

Record of decision taken under delegated powers



Title:	Westminster CC Pension Administration
Divisions Affected:	N/A
Key Decision:	Yes
Reason Key:	Provision of functions on behalf of another local authority
Decision taken under delegation by virtue of:	Delegated decision under Scheme of Delegation Council 15 th July 2014

Summary

In the full Council meeting in July, authority was given to the Chief Executive or the Strategic Director for Business Services, in consultation with the relevant Cabinet Portfolio Holder and the Leader, to agree arrangements for the discharge of functions on behalf of other local authorities.

Approval is therefore sought from the Chief Executive, the Leader and Cabinet Member for Business Services to formally accept the proposed delegation from Westminster City Council (WCC). Julie Fisher has been kept informed during discussions with WCC and has given her approval to the final proposals.

Details

1. Provision of pension administration

WCC currently commissions its pension administration from the London Pension Fund Authority (LPFA). This contract is due to end on 31 August 2014 and WCC have been actively exploring options for the provision of these services after this date. WCC approached the Council as a potential new provider of these services early in 2014, after some initial estimated costings had been drawn up by the Council and submitted in November 2013.

A previous paper came to a 4-way meeting in April for initial consent to develop this proposal further, which was given. The Council was selected as WCC's preferred provider and the two have been in discussions around finalising the arrangements for a number of months.

WCC are not interested in a partnership arrangement, such as the Council has with East Sussex County Council. The Council is simply being tasked with carrying out

WCC's pension administration on their behalf. WCC saw the benefit of working with a fellow local authority and representatives from the Council's Pensions Team will be able to readily advise WCC's Superannuation Committee. The new arrangement is proposed to start on 1 September 2014.

The pension administration work will be carried out by the Council's Pensions Team. As a result of the change of provider, three members of staff will TUPE transfer from the existing provider (LPFA) to the Council. They will join the Council's Pensions Team and will bring with them the experience of administering WCC's pension scheme, as well as new working practises which the Council may wish to adopt in the future. Engagement with these staff has been very positive to date.

2. Legal considerations and risks

A local authority may delegate its functions to another local authority under section 101 of the Local Government Act 1972. Where non-executive functions are concerned, such as pension administration, the determination to delegate or accept a delegation is within the remit of the full council. In July, council delegated its decision making power for these arrangements to the Chief Executive and to the Strategic Director for Business Services, in consultation with the Leader of the Council and the relevant Cabinet Portfolio Holder.

These arrangements are not contractual in nature, although a document (referred to as a 'section 101 agreement') usually sets out various rights and responsibilities of the parties and the precise nature of the delegation. As a result of being an arrangement between two local authorities (and not a contract), the delegation is not within the ambit of the public procurement rules. This means that WCC is able to delegate the pension administration to the Council without going through a competitive tender exercise.

The agreement 'locks in' both parties for the first three years. After which, it can be terminated on 12 months notice by either party. If one party does terminate the agreement (without some fault on the part of the other), the terminating party is responsible for the costs of de-coupling the service. Unless the agreement is terminated, it continues indefinitely.

The section 101 agreement captures the various risks that arise in these arrangements and allocates responsibility appropriately between the parties. The Council is protected from financial loss due to any legal challenge to the arrangement, redundancy due to staff being transferred in and constructive dismissal claims arising due to moving the working place of the transferred staff to County Hall.

The WCC Pension Fund itself will bear any unrecoverable financial loss caused by incorrect information coming to the Pension Team or by an error of a participating body of the Fund. This is the same arrangement as with the Surrey Pension Fund.

The Council must bear any unrecoverable financial loss to the WCC Pension Fund

caused by an error of the Pensions Team in their administration. The Council has insurance in place to cover such an eventuality but self-insures for the first £500,000 of any claim. This risk is considered minimal, however. The Pensions Team currently operates on a 0% unrecoverable loss error rate.

3. Financial considerations

The payments due to the Council from WCC under this arrangement are based on cost recovery principles. The Council cannot directly profit from undertaking delegated functions. Instead, the financial benefit to the Council is from sharing some overheads with WCC. There may also be some reduction in the licensing fees when WCC and the Council jointly procure the necessary software next year.

WCC is due to pay £166,324 per year for the first five years of the arrangement. This sum includes the recovery of the implementation costs (including officer time) over the duration of these five years. Please see annex 1 for further details. There is a scheduled review after 9 months to consider any adjustments that may need to be made. After year 5, a new calculation will be made to assess the appropriate level of payments.

In accordance with the risk of potential financial loss (that is, the Council rather than the Surrey Pension Fund must bear the risk), then commensurately the contribution to overheads will accrue to the Council rather than the Surrey Pension Fund.

4. Benefits to both authorities

WCC and the Council share an inherent public sector ethos and similar priorities. Working together in this way is an effective tool for both authorities to drive forward quality service delivery and efficient use of public resources. The expansion of the Council's Pensions Team to include the new staff will provide greater resilience for WCC and the Council as well as opening opportunities to develop new ways of working in order to reduce costs.

The arrangement includes a joint procurement agreement which will see the Council lead on the procurement of pension software to support the administration for both parties. The joint buying power of the two authorities will create potential for reduced running costs and licence fees. As part of the mobilisation of these services the Council has enabled the sharing of existing servers and hosting within the Council's data centres, further reducing direct costs to both authorities.

This arrangement also builds on the Council's existing reputation as a lead provider of services on behalf of other local authorities. It creates the possibility of further collaboration with WCC in the future and sets a new precedent for London Boroughs working with London border authorities in this way.

Decision

Decision made:

It was AGREED that:

1. The delegation from Westminster City Council of their pension administration functions to Surrey County Council shall be accepted.

Reasons for Decision:

Accepting this delegation will produce the following benefits for the Council:

1. Continuing to enhance the Council's brand as a trusted partner/provider of services to other local authorities as well as an initial link with Westminster,
2. Creating a platform from which other local authorities may also choose the Council to undertake their pension administration
3. Producing greater resilience within the Council's Pension Team and the acquisition of new working practises and knowledge,
4. A joint procurement exercise next year may enable savings on software licensing fees,
5. The sharing of some overhead costs will contribute towards a reduction in the cost to the Council of pension administration.

Decision taken by:	David Hodge, Leader of the Council Denise Le Gal, Cabinet Member for Business Services David McNulty, Chief Executive
Decision taken on:	26 August 2014
To be implemented on:	The following documentation will be sealed by Legal Services for completion by 29.08.14: <ul style="list-style-type: none">• Section 101 delegation agreement

Declarations of conflicts of interest

None

Consultation/Process Followed

None

Background Documents

Exempt:

4-way briefing from April
Financial AnnexYes
Yes

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