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NON-EXEMPT

# HAVANT BOROUGH COUNCIL

CABINET 26 January 2022

## Withdrawal from Joint Management and Shared Staff Arrangements

### FOR DECISION

Portfolio Holder: Leader of the Council: Cllr Alex Rennie

Key Decision: Yes

Report Number: [HBC/429/22]

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### 1. Purpose

1.1. This paper is submitted to Cabinet, by the Leader of the Council:

To consider the issues for commencing the process of withdrawing from the inter-authority agreement between East Hampshire District Council and Havant Borough Council dated 31 January 2012 (the Joint Management Team and Shared Staff Agreement, referred to herein as “JMTA”), which sets out the basis for a joint management team and for sharing staff resources across both organisations.

### 2. Recommendation

2.1. Members are requested to recommend the following to full Council for consideration and approval:

- a. To note the initial discussions between the two Councils Leaders and their mutual view based on the reasoning set out in this report, that it is in the interests of both Councils to consider the withdrawal from shared management arrangements, with a degree of expediency.

- b. To agree to withdraw from the Joint Management Team Agreement, subject to a business case being reported to the next meeting of the Council exploring the risks, issues, benefits and costs of the withdrawal and further exploring those in light of a proposed reduction of the 24 months exit period.
- c. In the interests of ensuring that both Councils ensure appropriate governance, to request that the Chief Executive
  - i. puts in place appropriate measures for both Councils to adhere to the conflict-of-interest policy as this matter is considered, and in that respect to ensure appropriate acting up arrangements or deputies are appointed to represent the interests of both Councils.
  - ii. to report to each meeting of the Council on progress against the proposals to exit the Joint Management Team Agreement with a view to reporting separate management structures to each Council meeting by May 2022, ensuring stability in the management teams at the earliest opportunity.
- d. to request that Kim Sawyer is confirmed as the acting Chief Executive and Head of Paid Service for Havant Borough Council until such time as the Council may secure an interim Chief Executive.
- e. That Council receive legal advice on:
  - i. appropriate procedures to recruit an interim Chief Executive
  - ii. the process to secure a permanent Chief Executive and to make appropriate arrangements to begin a recruitment process, subject to confirming the advice received
- f. To request that as part of the budget report to be brought to the next full Council, it includes a timetable and project plan in respect of the actions above

### **3. Executive Summary**

- 3.1. The business case for sharing senior managers across both East Hampshire District Council and Havant Borough Council was agreed by the Council on - 3<sup>rd</sup> June 2010.
- 3.2. On 23 February 2011 the Council approved a business plan for extending their shared management arrangements to include a management restructure which

subsequently resulted in further managers and staff carrying out the duties and activities and functions of their posts for and on behalf of both of the Councils.

- 3.3. On 31 January 2012 the formal agreement being the JMTA was entered into and sealed by both Councils.
- 3.4. The partnership between the two Councils has been very successful and has delivered many benefits including reduced costs of senior and middle management and economies of scale in procurement and sharing of capacity and expertise which in turn has led to better resilience.
- 3.5. In January 2022 the delivery phase of the Shaping Our Future programme was due to commence and would have led to closer integration of the two Councils' services including staff, processes, policies, and systems. A key implication of deeper integration is the increased degree of difficulty and cost involved in exit from the partnership.
- 3.6. Therefore, this was an important point in time for the Councils and an opportunity for Leaders to pause to consider the wider context and to ensure that deeper integration between the two Councils would deliver the Councils' respective political priorities, the outcomes they desire for local residents and businesses and a sustainable future.
- 3.7. Having reflected on the current context it was clear that a number of factors contributed to the conclusion that further integration at this point in time was not appropriate and that the partnership may no longer present the best option for a sustainable and successful future. These factors include:
  - a. **Future vision for Havant BC:** Havant is an area that needs to maximise opportunities for growth. The population is forecast to grow over the coming years and the Council needs to ensure that it can provide economic opportunities to match the pace of growth for the area. Havant recognises that growth is best achieved through the various partnerships which operate within its economic geography. The decision by the Government to create a new freeport, one of only 8 sites selected within the country, creates a future priority for Havant Borough Council and the potential to look for future economic development within the development of the Solent Freeport.
  - b. **Differing economic geographies:** The discussions taking place regionally about devolution have led to discussions about a number of potential options for the future. Havant is in a separate economic geography to EHDC, which looks more to the South and to partners with a similar urban and coastal character to Havant. Although the implications of the Levelling Up White

Paper are not yet known and understood, Havant wants to be in a position to bid for all financial and governance opportunities which may arise from that White Paper.

