

BUSINESS SUPPORT OVERVIEW & SCRUTINY COMMITTEE

30 JANUARY 2018

SHARED HUMAN RESOURCES (HR) SERVICE BETWEEN MEDWAY COUNCIL AND GRAVESHAM BOROUGH COUNCIL

Report from: Carrie McKenzie, Assistant Director - Transformation
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Summary

Members are asked to comment on proposals that Medway Council assume responsibility for the discharge of Gravesham Borough Council's HR functions. This is permitted under Section 101(1) of the Local Government Act 1972 which allows local authorities to delegate non-executive functions to other local authorities.

This report will be formally submitted to Cabinet on 6 February 2018 and Full Council on 22 February 2018.

1. Budget and Policy Framework

- 1.1 The function of the HR Service is a non-executive function. Medway Council's Constitution provides that a decision to establish joint arrangements with one or more local authorities to exercise non-executive functions is a matter for Full Council (Article 10.2 (a)). In addition, the decision to accept such a delegation of a function from another local authority is also reserved to Full Council (Article 10.4(c)).

2. Background

- 2.1 Medway Council are currently discussing proposed arrangements to establish a shared HR service with Gravesham Borough Council. At the meeting of the Gravesham Borough Council Cabinet on 4 September 2017, Members agreed:

- To approve the progression of a fully shared service with Medway Council for the delivery of the HR Service;
 - To delegate authority to the Director (Communities), in consultation with the Director (Corporate Services), the Portfolio Holder for Public Protection and HR, and the Monitoring Officer to take all necessary practical, financial and legal actions required to enable the arrangement to be put in place;
 - To provide delegated authority to Medway Council to provide the HR Service on behalf of Gravesham Borough Council, through a shared service arrangement.
- 2.2 A copy of the Record of Decision from Gravesham's Cabinet is attached as Appendix A.

3. Advice and analysis

- 3.1 A project group has been established to implement the shared working arrangements, comprising officers from both Council's HR, Legal Services, Finance, and ICT teams. The project group has met on three occasions, with further meetings planned as required. This matter is scheduled to be considered by Medway Council's Cabinet on 6 February 2018. Subject to Cabinet at that meeting recommending to the Medway Full Council to accept the delegation of the HR Services function from Gravesham Borough Council and subject to full Council on 22 February 2018 accepting that delegation, Gravesham's HR staff are scheduled to transfer under TUPE regulations to Medway Council on 1 April 2018.
- 3.2 The proposed shared service will take the form of a delegation of a non-executive function from Gravesham's Cabinet to Medway's full Council. It is proposed that Medway's Cabinet recommends to full Council to accept this delegation and further delegate these functions to the Assistant Director Transformation, who will take on the responsibility of delivering HR Services functions for both authorities. The Head of HR Services will continue to deliver Medway's functions and if requested report on the progress of the shared service to the Cabinet and Business Support Overview & Scrutiny Committee and will also deliver Gravesham's functions and report if requested to Gravesham's senior management in a format and frequency to be agreed in the legal agreement between the two authorities.
- 3.3 A Business Case has been prepared by officers from Gravesham and Medway to provide further information to their respective Cabinets. A copy of the draft Medway Business Case is at Appendix B. to this report. The Medway Business Case may be subject to further change but will be finalised before the matter is considered at Full Council.
- 3.4 In summary, in recent months, there have been a number of changes within the Gravesham HR Service due to officers within the team being recruited to roles elsewhere in the council. To help address these

capacity issues, Medway Council have been providing cover for the HR Officer vacancy for two days per week since March 2017 with Gravesham covering the salary costs.

- 3.5 This arrangement ceased mid-2017 to be replaced by Medway Council employing a full-time Senior HR Consultant (equivalent to a Range 6 post) wholly funded by Gravesham Borough Council, with primary responsibility for the delivery of HR activities associated with the Borough Council.
- 3.6 This has proven to be an excellent development opportunity for an existing member of the Medway HR team, and there is an expectation that there will be other professional development routes as a consequence of the shared service.
- 3.7 It was felt that it would be beneficial to implement a full shared service with Medway Council for HR to provide further resilience to the provision of this service at Gravesham Borough Council and provide access to specialist skills across both authorities which could lead to increased efficiency.
- 3.8 Capacity, workloads, work types and expertise within the shared HR team will be thoroughly reviewed and consideration given to the need for a restructure if resources need to be reorganised to meet client demands or to realise savings.

