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| TITLE | Arrangements for the New Enforcement and Safety Service |
| FOR CONSIDERATION BY | The Executive on Thursday, 31 March 2022 |
| WARD | None Specific; |
| LEAD OFFICER | Director, Place and Growth - Steve Moore |
| LEAD MEMBER | Executive Member for Neighbourhood and Communities - Bill Soane |

PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)

To note the service delivery model for the new Enforcement and Safety Service from 01 April 2022 within the Council and to approve the settlement of liabilities.

RECOMMENDATION

It is recommended that Executive:

- 1) notes the progress made in relation to the repatriation of Environmental Health and Licensing from the Public Protection Partnership ('PPP') to the Council, and setting up an Anti-Social Behaviour Team within the newly created Enforcement and Safety Service;
- 2) notes that the Council will continue to contract services for Trading Standards (and ancillary services) from the PPP until 08 January 2027 and agrees that the initial term of the contract shall be at least 2 years;
- 3) approves a supplementary estimate to facilitate the payment of £416,681 to West Berkshire Council in full settlement of all liabilities incurred as a result of the Council's decision to withdraw services from the PPP. The payment shall be made over 3 financial years; and
- 4) delegates to the Director of Place and Growth and Deputy Chief Executive (and Section 151 Officer), in consultation with the Lead Member for Finance and Housing, the agreement of the final terms of the settlement with West Berkshire and completion of the settlement agreement and the contract for Trading Standards and ancillary services.

Executive Summary

The purpose of this report is to note the progress in successfully repatriating regulatory functions from the Public Protection Partnership (PPP) back in-house to Wokingham, the continuing use of the PPP to provide Trading Standing Services and the financial sum required to settle liabilities under the PPP contract, and setting up a new Anti-Social Behaviour Service

BACKGROUND

On 18 March 2021, both [Executive](#) and [full Council](#) agreed that the method of delivery of Environmental Health, Licensing and Trading Standards would change to enable a more localised delivery will focus on local priorities with a greater focus on prevention of anti-social behaviour. Both Executive and full Council also recognised that it would be feasible that certain services could be remain within the PPP. Notice to terminate the Inter Authority Agreement (IAA) was made which takes effect on the 31 March 2022.

In relation to Trading Standards (and some ancillary services) officers have negotiated terms for contracting of services from West Berkshire. The terms were authorised by [Executive](#) on 30 September 2021 to enter into a contract for these services.

This report explains the new mixed delivery model for Enforcement and Safety which enables Wokingham to draw upon the skills of West Berkshire for Trading Standards whilst enabling Wokingham to focus its priorities and resources to local demand using the inhouse Environmental Health, Licensing and Anti-Social Behaviour teams in conjunction with the other enforcement specialisms in the wider council.

In addition, as a result of the decision of terminate services, a liability has occurred for Wokingham. This report requests that the amount and terms are authorised.

BUSINESS CASE

Wokingham Operating Model for Environmental Health and Licensing

Residents generally support locally based services, being more responsive to local need and accessible. Environmental Health functions are essentially local in nature, dealing with local businesses and local problems, whether food hygiene, health and safety at work, damage to the environment, housing safety and rogue landlords. Licensing and Permitting is essential to ensure services are delivered in a safe and sustainable manner, and needs to be done efficiently to support businesses providing local services.

To this end, Environmental Health and Licensing functions need to be provided in the borough they serve, and the council has been working towards resourcing and staffing these services for in-house provision from 1 April 2022.

The Council has at the time of writing successfully recruited a Head of Service, and to three out of four of the Service Manager posts and most of the officer posts. Only a few vacancies remain in the rest of the structure, and plans are in place to ensure they will be filled by the going live date of 1st April.

A structure chart is attached to the report as Appendix 1.

Anti-Social Behaviour Service

Crucial to the success of the new service will be the Anti-Social Behaviour team which will be providing a new out of hours proactive and reactive service for residents to tackle on the spot issues of immediate concern to the public.

Residents should not be expected to restrict their expectations that problems can only be resolved within the narrow boundaries of how the council's services are set up. Residents should be able to report any problem which is causing alarm or distress,

nuisance or annoyance and expect the Council to have resources in place to investigate. Even if the problem is too minor to warrant the council's formal intervention, residents should still feel they have been listened to and assisted. The new Anti Social Behaviour service will fill this gap.

The ASB officers will be experienced in resolving a wide range of community nuisance problems, delegated and authorised to use all the legislative tools and powers available to local authority staff. They will conduct site visits and, in most cases, will endeavour to resolve problems at the first point of contact. Where a problem is more protracted, or where there is a need to prosecute or impose a penalty, the officers will work closely with other council departments and agencies such as police to gather evidence and persuade the offender to change behaviour.

