

CABINET

13 MAY 2014

TRANSFER OF GROUNDS MAINTENANCE SERVICES TO MEDWAY NORSE

Portfolio Holder: Councillor Alan Jarrett, Finance

Report from: Perry Holmes, Assistant Director Legal and Corporate Services and Monitoring Officer

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Summary

This report recommends that an amendment is made to the decision made by Cabinet on 29 October 2013 on the report entitled 'Establishing a subsidiary company for the transfer of grounds maintenance services'.

The revised proposal is that the Council should transfer the grounds maintenance services to a division of Medway Norse rather than establish a subsidiary company for the reasons set out in the body of the report.

1. Budget and Policy Framework

- 1.1 As explained in the original report to Cabinet in October 2013, Section 111 of The Local Government Act 1972 gives the Council power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 1.2 Sections 1 to 8 of the Localism Act 2012 enable all local authorities to have a general power of competence "to do anything that individuals generally may do". This power enables a local authority to exercise this power anywhere in the United Kingdom or elsewhere, for a commercial purpose or otherwise, with or without charge and for the benefit (or otherwise) of the authority its area and people resident or visiting the area. All activities are, as always, subject to the general requirements as to reasonableness and financial rectitude. Commercial activities should be undertaken through a company or industrial and provident society reflecting the current value for money arrangements.
- 1.3 In line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would

seriously prejudice the Council's or the Public's interests. This is to enable the deed of variation to be sealed as soon as possible. The Chairman of the Business Support Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

2. Background

- 2.1 In October 2013, the Cabinet agreed a recommendation to set up a subsidiary company with Medway Norse provide grounds maintenance services (decision no. 175/2013).
- 2.2 The Cabinet also agreed a number of other associated decisions which are set out in appendix 1 to this report.
- 2.3 Following Cabinet in October 2013, negotiations continued with Medway Norse to facilitate the establishment of the subsidiary company, details of which are set out in sections 3 and 4 below.

3. Options

- 3.1 The options are set out below:

3.2 Creating a subsidiary company of Medway Norse

Creating a subsidiary company includes separate auditing costs, in the order of £5,000, which will detract from the bottom line of Medway Norse.

3.3 Creating a division in Medway Norse

Creating a division of Medway Norse means that the cost related to the services transferred into it remain separate to the rest of Medway Norse and the core FM services transferred in June 2013 but will not attract separate auditing costs.

3.4 Preferred option

The preferred option is to create a division of Medway Norse and maximise the bottom line of the company so that the rebate for Medway Council is increased.

4. Advice and analysis

- 4.1 As part of finalising the financial model for transferring the grounds maintenance services, it became clear that minimising costs in relation to the services being transferred was necessary and therefore it was suggested and agreed that a division rather than a subsidiary company should be created.
- 4.2 However, the specific nature of the original recommendations in the October 2013 report means that before the deed of variation to the original contract with Medway Norse is signed a revised recommendation is needed for the

activities to be transferred into Medway Norse. Medway Norse has taken on responsibility for the grounds maintenance services and therefore the deed of variation needs to be signed as soon as possible.

5. Risk management

5.1 There are no risks associated with this proposal.

6. Consultation

6.1 The Deputy Director for Regeneration, Community and Culture and the Assistant Director for Legal and Corporate Services, met with portfolio holders to discuss these options.

7. Financial, HR and legal implications

Financial

7.1 The budgets indicated in the October 2013 report remain unchanged.

Legal

7.2 The advice provided in the October 2013 report remains unchanged.

Human resources

7.3 There are no HR implications related to this amendment.

8. Recommendations

8.1 The Cabinet is asked to agree a revised proposal for the transfer of grounds maintenance services, as follows:

8.1.1 That the transfer of grounds maintenance services should be to a division of Medway Norse.

8.2 If the Cabinet agree to paragraph 8.1 then the decision 178/2013, naming the subsidiary company, is no longer required.

8.3 The Cabinet is asked to note that decisions 176/2013, 177/2013 and 179/2013 (as set out in Appendix 1 to this report) made by Cabinet on 29 October 2013 remain unchanged.

8.4 The Cabinet is asked to agree that recommendation 8.1 is considered urgent and therefore should not be subject to call in.

9. Suggested reasons for decision(s)

9.1 The need to minimise costs related to transferring the grounds maintenance services.

9.2 The need to have the contract signed as soon as possible

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Background papers

Cabinet report entitled 'Establishing a joint venture company' presented on 12 March 2013: <http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=19309>

Cabinet report entitled 'Establishing a subsidiary company for the transfer of grounds maintenance services' presented on 29 October 2013: <http://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=2762&T=10>

Cabinet 29 October 2013

Establishment of a Subsidiary Company of Medway Norse for Grounds Maintenance

Background:

This report provided details of a proposal to set up a subsidiary company of Medway Norse. This would enable the Council to benefit from all of its spend on grounds maintenance services being in one place. The report also stated that this would provide opportunities for economies of scale and therefore savings from that spend and a sufficient base to compete for external contracts across the southeast creating income for the Council.

The proposed grounds maintenance services included: Greenspaces Corporate contract and Partnership arrangement (General grounds maintenance services and seasonal bedding); Bereavement services contract (General grounds maintenance services and grave digging); Highways (General grounds maintenance services including hedge and tree cutting and traffic management) and; Medway Norse (General grounds maintenance including golfing greens).

The report set out the governance arrangements for the subsidiary company which would include quarterly reporting to the Business Support Overview and Scrutiny Committee and six monthly reporting to Cabinet.

A Diversity Impact Assessment (DIA) screening had been undertaken on the proposals as set out in Appendix 1 to the report. It was noted that it had not been necessary to proceed to a full impact assessment.

<i>Decision number:</i>	<i>Decision:</i>
175/2013	The Cabinet agreed to establish a subsidiary company that will be operational from 1 April 2014.
176/2013	The Cabinet agreed that the transfer should be for services described in paragraph 2.3 commencing 1 April 2014.
177/2013	The Cabinet agreed that regular reporting to Business Support Overview and Scrutiny Committee and the Cabinet by the subsidiary joint venture company, as per the timetable for reporting in relation to Medway Norse, takes place.
178/2013	The Cabinet agreed that the Director for Regeneration, Community and Culture Services determine the joint venture company name, in consultation with the Portfolio Holder for Housing and Community Services, following a consultation with Members.

179/2013 The Cabinet agreed that the Grounds Maintenance Operational Liaison Board be constituted (to support the subsidiary company) to meet with the same frequency as the current Operational Liaison Board for Medway Norse.

Reasons:

This arrangement will enable the council to better manage the spend on activities related to grounds maintenance and manage the quality of services that are delivered.

To allow the Council to take advantage of income opportunities and make efficient use of assets, workforce and knowledge.

Regular reporting will ensure transparency at all stages of the subsidiary joint venture company's development and to ensure that its activities are in keeping with the Council's priorities and operating model.