4. Options

- 4.1 **Option 1: Do Nothing.** Each local authority can retain its own separate HR Services teams undertaking work for their own client departments only. This has the advantage of consistency for staff and client departments but does not allow resilience or the potential for savings that could be achieved by sharing resources.
- 4.2 **Option 2: Establish a Shared HR Service with Gravesham Borough Council.** Gravesham's existing staff members would transfer to the employment of Medway Council under TUPE Regulations providing greater resilience and expertise in the team and reduce costs due to economies of scale. Further cost savings may be possible through a future restructure, if considered necessary.

5. Risk management

| Risk | Description | Action to avoid or mitigate risk |
|---|--|---|
| Either party chooses to terminate the delegation. | Medway Council permanently takes on the responsibility for and costs of providing Gravesham's HR Services functions. Either party may choose to end the shared service or the arrangement fails, leaving Gravesham with no HR service. | Gravesham's formal delegation and decision to share services approved by their Cabinet. A formal legal agreement will be made to include exit arrangements with appropriate notice periods for seeking to vary or terminate the services. |
| Failure to deliver effective service | The proposed service may fail to deliver an effective shared HR service for Medway and/or Gravesham Councils. | A formal legal agreement will be made to include required outputs and how performance will be measured, monitored and reported. |
| Staff grievance | Changes to staff terms and conditions may not be introduced appropriately | HR staff from both authorities are involved in the project and are leading on this work-stream. |

6. Consultation

- 6.1 As HR Services are "back-office" functions, this change will not impact on the public and so has not been subject to public consultation.
- 6.2 HR staff of both authorities have already been briefed on the overarching proposal and further detail will be shared as the project develops. Gravesham staff that will TUPE to Medway Council will be formally consulted with in line with TUPE regulations and Gravesham's own policies and protocols covering these matters.
- 6.3 The Trade Unions of both authorities have been informed of the proposal and they will be updated as the project develops.

7. Financial Implications

- 7.1 From 1 April 2018 the HR Services staff in post at Gravesham will transfer to Medway Council's payroll and be paid from Medway's salaries budgets, this includes the cost of a Gravesham's team member's Maternity pay entitlements and the provision of a Medway team member to act as Maternity cover.

- 7.2 It is anticipated that the Shared Service arrangement will deliver some initial savings and further opportunities to realize savings will be explored as the arrangement progresses.
- 7.3 Once the TUPE Transfer of staff has been completed and officers have been operating in the new structure for a number of months, a review will be undertaken of the structure in order to ensure that all officers are in the correct posts in order to maximise their expertise across the shared working arrangement.
- 7.4 In setting up any shared working arrangement, there will be some investment/set-up costs in order to ensure the arrangement is effective. The list below provides a suggestion of the costs that need to be considered, but is not deemed to be exhaustive:
 - 7.4.1 IT costs of setting up access to other's systems, plus potentially new IT equipment to enable better facilities for staff.
 - 7.4.2 Property and facilities costs – there may be a need to acquire additional desks and chairs, etc. to ensure that all officers can be accommodated in any one site.
 - 7.4.3 It is not anticipated that there will be any redundancy costs at this stage as all officers will be transferred across to Medway Council. However, this may need to be considered moving forward, should a revised structure identify posts that are not required.

8. **Legal Implications**

- 8.1 Section 101(1) of the Local Government Act 1972 allows local authorities to delegate non-executive functions to other local authorities. The Local Authority (Arrangement for the Discharge of Functions) (England) Regulation 2012 made under section 9EA of the Local Government Act 2000 allows local authorities to delegate executive functions to other local authorities. Under the Local Government Act 2000, the default position is that a function is an executive function unless specific provision provides that they are non-executive. The Local Authority (Functions and Responsibilities) (England) Regulations 2000 sets out the specific functions that are non-executive.
- 8.2 Gravesham's Cabinet delegation of their HR Services functions to Medway Council must be accepted by Medway's Full Council, and once accepted, Medway will become statutorily responsible for Gravesham's HR Services functions as though it were its own functions.
- 8.3 The delegation of Gravesham's HR Services functions to Medway will be documented through a legally binding contract, which both parties must agree and sign. The delegation agreement will cover, but is not limited to:

