



LICENSING AND SAFETY COMMITTEE

7 MARCH 2018

SHARED LICENSING SERVICE BETWEEN GRAVESHAM BOROUGH COUNCIL AND MEDWAY COUNCIL

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Summary

Members are asked to recommend to Cabinet that Medway Council delegates Medway Council's Licensing functions to Gravesham Borough Council whereby Gravesham Borough Council will assume responsibility for the discharge of Medway Council's Licensing functions.

This report will be formally submitted to Business Support Overview and Scrutiny Committee on 12 April 2018, Cabinet on 9 May 2018 and Full Council on 19 July 2018.

1. Budget and Policy Framework

1.1 The Licensing functions are largely non-executive. The decision making by Medway Council will therefore largely be made by full Council but there will be some functions that will need to be considered by Cabinet.

2. Background

2.1 Medway Council approached Gravesham Borough Council (GBC) regarding the potential to share a service for Licensing due to the current Licensing Manager at Medway Council choosing to take retirement at the end of April 2018 and as part of the digitalization programme.

2.2 There are two phases to the proposed shared Licensing Service:

2.1.1 On an interim basis the GBC Licensing Manager will provide support to the Medway Council Licensing Team in a shared manager role once the current Medway Council Manager retires

at the end of April. This will not only provide an interim solution but will allow the revision of working practices and align procedures ahead of a fully shared service.

2.1.2 The longer term plan is to implement a full shared Licensing Service with effect from 1st October 2018. It is proposed that Gravesham Borough Council be the host authority for this shared service with Medway Council Licensing officers TUPE transferring to GBC employment.

3. Advice and analysis

- 3.1 If Members of both local authorities are supportive of the proposal set out in this report (and report to Gravesham Borough Council), it is proposed that a formal project group be established to ensure that all HR, Financial, Legal and IT issues are considered fully to move the project forward successfully. This matter is scheduled to be considered by the Business Support Overview and Scrutiny Committee on 12th April 2018. Subject to Cabinet on 9th May 2018 recommending to full Council to accept the proposed delegation of the Licensing service function to Gravesham Borough Council and subject to full Council on 19th July 2018 agreeing certain aspects of that delegation, Medway's Licensing Services staff are scheduled to transfer under TUPE regulations to Gravesham Borough Council on 1st October 2018.
- 3.2 The initial phase of sharing GBC's Licensing Manager can be achieved in accordance with Section 113 of the Local Government Act 1972, which allows a local authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.
- 3.3 The second phase of implementing a full shared service can be achieved in accordance with Section 101 of the Local Government Act 1972 whereby Medway Council can delegate to Gravesham Borough Council its Licensing functions.
- 3.4 A Business Case is being prepared by officers from Gravesham and Medway to provide further information regarding the work of the two separate Licensing Services including current costs, staff transfers, potential savings and other benefits from establishing a shared Licensing Service such as increased resilience and availability of specialist skills across both authorities leading to increased efficiency.
- 3.5 Capacity, workloads, work types and expertise within the shared Licensing 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 make further savings.

4. Options

4.1 **Option 1: Do Nothing.** Each local authority can retain its own separate Licensing Service teams undertaking work for their own areas only. This has the advantage of consistency for staff, client departments and members of the public but does not allow resilience or reduced costs that could be achieved by sharing resources. Medway Council will have a vacancy in the Licensing Manager post with effect from 1st May 2018 and would need to recruit to the post if the shared service option is not pursued.

4.2 **Option 2: Establish a Shared Licensing Service with Gravesham Borough Council.** Medway's existing staff members would transfer to the employment of Gravesham Borough Council under TUPE Regulations providing greater resilience and expertise in the team and reduce costs due to economies of scale. Further costs may be possible through a future restructure, if considered necessary. It is anticipated that option 2 will bring the following benefits:

- Added resilience across the two authorities. There will be a larger pool of officers covering both authorities providing additional resilience to cover sickness absence/vacancies or increased workload should this be required.
- Availability of specialist skills across both authorities leading to increased efficiency; potential for a reduced requirement for external support from contractors, etc.
- Sharing of best practice in the delivery of Licensing Services.
- Expansion of knowledge base of individual.