The officers will also assist other parts of the Enforcement and Safety Service to monitor activity outside normal working hours, for example to ensure compliance with licensing conditions or permitted hours of commercial activity.

A list of type of issues covered by this team is attached at appendix 2.

The service will commence on 1st April with ten anti-social behaviour officers working in shift patterns to cover the busy evening periods and weekends. Six of the staff will be full time employees and four will be drawn from an agency to enable the Council to flex the size of the service as we learn more about the scale of demand once the service is up and running.

Trading Standards

As authorised by the Executive Decision in September 2021, certain Trading Standards and ancillary services will continue to be provided by West Berkshire to the Council. The terms of such are set in the previous Executive Report but the full services and terms are listed in that Executive Report. The services provided are:

- trading standards, including fair trading, weights & measures, product safety, restricted products;
- food standards (often regional or national in scope);
- air quality (operation & maintenance of monitoring network, reporting results, annual Air Quality Management Area reporting and advising of efficacy and likely impact of AQ actions being considered for implementation by Wokingham council);
- animal welfare, biosecurity and feed-stuffs;
- pre-legal prosecution and enforcement case-building support; and
- financial investigations and proceeds of crime

The contract for Trading Standards is currently being drafted on the terms approved by Executive. The contract and the liability settlement will be completed together. This settlement proposal only relates to the services that have been repatriated back to Wokingham and any liabilities in relation to Trading Standards remain until the end of the Trading Standards contract and fall due in 2027 (if the contract reaches full term).

Although the main terms of the contract were agreed by both Councils last year, West Berkshire has requested that the initial term of the contract should not be shorter than 2 years (that is any 12-month termination notice would need to be served by the 31 March 2023 at the latest and cannot take effect until 01 April 2024). The service has undergone

a period of upheaval during the last 12 months and requests an initial period to ensure that service delivery is normalised. Similarly, the inhouse Wokingham services will be newly formed and will need a period time for consistency and to embed service delivery. It would not be beneficial to consider any further repatriation of services (if at all) during the next 24 months as the existing service needs time to settle and develop.

Liabilities

The financial business case for the termination of services with West Berkshire, as set out in the 18 March 2021 Executive and Council Reports, recognised that there could be liabilities associated with the decision. The Reports noted that there would be one off cost associated with the termination and that there would be costs that required mitigation during the year which included staffing, legal and compensatory costs to partner councils. It was also recognised that there were one off project costs associated with the decision to facilitate establishment of the in-house service. The decisions of Executive and Council ensured that an initial £500k was earmarked to the project over two financial years.

The Report stated that as the full revenue and project costs were identified that such would be brought back to Executive for express approvals.

Transition Work

There has been a substantial and considered effort by officers in both councils to ensure that the transition was successful and completed in time for the 01 April 2022. Both councils have made decisions with the view to minimise costs to the Councils whilst ensuring a continuation of quality of service delivery. Although not every individual decision has been agreed or supported by both Councils, the range of options considered and the flexibility and enterprise of both the councils and the affected employees means that worst case outcomes and risks have been avoided and in the whole, the best possible outcomes have been achieved.

However, as envisaged by the March 2021 Reports, not all best outcomes are possible. The service has needed to recruit a greater number of new staffing that planned for and service elements have needed to change to make Wokingham’s offer to employees more attractive.

There is a further financial liability arising due to current commitments made within the service, associated project costs and employee costs.

Current Commitments

During the IAA, Wokingham agreed to commitments in relation to property and IT systems. The commitment was made but with payments over an extended period. These commitments remain live and are payable notwithstanding the termination. The sums are:

| Cost (£) | Reason for Expenditure |
|----------|--|
| 98,600 | Current commitment to the ongoing Tascomi IT project transferring data from Civic App. This is the 34% of the costs of the work. |

| | |
|-------|---|
| 7,813 | Current commitment to the ongoing Theale Gateway refurbishment costs. This is the balance of the 34% cost of these works. |
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Project Costs

The IAA provides a contractual framework for a termination. This includes sharing of costs in relation to certain liabilities that relate to the Services (such as employee costs) but also costs that Wokingham is required to bear due to a decision to leave the service. Principally these are the project related costs that West Berkshire has occurred to facilitate the split of the service and transfer of employees, equipment, data and processes back to the Council. The sums are:

| Cost (£) | Reason for Expenditure |
|----------|--|
| 108,050 | Project management costs, external legal costs and West Berkshire officer times costs. |

Employee Costs

The ending of the IAA incurs costs relating to the current employees. These are treated under the IAA as a shared liability which if occurred would lead to significant costs to the Council (and the other councils). Principally these costs includes notice periods, redundancy and pension strain

The application of TUPE, the Traded Standards contract and available of more roles than employees has ensured that in the wider employee cohort the costs have been minimised. In relation to other group of employees, other alternatives to a rationalisation process have been considered where these would be more successful to minimise costs to the councils.

