s) and / or delegate functions to an officer of one of the three Authorities. Every member to be appointed to the joint committee must by law be a member of their home Executive/Cabinet and the political balance rules do not apply.

10.6 The council may make its employees available to Islington and Camden under s113 of the Local Government Act 1972. The council must consult staff who are to be seconded. Consultation has been undertaken with staff and is continuing.

10.7 It is unlikely that the Transfer of Undertaking (Protection of Employment) Regulations 2006 ("TUPE") will apply to the setting up of the shared service, as the Joint Committee is a piece of administrative machinery through which the councils will continue themselves to carry out ICT activities in cooperation with one another.

11 Equality Impact Analysis

An EqIA was completed in relation to the original proposal for Haringey to join the shared ICT Digital service. (Appendix C) The EqIA concluded that any future decisions likely to impact upon service delivery to customers or upon staffing would be subject to further consultation and assessment of equality impacts. The decision to approve the joint committee terms of reference is not anticipated to impact upon staff or service users and therefore the equality impact assessment has not been updated at this stage.'

The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- Foster good relations between people who share those characteristics and people who do not.

12 Use of Appendices

Appendix A: Joint Committee: Terms of Reference

Appendix B: Management Board: Emerging Draft Terms of Reference

Appendix C: Equalities Impact Assesment from the report to Cabinet on March 15th 2016.

13 Local Government (Access to Information) Act 1985

N/A