

CABINET	AGENDA ITEM No. 6
16 January 2023	PUBLIC REPORT

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Cabinet Member(s) responsible:	Councillor Wayne Fitzgerald, Leader of the Council		
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JOINT WORKING AGREEMENT BETWEEN PETERBOROUGH CITY COUNCIL AND CAMBRIDGESHIRE COUNTY COUNCIL- ANNUAL REVIEW, EXIT PROTOCOL AND PROCUREMENT PROTOCOL

RECOMMENDATIONS
<p>It is recommended that Cabinet:</p> <ol style="list-style-type: none"> 1. Notes the Joint Working Agreement’s Annual Review of 2022; 2. Approves the inclusion of the agreed Exit Protocol into the Joint Working Agreement; and 3. Approves the inclusion of the agreed Procurement Protocol into the Joint Working Agreement.

1. ORIGIN OF REPORT

1.1 This report is submitted to Cabinet following a referral from CLT on 19 December 2022.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to consider outcomes of an annual review of the Joint Working Agreement (“JWA”) arrangements between Peterborough City Council (“PCC”) and Cambridgeshire County Council (“CCC”) and to seek approval of the recommended modifications to the JWA subsequent to that review. The report is being presented to Cabinet in accordance with the JWA’s governance arrangements set out within the agreement at Schedule 8, whereby the overarching governing body for the programme is the Leader and Cabinet.

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.11, ‘To lead the delivery of Business Transformation within the Council.’

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. BACKGROUND AND KEY ISSUES

4.1 The JWA sets out the principles and protocols which govern the way in which both authorities identify and integrate their services, whilst protecting their separate legal and political identities.

For ease of reference an overview of the JWA and protocols is appended to this report at Appendix 1.

4.2 Within the JWA, at clause 4: '*Governance and Review*', it identifies that the Senior Responsible Officer ("SRO") shall carry out an annual review of the JWA arrangements for the purpose of evaluating the operation and effectiveness of the arrangements.

4.3 The annual review of 2022 has been progressed by the Director of Business Improvement and Development (the SRO for CCC and PCC until November 2022) and all members of the Shared Services Governance Group, including Finance, Legal, HR, ICT and Information Governance leads from PCC and CCC. Key issues and recommendations are summarised below.

(i) Annual review of the JWA conducted by PCC and CCC

4.4 A series of recommended changes have been considered and agreed by members of the Shared Services Governance Group. The JWA may be varied at any time by agreement in writing between PCC and CCC.

Recommended changes include the inclusion of an Exit Protocol and Procurement Protocol into the JWA, the details of which are set out at sections 4.5 and 4.6 of this report. The remaining changes to the JWA are largely administrative in nature and include an update to clause 23 – '*Termination*' to incorporate the Exit Protocol as a schedule to the JWA and minor amendments to Schedule 4 - HR Protocol, Schedule 5 - Financial Protocol, Schedule 6 - Information Sharing Protocol and Schedule 7 - Technology Protocol, as recommended by the relevant stakeholders from HR, Finance, Information Governance and IT to reflect correct and up to date procedure which will govern the way in which PCC and CCC work together.

(ii) Inclusion of an agreed Exit Protocol into the JWA

4.5 The JWA at clause 23.10: '*Termination*' identifies key overarching obligations by each party when terminating the JWA, part of the JWA, a Combined Team (i.e., a shared service) or a Shared Post. The Shared Services Governance Group recommended that an exit strategy be drafted for inclusion in the JWA setting out more detailed processes required where there is a termination of either the JWA, or part of the JWA, or a Combined Team, or a Shared Post. This would standardise the procedures required upon termination.

An Exit Protocol has been developed by HR and Legal leads from PCC and CCC and shall be incorporated within the JWA by way of agreed variation. Employment advice has been provided in relation to personnel arrangements within the protocol. The objectives of the Exit Protocol include:

- Ensuring that PCC and CCC ceases delivery of Services falling within the scope of the JWA or part of the JWA or Combined Team and applicable staff arrangements which are to be ceased;
- Allowing PCC and CCC to independently perform the replacement Services falling within the scope of the JWA or part of the JWA or Combined Team and applicable staff arrangements; and
- To eliminate or minimise any disruption or deterioration of the Services falling within the scope of the JWA or part of the JWA or Combined Team and applicable staff arrangements because of the termination.

The Exit Protocol is appended to this report at Appendix 2.

(iii) Inclusion of an agreed Procurement Protocol into the JWA

4.6 The JWA does not identify the principles and protocols that are to govern the process whereby CCC and PCC undertake joint procurements and commissions. The overarching purpose of the JWA is to set out the principles and protocols which will govern the way in which CCC and PCC identify and integrate their services. This includes a Sovereignty Guarantee which is designed to protect the separate legal and political identities of each Council. Therefore, neither Council can

procure or commission services on behalf of the other, or contract for third party services on behalf of the other, without the relevant legal and political/governance authorisation in place.

The Shared Services Governance Group recommended that a Procurement Protocol should be included in the JWA, identifying key principles that shall govern the process whereby PCC and CCC undertake joint procurements, and commission services jointly. Nothing in the JWA has the effect of transferring statutory or discretionary functions from CCC to PCC or vice versa. Functions may only be delegated to each other in exercise of the powers contained in sections 101 and 113 of the Local Government Act 1972, and sections 19 and 20 of the Local Government Act 2000 and the regulations made under these Acts. In the event that each Council agrees to conduct a joint procurement then the necessary administrative arrangements must be considered on a case-by-case basis. These are outlined within the Procurement Protocol.