The recommendation is that a payment is made to West Berkshire on account of the employee costs that would be incurred for certain employees. It would be then up to West Berkshire to determine the use of this contribution which could be used towards any capital costs or payment of salaries with West Berkshire then absorbing all current and future employee costs. In the absence of this contribution, a restructuring and redundancy exercise would be inevitable requiring the Council to contribute to these sums. Although the sum is agreed with West Berkshire, the basis of calculation is not but this settlement will then be binding on the parties.

The Appendix to this Report is exempt but contains the contractual justification for the payment. The payment is no greater than the costs that would be incurred should a downsizing of the affected employees have occurred (that is, the amount that payable under the terms of the contract).

The sum is:

| Cost (£) | Reason for Expenditure |
|----------|------------------------------------|
| 202,218 | Contribution to the employee costs |

Total Cost & Payments

The recommended total sum is £416,681. The councils have agreed that the sum is payable over 3 financial years as follows:

| Financial Year | Amount & Date |
|----------------|--------------------------------|
| 22/23 | £108,050 payable 01 April 2022 |
| 22/23 | £154,316 payable 30 April 2022 |
| 23/24 | £154,315 payable 30 April 2023 |

The amounts payable under this recommendation are all subject to contract and subject to the Traded Services contract being completed.

Funding of Liability

The £416,681 will be payable from the Council's reserves.

Funding after 2022/23

These services are being repatriated to the Council after being provided by a third party for (in some cases) almost 10 years. It is highly likely that the service will need to be refined in the first few years specifically with respect to the capacity in meeting the Council's priorities. It is therefore unknown whether such changes will require further funding from the Council. In addition, at the end of the Trading Standards contract then further liabilities will be incurred similar in scope (if not size) to those described in this report.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.

| | How much will it Cost/ (Save) | Is there sufficient funding – if not quantify the Shortfall | Revenue or Capital? |
|-----------------------------------|-------------------------------|---|---------------------|
| Current Financial Year (Year 1) | £0 | NA | Revenue |
| Next Financial Year (Year 2) | £262,366 | No - £262,366 | Revenue |
| Following Financial Year (Year 3) | £154,315 | No - £154,315 | Revenue |

Other Financial Information

The figures above do not include the costs of Traded Services buy back which are paid separately but are/will be factored into the service budgets.

The end of the Traded Services (whether by early termination or expiry) has the same obligations as under the current agreement with West Berkshire. Any employee liabilities will be shared either financially or by the absorption of the employees to the Council on the same basis as current.

The Council set aside a sum of £500k to fund the legal and other project costs of withdrawing from the PPP. The final cost was slightly in excess of this amount, but this

was absorbed with Place Services, largely through an increase in planning application income.

A special item of £300k was also added to the budget for 2022/23 to ensure there will be sufficient funds to support a new enhanced service.

The budget projection for next year shows that the £300k will be sufficient to fund the service in 22/23.

Any requirement for growth in future years will be dealt with separately in future Executive reports as the Council learns from the experience of running the new service.

Stakeholder Considerations and Consultation

This report marks the conclusion of a process commenced by the Council in March 2021 and no consultation was deemed necessary.

Public Sector Equality Duty

The recruitment to the new service has been carried out in accordance with all equal opportunities policies.

Climate Emergency – *This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030*

The decision to settle all liabilities will have no impact on the Council’s commitment to achieving a carbon neutral Wokingham Borough by 2030.

