

# Chief Officer Key Decision

**Date: 01 November 2017**

Wards: All wards

## **Subject: Section 113 (Local Government Act 1972) Agreement with Richmond and Wandsworth Councils**

Lead officer: Chris Lee, Director for Environment and Regeneration

Lead members: Cllr Ross Garrod, Cabinet Member for Street Cleanliness and Parking/Cllr Nick Draper Cabinet Member for Community and Culture

Contact officer: Paul Foster, Head of the Regulatory Services Partnership/John Hill, Assistant Director Public Protection

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### **Recommendations:**

- A. To enter into a Staff Transfer agreement with the London Boroughs of Richmond and Wandsworth that will outline the arrangements regarding the TUPE transfer of staff from Wandsworth to Merton.
- B. To enter into a section 113 agreement with the London Boroughs of Richmond and Wandsworth to ensure that identified officers will be made available to the London Borough of Wandsworth to carry out the proposed licencing and other functions in the shared service that cannot be discharged or delegated. The section 113 agreement will also set out the scheme of delegation of officers for the London Borough of Richmond.

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### **1 DETAILS**

- 1.1. Richmond, Merton and Wandsworth Cabinets at their meetings on 22 June and 3 July 2017 respectively, agreed for Wandsworth Environmental Services to join the Richmond and Merton Regulatory Services Partnership (RSP).
- 1.2. The Council has the discretion to arrange for the discharge of its regulatory functions generally through a shared service agreement jointly with another local authority as proposed in the report further to s101 of the Local Government Act 1972.
- 1.3. There are a small number of exceptions to this general rule including licencing and gambling. The Licensing Act 2003 (the "2003 Act") and the related Statutory Guidance provides that licencing is not an Executive function and not functions that are discharged under s101. These are 'standalone' powers under the 2003 Act and require the Council as Licencing Authority to discharge the functions through its own Licencing Committee and the Licencing Authorities Officers.
- 1.4. "Officers" do not have to be employees of the Council but must be clearly identified and designated to the role. To provide the certainty required in the expanded service for officers to carry out the proposed licencing and other functions in the shared service, following the TUPE transfer of Wandsworth

staff to Merton Council, a S113 (Local Government Act 1972) agreement will be entered into between Merton Council, Richmond and Wandsworth to authorise staff to make decisions on behalf of Richmond and Wandsworth. This would mean that Wandsworth will not need to retain a team of decision making officers, thus enabling the RSP to maximise the savings arising from officers working across the authorities. Thereafter, when the service has gone live, the arrangements will be incorporated into the revised Collaboration Agreement between Merton, Richmond and Wandsworth Councils to authorise staff to make decisions on behalf of Wandsworth and Richmond.

- 1.5. A Staff Transfer Agreement, which will deal with the arrangements regarding staff transfer, will be entered into when the Wandsworth staff TUPE transfer to Merton on 01 November 2017.
- 1.6. Section 113 of the local Government Act 1972 provides that a Council may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions on such terms as may be provided by the agreement, of the services of officers employed by the former but shall not enter into any such agreement with respect to any officer without consulting him.
- 1.7. This would mean that Wandsworth will not need to retain a team of decision making officers, thus enabling the RSP to maximise the savings arising from officers working across the authorities.

## **2 ALTERNATIVE OPTIONS**

- 2.1. N/A

## **3 CONSULTATION UNDERTAKEN OR PROPOSED**

- 3.1. Governance and legal officers from the three authorities were engaged to review current and proposed arrangements.

## **4 TIMETABLE**

- 4.1. The TUPE transfer of Wandsworth staff to the RSP will take place on 01 November 2017 and the expanded service will go live on 01 April 2018.

## **5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 5.1. The admission of Wandsworth to the RSP will see the introduction of a cost allocation model based upon relative proportions of activity in each borough for each service. Current income will be retained by each generating borough but new business development income across the RSP geographical area will be apportioned based upon average activity levels unless it is clearly attributable to one borough. This model will be closely monitored to ensure all costs and income are shared appropriately and the service is contained within existing approved budgets.

## **6 LEGAL AND STATUTORY IMPLICATIONS**

- 6.1. The legal and statutory implications are provided in the main body of this report.

**7 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

7.1. None for the purposes of this report

**8 CRIME AND DISORDER IMPLICATIONS**

8.1. None for the purposes of this report

**9 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

9.1. None for the purposes of this report

**10 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- None

**11 BACKGROUND PAPERS**

11.1. None