

BOROUGH OF KETTERING

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|--------------------------|--|------------------------------------|----------------|
| Committee | EXECUTIVE COMMITTEE | Item 10 | Page 1 of 5 |
| Report Originator | Head of Environmental Care Brendan Coleman | <i>Fwd Plan Ref No:</i> A17/012 | |
| Wards Affected | All | 18 th October 2017 | |
| Title | STREET SCENE PARTNERSHIP WITH CORBY BOROUGH COUNCIL | | |

Portfolio Holder- Cllr Ian Jelley

1. PURPOSE OF REPORT

- a) To update members on the progress and ongoing work around the development of a shared Street Scene Service between Corby Borough Council (CBC) and Kettering Borough Council (KBC)
- b) To seek approval to enter into a Memorandum of Understanding (MoU) with CBC on the development of shared service (**Appendix 1**)
- c) To seek nominations for elected members to sit on the proposed joint steering group as set out in the MoU
- d) To receive legal advice on the use and extension of KBC's existing fleet contract for the proposed shared service arrangement

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2. BACKGROUND

- 2.1 At both CBC's One Corby Policy Committee (OCPC) of 11th July 2017 and KBC's Executive Committee on 26th July 2017, both councils received approval to develop a shared service model for the delivery of their respective "Street Scene" functions.
- 2.2 At CBC's OCPC they also received agreement to enter into a MoU with KBC, subject to amendments with delegated authority to its officers.
- 2.3 At KBC's Executive Committee recommendations were also made regarding the following:-
 - a) A draft MoU be worked up between KBC and CBC and brought back to the Committee for further consideration.
 - b) Update reports be brought back to members on a regular basis throughout the process, and as key decision points are reached.

BOROUGH OF KETTERING

| | | | |
|-----------|----------------------------|------------|----------------|
| Committee | EXECUTIVE COMMITTEE | Item 10 | Page 2 of 5 |
|-----------|----------------------------|------------|----------------|

c) Staff within environmental care be consulted on the possibility of a shared service being developed.

2.4 KBC is currently in a seven year contract arrangement for the provision of fleet and its maintenance. Within the existing contract there is the option to extend for a further seven years. The contract commenced on the 9th September 2013 and is due to end in 2020, subject to any agreed extensions.

2.5 KBC and CBC have commissioned both internal and external legal advice on both the extension of the current contract and the use of this contract for the provision of fleet which may be used within both KBC's and CBC's area.

3. LEGAL IMPLICATIONS

3.1 Any legal and procurement implications will be addressed as part of the wider proposed shared service.

3.2 KBC & CBC have taken internal as well as external advice on the development of the MoU.

3.3 The MoU is a working document which will/may be subject to change alongside the proposed Street Scene Services project. All changes will be done in consultation with CBC and District Law.

3.4 The legal advice sought by KBC and CBC confirmed a number of issues relating to the fleet contract extension and the use of the current contract for the provision of fleet as part of the shared Street Scene Service:-

- That KBC can extend the current contract for a further seven years as the original had an express seven year extension provision.
- To benefit/enable the shared Street Scene Service arrangement KBC has the option to extend the current fleet contract and call off additional vehicles so the fleet can be used across the two Boroughs.
- KBC would need to ensure that the size of the shared service is not so different to be a 'material variation' because of the size of the new combined requirements for fleet and that any increase in contract price should not exceed 50% of the current contract value.
- The general requirement under 72.1(c) of the Public Contract Regulations 2015, provided that the following conditions are met:-
 - A diligent Contracting Authority could not have foreseen the change in the overall nature of the contract.
 - The modification does not alter the overall nature of the contract;
 - Any increase in price does not exceed 50%.

BOROUGH OF KETTERING

| | | | |
|-----------|----------------------------|------------|----------------|
| Committee | EXECUTIVE COMMITTEE | Item 10 | Page 3 of 5 |
|-----------|----------------------------|------------|----------------|

- There are also provisions under 72.1.(b) of the Public Contract Regulations where a change of Contractor would cause a 'significant inconvenience of substantial duplication of costs'. We do not think that this provision is likely to be relevant or useful in the context of the existing contract.
- Under any extension to the current fleet contact KBC would have to maintain the position of the Contracting Authority.
- To facilitate the shared service arrangement there may be a need to review and amend the existing fleet contract. Any amendments will be done in consultation with District Law.