Reasons for considering the report in Part 2

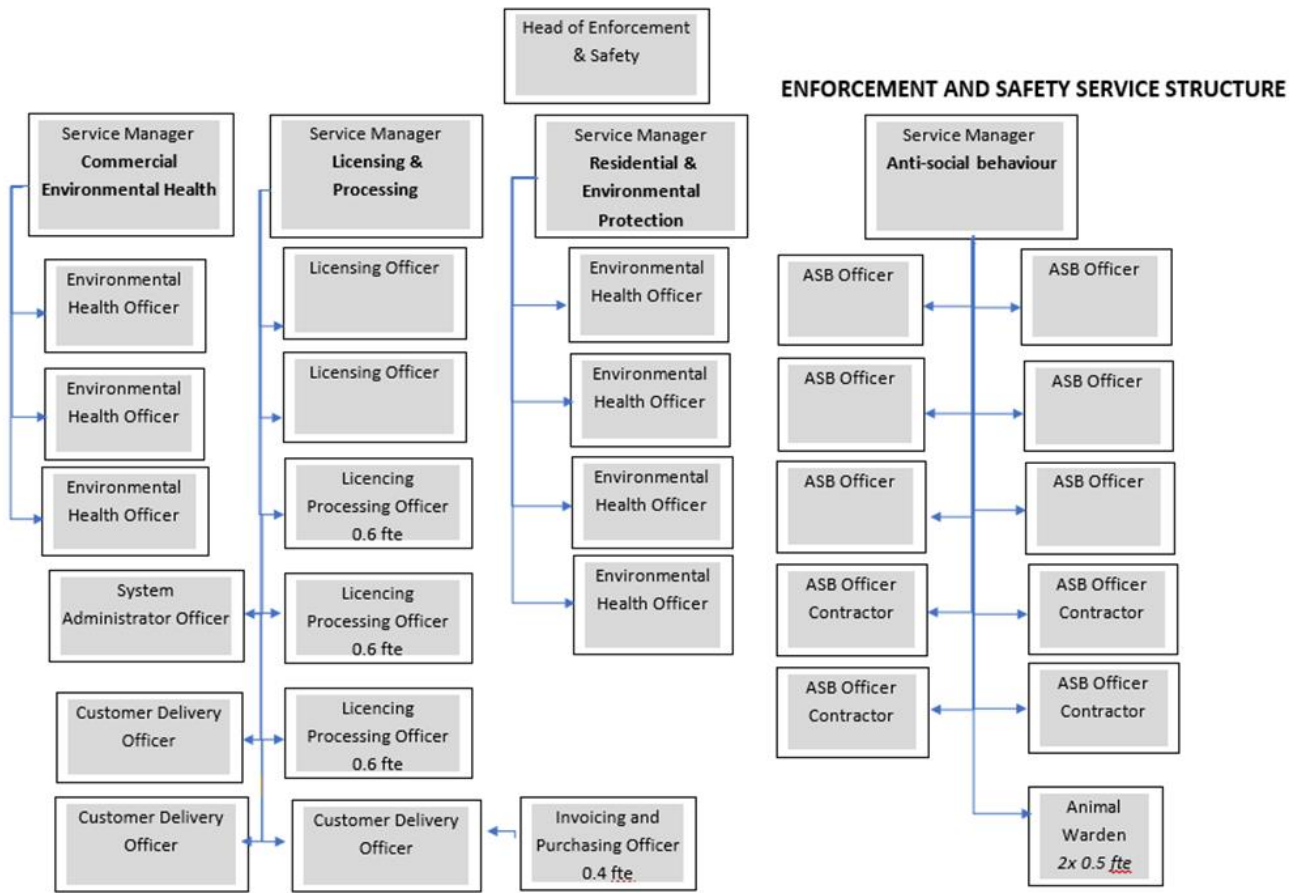
Part of this report is in Part 2 as it contains exempt information as it relates to information which is likely to reveal the identity of an individual, relates to the financial or business affairs of the council and contains information of which a claim to legal professional privilege could be maintained in legal proceedings.

List of Background Papers

None

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Appendix 1 Enforcement and Safety Service Structure Chart



Appendix 2 ASB Team Tasking List

Respond to and investigate complaints from the public and determine and implement effective courses of action about the following issues (these are examples and not an exhaustive list)

- Domestic noise nuisance, such as loud music, large scale DIY
 - Noise and dust from construction sites
 - Breaches of conditions attached to licensed premises
 - Unauthorised street trading or charity collections
 - Unauthorised distribution of leaflets and flyers
 - Fly tipped or burning of rubbish (either trade or domestic bonfires)
 - Littering and litter from vehicles
 - Breaches of waste management by commercial premises
 - Poor management of domestic waste, such as bin stores and refuse accumulation, landlord rented premises
 - Pests causing a public nuisance
 - Abandoned vehicles, bicycles, shopping trolleys, caravans
 - Nuisance vehicle use, eg car meets, car repairs or sales, unauthorised motor cycling off road
 - Fly posting and unauthorised advertising (eg banners and A Boards)
 - Premises which should have a licence but are unlicensed, eg HMOs and premises
 - Unauthorised encampments
 - Neighbourhood nuisance where there is an impact on the wider community, eg disturbances in or disrespecting public spaces (as distinct from public order or breach of the peace which are police matters), dogs out of control, excessive barking, drinking, barbecues
 - Any other matters where it is appropriate to gather evidence to refer to a more specialist team
- Undertake regular and visible inspections of anti-social behaviour hot spots, monitoring and enforcing schemes where appropriate to promote responsible behaviour, such as
 - Waste carriers to ensure proper licensing and disposal methods
 - Commercial premises for waste management
 - Parks and open spaces where ASB is reported
 - Licensed premises associated with disorderly behaviour
 - Speak to and liaise with members of the public to persuade them to change their behaviour
 - Ensure correct amounts are invoiced for the recovery of costs in relation to clearance of dumped items or rubbish
 - Conduct investigations, surveys and surveillances aimed at detecting non-compliance with legislation.
 - Enforce legislation in relation to anti-social behaviour, take evidence, prepare reports and attend court, where necessary, in particular in relation to complex cases

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