

Report for: Cabinet, 12 September 2017

Item number: 12

Title: Amendments to the Terms of Reference of the Shared ICT and Digital Service Joint Committee

Report authorised by : Richard Grice – Interim Director for Transformation and Resources

Lead Officer: Ed Garcez – Chief Digital Information Officer

Ward(s) affected: All

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

1. Describe the issue under consideration

Following a year in operation, the Shared ICT and Digital Service Joint Committee reviewed its Terms of Reference at its meeting on 19 June 2017 and recommended a number of changes.

The report is coming to the Cabinet because any recommended revisions to the Terms of Reference of the Shared ICT and Digital Service Joint Committee need to be referred back to the Leaders and/or Executive/Cabinet of each of the Councils for approval.

2. Cabinet Member Introduction

At its meeting on the 15 March 2016 the Cabinet agreed to establish a shared digital service with Camden and Islington Councils and established the Shared ICT and Digital Service Joint Committee.

The Terms of Reference for the committee were subsequently agreed by the Leader on 22 August 2016.

Following a year in operation, the Shared ICT and Digital Service Joint Committee reviewed its Terms of Reference at its meeting on 19 June 2017 and recommended a number of changes. These changes are now proposed to the Cabinet for agreement.

As referred to in the legal comments in this report, the Council's Constitution has set a threshold of £500,000 or above where decisions to award contracts or expenditure on a service would be a key decision, which our constitution prohibits an officer from taking.

This means that awards of contracts related to the Shared Digital IT spend, where Haringey's contribution is estimated to be £500,000 or above, that would

be taken by the Chief Digital and Information Officer on behalf of Camden and Islington, would be taken in parallel by a Cabinet Member for Haringey.

This is for the intermediate period until a more detailed review of the Shared ICT and Digital Service Joint Committee Terms of Reference is carried out as part of the Governance Model review which will include a review of the current Joint Committee model.

3. Recommendations

The Cabinet is asked to agree the revised Terms of Reference for the Shared ICT and Digital Service Joint Committee attached to this report as Appendix A to come into effect from 1 October 2017. The main changes to its Terms of Reference recommended by the Shared ICT and Digital Service Joint Committee meeting on 19 June 2017 are as follows:

- To change the name of the joint committee from 'Shared ICT and Digital Service Joint Committee' to the 'Shared Digital Joint Committee' to reflect the name of the shared service.
- To state that each Council nominates a substitute Member rather than for this to be optional.
- To ensure the 'Joint Committee Model' is included in the Terms of Reference as a model to review along with other company models as part of the Shared Digital Governance Options review.
- To be explicit about the frequency of the meetings; the intention being that the Shared ICT and Digital Service Joint Committee meets at least three times a year.
- To clarify when the Chair will be rotated and that this should be in alphabetical order by Borough.
- To clarify that all 'Executive' decisions of the Shared ICT and Digital Service Joint Committee will be deemed 'key decisions'. This is to avoid administrative decisions being treated as key decisions and added to the councils' Forward Plans
- To change the way the councils are listed in the Terms of Reference so that they are always listed in alphabetical order
- To undertake a tidy up of the language in the Terms of Reference, for example using 'Shared Digital' as the name of the joint service and

making clear how decisions on procurement should be taken[please see legal comments]

A further recommendation was also made which will be added to the Committee's procedure note:

- The Chief Digital and Information Officer consults all members of the Committee on reports.

4. Reasons for decision

The Shared ICT and Digital Service Joint Committee Terms of Reference forms part of the legal agreement, for the Shared Service. Elements of the Terms of Reference need to be changed to reflect the evolution of the service.

The Terms of Reference is currently not clear around how the role of the Chair will be rotated; frequency and order. The rotation of the venue is also unclear.

To avoid administrative decisions being treated as key decisions and added to the councils' Forward Plans.

The Terms of Reference currently does not state that the 'Joint Committee model' will also be assessed along with other company models during the Shared Digital Governance Model Review. There has been a request that we should explicitly list that the Joint Committee model will be reviewed along with other company models. The Shared Digital Governance Model review is taking place from May – September 2017.

5. Alternative options considered

There is an option to 'do nothing' and keep the current terms of reference in place for the Shared ICT and Digital Service Joint Committee. In adopting the 'do nothing' option the requests made for changes will not be addressed; clarifying the number of meetings per year, how the Chair and venue will rotate and ensuring the Joint Committee model is included in the governance model review along with other company models.

6. Background information

There are no adverse impacts from implementing the recommended changes outlined in this report; they are intended to provide greater clarity regarding the number of meetings to be held per year, how the venue and Chair will be rotated and that that 'Joint Committee model' will be reviewed alongside other company models.