4. **GENERAL UPDATES**

- 4.1 Work is ongoing on a communication plan for the shared service project. This plan will cover communication for:-
- Staff including KBC, CBC and Kier
 - Internal and external key stakeholders/ partners
 - Members
 - Public
- 4.2 In conjunction with the communication plan and as agreed at the Executive Committee on the 26th July 2017, initial consultation has already commenced with both staff at KBC, CBC and Kier.
- 4.3 Work is ongoing on a project implementation plan for the shared service which covers the key work streams within the project:-
- Governance
 - Staff
 - Fleet
 - Services and Standards
 - Infrastructure
- Governance
- 4.4 An MoU has been drafted for agreement. The MoU sets out in more detail, the structures to be used pre and post implementation of the shared service, in addition to the shared objectives and purpose of the shared service which were set out in the MoU.
- 4.5 The MoU sets out the membership of the Joint Steering Group (JSG) made up of elected members and officers from both parties to oversee the planning and implementation phase of the shared service. The JSG (Appendix 1: Appendix 1) will run up until the implementation of the new shared service arrangement

BOROUGH OF KETTERING

| | | | |
|-----------|----------------------------|------------|----------------|
| Committee | EXECUTIVE COMMITTEE | Item 10 | Page 4 of 5 |
|-----------|----------------------------|------------|----------------|

when the Joint Committee (JC) (Appendix 1: Appendix 4) as required by statute will convene. The JC will oversee the strategic direction of the shared service. The composition of the JSG and the JC and their purpose are set out in the Appendices to the MoU.

- 4.6 In conjunction with the MoU a Joint Project Board (JPB) has also been set up which meets monthly and has met three times in August, September and October, which includes senior officers of both authorities. (See Appendix 1: Appendix 2)
- 4.7 Finally, supporting the work of the JPB a Joint Project Team (JPT) has also been set up as set out in the MoU made up of Service Management and Technical Lead Officers from both parties to manage commission, undertake, monitor, review and report on the relevant work packages which form part of the shared service project implementation plan. (See Appendix 1: Appendix 3)

Staff

- 4.8 HR Managers of both parties have met and produced a HR/Payroll Project Plan to be completed in respect of a TUPE transfer; these activities have been incorporated in the project implementation plan and are being progressed.
- 4.9 In conjunction with the communication plan, initial consultation has also already commenced with both staff at Kier, CBC and KBC through circulation of the 'Streets Ahead' newsletter on 23rd August 2017. This communication will continue at regular intervals throughout the implementation period.
- 4.10 Initial benchmarking of staffing numbers, positions and salaries has also been undertaken between the two services to identify any anomalies or key areas of risk regarding staffing costs prior to the formal TUPE due diligence exercise.
- 4.11 Under the terms of the new shared service arrangement one of the two parties will have to take on the role of 'host employer' for the shared service workforce. It is proposed that KBC become the host/ employing authority given the fact that we already have payroll and HR processes and systems in place for our current Street Scene Service.

Fleet

- 4.12 This work stream is the one with the most significant risk to CBC as it is imperative that an alternative fleet can be procured and delivered prior to the start of the new arrangements on 1st January 2019, and some large items of 'key' fleet have a significant lead time for order and delivery.
- 4.13 It is proposed subject to a satisfactory Value for Money review, that KBC enter into a further extension of their current fleet contract from 2020 and that the contract be utilised to deliver the fleet required for both KBC and CBC within the shared service. This would require an interim arrangement to be put in place with KBC's current contract to supply fleet for the CBC arm of the shared service from 1st January 2019 before a joint fleet arrangement is put in place

BOROUGH OF KETTERING

| | | | |
|-----------|----------------------------|------------|----------------|
| Committee | EXECUTIVE COMMITTEE | Item 10 | Page 5 of 5 |
|-----------|----------------------------|------------|----------------|

from September 2020. This in turn would allow adequate time to review the 'offer' of the future shared service arrangement and allow suitable 'joint' fleet to be procured which properly serviced that 'offer'.

- 4.14 As part of the value for money review, KBC and CBC will use APSE (Association of Public Service Excellence) to give an independent external assessment.

Services and Standards

- 4.15 Currently the JPT are devising a list of questions/policy considerations to put to a future meeting of the JSG which in turn will be reported to the Executive to shape the future shared service offer.

Infrastructure

- 4.16 The principle infrastructure consideration will be a review of existing and future depot facilities. Although it would be ideal to work from a single depot this is not achievable within the current project timeframe and the shared service will need to continue to work from the existing depot sites from the start of the new service. Work on future depot options will be taken forward from the JPT for future consideration.

5. RECOMMENDATION

- a) That the Memorandum of Understanding be agreed subject to any amendments being delegated to the Head of Environmental Care in consultation with the Head of Democratic and Legal Services
- b) That three members are nominated to represent KBC on the shared service joint steering group.
- c) To facilitate the shared service arrangement that members approve the extension of the existing fleet contract for a further 7 years from September 2020 subject to, delegated authority to the Head of Democratic and Legal Services in consultation with the Head of Environmental Care and the Head of Resources