4.3 **Option 3: Restructure before establishing the Shared Licensing Service to reduce the team sizes.** This may reduce staffing costs but not significantly as Medway Council would need to recruit to the Licensing Manager post. This would significantly reduce capacity within the team and could impact on the service provided to client departments and members of the public in both local authorities, in particular it would reduce the capacity to implement an increasingly digitalised service to the public, while this will bring efficiencies once implemented it is at the outset labour intensive. This also risks reputational damage if either local authority is unable to meet deadlines. This option is not considered feasible as both teams are operating at high capacity and any reduction in numbers would not enable the service standards to be maintained.

5. Risk management

Risk	Description	Action to avoid or mitigate risk
Either party chooses to terminate the delegation.	Gravesham Borough Council permanently takes on the responsibility for and costs of providing Medway's Licensing Service functions. Either party may choose to end the shared service or the arrangement fails, leaving Gravesham with additional costs and Medway with no licensing service.	Medway's formal delegation and decision to share services approved by their Cabinet and full council. 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 is a reduction on existing resources and a new way of working; it may fail to deliver an effective shared licensing 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 Councils are involved in the project and are leading on this work-stream.

6. Consultation

- 6.1 It is anticipated that there will be no impact on customers of the service (both internal and external) with the development of the shared service and so has not been subject to public consultation.
- 6.2 Since the implementation of the shared service impacts on staff terms and conditions, informal and formal consultations are in progress, lead by HR Services at both councils.

7. Financial Implications

- 7.1 If agreed by Members, the Licensing Services staff in post at Medway Council would transfer to Gravesham Borough Council's payroll on 1 October 2018 and be paid from Gravesham's salaries budgets. The current total staffing budget for Medway Council is £204,113 (including

on costs). The Medway Council Licensing Manager post will not form part of the savings to be made by the shared service as this saving has already been taken by Medway. Further savings are anticipated as part of a shared service.

- 7.2 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 of the Licensing Team in order to ensure that all officers are in the correct posts in order to maximise their expertise across the shared working arrangement.
- 7.3 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:
 - 7.3.1 IT costs of setting up access to other's systems, plus potentially new IT equipment to enable better facilities for staff.
 - 7.3.2 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.
 - 7.3.3 It is not anticipated that there will be any redundancy costs at this stage as all officers will be transferred across to Gravesham Borough 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 Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the majority of licencing and registration functions cannot be the responsibility of the Leader and Cabinet. These matters are dealt with by this Committee and its Sub-Committees under delegations by Full Council. A limited number of licensing functions are executive functions – for example scrap metal licensing. As the Licensing and Safety Committee is aware, there are numerous licensing functions and further work is being undertaken to ensure that all relevant delegations are identified and further reports will clarify the decisions that need to be taken by Cabinet and full Council.
- 8.2 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.

- 8.3 Medway Council's Cabinet and full council will consider whether to make a delegation of their Licensing Service functions to Gravesham Borough Council. The delegation must be formally accepted by Gravesham Borough Council, and once accepted, Gravesham will become statutorily responsible for Medway's licensing service functions as though it were its own functions.
- 8.4 The delegation of Medway's licensing service functions to Gravesham 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:
- Governance and staffing arrangements
 - Cost sharing
 - Liability, indemnity and insurance
 - Data protection and information governance
 - Exit provisions
- 8.5 The final shared service agreement will need to reflect the arrangements made for the shared service as set out in the reports and decision notices and in particular the monitoring and reporting requirements will need to be sufficiently detailed to ensure that Medway can continue to operate their licensing and overview and scrutiny committees, having sufficient access to staff, resources and information to discharge functions retained by them.
- 8.6 In the interim, a partnership/joint-working arrangement can be made pursuant to section 113 of the Local Government Act 1972, which allows a local authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties. The making of agreements with other local authorities for the placing of staff at the disposal of those local authorities is a local choice function and may therefore be either a matter for the Leader and Cabinet of Full Council depending on local arrangements.
- 8.7 The Local Authorities (Goods & Services) Act 1970 allows local authorities to contract with each other for the supply of any goods or materials, the provision of any administrative, professional or technical services, the use of any vehicle, plant or apparatus and the placing at the disposal of any person employed in connection with the vehicle or other property in question. The parties can also contract with each other in the interim for the provision of back office functions related to the operations of their licensing teams.

9. Recommendation

- 9.1 Members to recommend to Cabinet that option two set out in paragraph 4.2 above is agreed whereby Medway Council shall delegate responsibility for the discharge of its Licensing Service functions to Gravesham Borough Council.

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Appendices

None

Background Papers:

None