Recommended revisions to the Terms of Reference of the Shared ICT and Digital Service Joint Committee need to be referred back to the Leaders and/or Executive/Cabinet of each of the Councils for approval. If they are approved by each council, the Terms of Reference will be adopted from the 1 October 2017.

A more detailed review of the Shared ICT and Digital Service Joint Committee Terms of Reference and legal agreement will be carried out as part of the Governance Model review and specifically a review of the current Joint Committee model.

In considering the options for the Shared ICT and Digital Service Joint Committee and related legal agreement, four overarching principles have been agreed for the operation of the Shared Service, these are:

- i. Be as light touch as is consistent with good governance to ensure that decisions can be made in the most efficient and effective way possible
- ii. Avoid any form of 'separate duplicated decision making within each of the councils that undermine the integrated nature and spirit of the undertaking
- iii. Facilitate, and not undermine, a potential move towards a public services company model in the future and
- iv. Ensure appropriate levels of input and scrutiny for each council.

The councils have set out an ambition to develop a light touch, efficient and effective governance framework with appropriate levels of input and scrutiny for each council. The review of the Terms of Reference and legal agreement will consider how the governance framework is currently working and whether changes are required to ensure it aligns to the overarching principles. This may require changes to be made to the legal agreement, Terms of Reference and council constitutions.

7. Contribution to strategic outcomes

Shared service allows the ICT service access to more resources, thus improving its ability to support all current corporate priority and transformation programmes.

The shared service approach also allows the Council to reduce the current costs of short term resources required by transformation programmes and priority outcomes.

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

Finance

This report clarifies the governance related to the Terms of Reference of the Shared ICT and the Digital Service Joint Committee.

There are no financial implications implied in the report.

Any financial decisions will continue to follow the financial regulations of Haringey.

Procurement

Strategic Procurement notes the contents of this report and has no objections to the recommendations made herein.

Strategic Procurement would request a clear process along with roles and responsibilities, in respect of procurements relating to those that fall within the remit of Shared Digital to avoid confusion within each authorities respective procurement functions.

Legal

By virtue of the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012, (“2012 Regulations”) arrangements have been put in place for the council’s Executive functions (IT functions) to be discharged jointly with Camden council and also Islington council through a Joint Committee created for that purpose. Under the 2012 Regulations these arrangements are between the Executives/Cabinets of the 3 participating Councils. Any changes to these arrangements have to be approved by them.

Decisions of joint committees are made on behalf of the participating councils. However, subject to the terms of the arrangement, the council retains the ability to discharge that function itself.

The Joint Committee’s Terms of Reference which forms part of the Legal Agreement between participating councils, (which sets out the terms of the joint arrangement) states that the Joint Committee may suggest revisions to its Terms of Reference, to be referred back to the Leaders and/or Executive/Cabinet of each Council for approval.

The proposed changes to the Terms of Reference as set out in recommendation 3 of the report comply with the requirements of the 2012 Regulations, which govern arrangements concerning joint committees.

One of recommended changes to the Terms of Reference of the Joint Committee is to clarify that all “Executive” Decisions will be deemed to be key decisions and added the Councils’ Forward Plans. However, as each of the 3 participating councils Constitutions have adopted a different approach as to what is a key decision, there will be a need to identify in advance which of the Joint Committee’s decisions will be key decisions for the purposes of one or more of the participating councils, so as to ensure that the required advance publicity can be given in respect of those decisions.

Decision making powers regarding the award of contracts related to the Shared Digital IT spend must be compliant with the Constitutions of each of the 3 participating Councils. Haringey’s Constitution has set a financial threshold of £500,000 or above where decisions to award contracts or expenditure on a service would be a key decision. In addition, officers are prohibited from taking key decisions.

Awards of contracts related to the Shared Digital IT, where Haringey’s contribution is £500,000 or above, and the total estimated value of the contract does not fall within the financial thresholds that the terms of reference reserve

to the Shared ICT and Digital Service Joint Committee will need to be taken by a Cabinet Member. This can happen in parallel with decision making processes in Camden and Islington. This would ensure that decisions are compliant and are made in the most efficient and effective way available.

Equality

The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- 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.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

Members of the Shared ICT and Digital Service Joint Committee are required to pay due regard to the Public Sector Equality Duty when serving on the Committee.

The changes to the Terms of Reference for the Committee will not have any equality implications.

9. Use of Appendices

Appendix 1 - Shared ICT and Digital Service Joint Committee Terms of reference including the changes recommended by the Committee at its meeting on the 19th of June 2017.

10. Local Government (Access to Information) Act 1985