A Procurement Protocol has been developed by Procurement, Finance and Legal leads from PCC and CCC and shall be incorporated within the JWA by way of agreed variation. The Procurement Protocol is appended to this report at Appendix 3.

5. CORPORATE PRIORITIES

- 5.1 The recommendations link to the Council's Corporate Priorities by recognition that within the JWA, PCC is committed to continue to represent the needs, priorities and ambitions of local people in their neighbourhoods and explore working together with CCC to achieve greater efficiencies and savings where appropriate.

Procuring, commissioning or delivering services jointly with CCC is not designed to change how residents experience services, rather, it is about how processes may be progressed more efficiently. However, to safeguard local autonomy, there are occasions where alternative options to joint working shall be considered. Hence, the recommendation for inclusion of a Procurement Protocol identifies the protocols that shall underpin scenarios where PCC and CCC jointly commission services, whereas the Exit Protocol identifies the principles that must be observed where services that have operated under a joint model are to be separated.

The continued protection of PCC's legal and political identity is fundamental.

6. CONSULTATION

- 6.1 Consultation has been undertaken with HR, Legal, Procurement and Finance. External employment advice has been obtained in relation to any principles that impact personnel arrangements and Shared Posts between PCC and CCC.
- 6.3 The recommendations have been considered by the Corporate Leadership Team on 16 November 2022 and by Cabinet Policy Forum on 19 December 2022.

7. ANTICIPATED OUTCOMES OR IMPACT

- 7.1 The JWA to be formally varied to include changes recommended by the annual review, which comprise of the inclusion of an Exit Protocol and Procurement Protocol and a series of minor amendments to HR Protocol, Financial Protocol, Information Sharing Protocol and Technology Protocol, the changes to which are administrative in nature as recommended by the relevant stakeholders to reflect correct and up to date procedure which will govern the way in which CCC and PCC work together.
- 7.2 An Exit Protocol to be incorporated within the JWA by way of agreed variation, whereby upon termination of the JWA, part of the JWA or a Combined Team, the objectives of the protocol shall be adopted to eliminate or minimise any disruption or deterioration of services falling within the scope of exit from the JWA or part of the JWA or Combined Team and applicable staff arrangements due to the termination.

- 7.3 Inclusion of a Procurement Protocol in the JWA identifying key principles that shall govern the process whereby the PCC and CCC undertake joint procurements and consider formally the arrangements that are the most suitable option when procuring/commissioning services jointly.

8. REASON FOR THE RECOMMENDATION

- 8.1 The JWA's annual review has considered the operation and effectiveness of the joint working arrangements between PCC and CCC. A series of recommended changes have been considered and agreed by members of the Shared Services Governance Group to reflect correct and up to date procedure which will govern the way in which PCC and CCC work together.
- 8.2 The Exit Protocol sets out the more detailed processes required where there is a termination of either the JWA, or part of the JWA, or a Combined Team, or a Shared Post. This standardises the procedures required upon termination. The level of detail required shall be reasonable but as a minimum should provide the procedures and responsibilities necessary for (i) an orderly and effective transfer of the Services falling within the JWA or part of the JWA or the Combined Team and (ii) the achievement of the Exit Protocol's objectives. This shall include, amongst other things an outline timetable and schedule of responsibilities and other critical criteria for effecting the orderly hand-over of the Services falling within the scope of the JWA or part of the JWA or Combined Team or Shared Post(s).
- 8.3 The decision making in respect of joint procurements is not currently within the scope of the JWA, therefore, to ensure consistency of process within all joint procurements and commissions, the Procurement Protocol shall outline the procurement and legal considerations to be made and a solution to how this process may effectively be managed by both PCC and CCC.

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 To not vary the JWA to incorporate changes as recommended by the Shared Service Governance Group. This was rejected as it is an obligation of the JWA's operation that an annual review of the JWA arrangements shall be completed for the purpose of evaluating the operation and effectiveness of the arrangements.

10. IMPLICATIONS

Financial Implications

- 10.1 As part of the Council's commitment to combination, integration and joint working, the JWA's Financial Protocol establishes the principles of how the financial relationship between PCC and CCC shall work. In varying the JWA to include the Exit Protocol and Procurement Protocol, PCC shall continue to be bound by the terms of the Financial Protocol and fulfil its obligations there under.

Legal Implications

- 10.2 The JWA was entered into in reliance on the exclusive rights given to local authorities in sections 101, 102, 112 and 113 of the Local Government Act 1972 and s.9EA of the Local Government Act 2000 and the Regulations made under these Acts (to include but not limited to the Local Authority (Arrangement for the Discharge of Functions) (England) Regulations 2012), together with the general power within section 2 of the Local Government Act 2000 and the supporting provisions within section 111 of the Local Government Act 1972.

PCC and CCC may agree to vary the JWA, including the protocols from time to time and the parties shall use reasonable endeavours to agree the variation. Any variation of the JWA and/or the protocols must be in writing and signed by or on behalf of PCC and CCC.

Equalities Implications

- 10.3 Principles at the heart of joint working and the JWA include to preserve and maintain local representation, championing equality and diversity in our communities.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 11.1 Joint Working Agreement between PCC and CCC dated 20 February 2019.

12. APPENDICES

- 12.1 Appendix 1: Overview of Joint Working Agreement and Schedules
Appendix 2: Exit Protocol
Appendix 3: Procurement Protocol

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