- The scope of HR functions / services to be provided
 - Governance and staffing arrangements
 - Cost sharing
 - Liability, indemnity and insurance
 - Data protection and information governance
 - Exit provisions
- 8.4 The delegation agreement will fall outside the scope of the Public Contracts Regulations 2015 so there is no requirement for Gravesham to tender these services. The delegation agreement will implement a co-operation between Gravesham and Medway with the aim of ensuring that Medway provides HR services they have to perform with a view to achieving objectives they have in common. The delegation will also give Medway an exclusive right by law to provide the services to Gravesham. Such administrative arrangements are expressly exempted from the EU procurement regime (Regulations 11 and 12 (7) of the Public Contracts Regulations 2015).
- 8.5 A structured shared service managed by the Head of HR Services is able to take advantage of support staff and facilities at Gravesham Borough Council through the powers in:
- Section 113 of the Local Government Act 1972 which allows local authorities to place officers at the disposal of other local authorities; and
 - The Local Authorities (Goods and Services) Act 1970 which allows local authorities to make arrangements with each other for the provision of goods, administrative, professional or technical services and vehicle, plant or apparatus.

9. Recommendations to Cabinet

- 9.1 The proposed recommendations to Cabinet are set out below:
- 9.1.1 Cabinet recommend to Full Council that option two set out in paragraph 4.2 above is agreed whereby Medway Council shall assume responsibility for the discharge of Gravesham Borough Council's HR Services functions under Section 101(1) of the Local Government Act 1972 which allows local authorities to delegate non-executive functions to other local authorities.
- 9.1.2 Cabinet recommend to Full Council to accept the delegation by Gravesham Borough Council of its HR Services functions to Medway Council.
- 9.1.3 Cabinet agree to delegate authority to the Assistant Director - Transformation of Medway Council to enter into a legally binding contract between both local authorities setting out the detail of the arrangements for a fully shared HR Services.

9.1.4 Cabinet agree to recommend Full Council to delegate authority to Medway's Assistant Director -Transformation to assume responsibility for the management and delivery of HR services for Gravesham Borough Council jointly with the services provided for Medway Council and for this to be reflected in the Council's Scheme of Delegation.

10. Recommendation to Business Support Overview and Scrutiny Committee

10.1 Members are asked to note the proposals to establish a shared HR service with Gravesham Borough Council and forward any comments to Cabinet for consideration.

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Appendices

Appendix A - An extract from the minutes of a Gravesham Borough Council Cabinet meeting held on 4 September 2017.

Appendix B - Medway Council draft Business Case

Background Papers:

None

**Extract from the minutes of a Gravesham Borough Council
Cabinet meeting held on 4 September 2017.**

RECORD OF DECISION: EXECUTIVE FUNCTIONS

Decision No: 23/C/2017

Decision taken by: Cabinet

Date: 04 September 2017

Topic: Development of a shared service for the delivery of HR Services

It was agreed:

That Members approve the progression of a fully shared service with Medway Council for the delivery of the HR Service.

Delegated authority be given to the Director (Communities), in consultation with the Director (Corporate Services), the Portfolio Holder for Public Protection and HR, and the Monitoring Officer to take all necessary practical, financial and legal actions required to enable the arrangement to be put in place.

Members also agreed to provide delegated authority to Medway Council to provide the HR Service on behalf of Gravesham Borough Council, through a shared service arrangement.

REASON/S FOR THE DECISION:

In recent months, there have been a number of changes within the Gravesham HR Service due to officers within the team being recruited to roles elsewhere in the council. To help address these capacity issues, Medway Council have been providing cover for the Senior HR Officer vacancy for two days per week since March 2017, with this arrangement more recently replaced by Medway Council employing a full-time HR Business Partner funded by Gravesham Borough Council, responsible solely for working of HR activities associated with the Borough Council.

It was felt that it would be beneficial to implement a full shared service with Medway Council for HR to provide further resilience to the provision of this service at Gravesham Borough Council, provide access to specialist skills across both authorities leading to increased efficiency and to potentially expand the knowledge base of individual officers through greater training and learning opportunities. In addition, there may be financial benefits although further detailed analysis is required.