- c. **Regeneration:** Havant BC is developing a number of ambitious regeneration projects. Improvement of infrastructure will support a thriving economy with resulting benefits for vibrant and safe communities. Havant is working with a number of partners to improve the town centres and the waterfront, which is a major asset in the Havant area. Our coastal partnership demonstrates a natural alignment on key issues like coastal erosion with other authorities and partners in the Solent area.
- d. **Place shaping:** In order to develop its future ambitions, the Council needs to put in place a dedicated management team to represent its singular interests at that regional, strategic level and promote Havant's corporate priorities.

- 3.8. Each Council has clear priorities, and these are increasingly divergent – Havant is focussed on regeneration and place making and East Hampshire continues to focus on the importance of Sustainable Planning and planning enforcement and the welfare and wellbeing agenda.
- 3.9. Both Councils wish to focus on partnerships that support their political priorities including closer links with the Police, the new ICS structures and potentially other neighbouring Councils with similar demographics and similar economic features.
- 3.10. The partnership between Havant Borough Council and East Hampshire District Council has been in place for a long time and successfully led by the Chief Executive and her team but for the reasons outlined above it is the right moment to move forward in a different direction.

#### **4. Additional Budgetary Implications**

- 4.1. The Chief Executive has been requested to collate a report to be brought back for consideration by council, this report will include information on risk, benefits, and costs of options for consideration by members.
- 4.2. Full details of the budgetary implications will be brought forward in the options paper.

## **5. Options considered**

- 5.1. These will be considered in the business case as proposed and set out in the recommendations.

## **6. Resource Implications**

### Financial Implications

- 6.1. Currently cost of the joint management team is shared equally across both Councils. There are also a significant number of services which are either fully or partially shared.
- 6.2. It is inevitable that a straight withdrawal of all arrangements would create significant additional cost but taken in tandem with the Shaping our Future programme these should be mitigated to some extent.
- 6.3. Havant BC as reported to Council in the budget reports in February 2021 is forecasting year on year deficits within its Medium-Term Financial Strategy. The Shaping our Future and the move towards more integrated services with East Hampshire DC provide a robust and credible solution to ensuring the organisation moved into long term financial stability.
- 6.4. Havant BC has a small Ear Marked Reserve to provide revenue funding for one off cost that may arise from transformation, this may now not be sufficient and alternative funding may need to be considered. These will be included for consideration with the options report being brought back to Full Council.
- 6.5. The council will need to take action to control its expenditure and put in place alternative credible plans to bring the MTFP into a balanced position.

## **Section 151 Officer comments**

Date: 18<sup>th</sup> January 2022

Full financial implications will be reported to Council within the business case as requested at recommendation (b).

### Human Resources Implications

- 6.6. The provisions within the JMTA and the Business Plan extend to the 'Joint Management team' and 'Shared Staff'. The JMTA contains clauses which relate to the specific HR matters which would arise from the termination of the agreement such as:
- i. The allocation of staff on termination
  - ii. The equal apportionment of costs e.g., redundancy and pension strain
- 6.7. HR related matters tend to be complex in nature and therefore the risks and implications for these matters will be set out within the business case being reported to the next meeting of the Council.
- 6.8. Due to the process related to withdrawing from the present JMTA and shared staff arrangements and issues as to conflict of interest, both Councils are considering the need to expedite appointing separate Chief Executives. East Hampshire District Council are the host employer for the current Joint Chief Executive which will entail an offer being made to the current Joint Chief Executive of a change of duties to that of a sole Chief Executive for East Hampshire District Council; this will need to be in accordance with employment requirements and suitable terms and conditions by way of agreement between the Council and the Joint Chief Executive. Havant District Council will be considering an appointment of an acting chief executive for Havant Borough Council pending an interim and then permanent Chief Executive for Havant Borough Council. Both councils should work together to align this process.

## Information Governance Implications

6.9. The JMA contains protocols have been established to deal with (1) Conflicts of Interests of individual officers (appendix 3 of the agreement) and (2) Information sharing Protocol (appendix 2 of the agreement). In addition, the Council has adopted in 2021 a more detailed conflict of interest policy setting out the procedures for managing potential conflict matters including that may arise for the JMTA. It is essential that this is adhered to in order to manage any potential conflict of interest that may arise between the two Councils as a result of and during the withdrawal of the JMTA.

6.10. Links to Shaping our Future Programme

The Shaping our Future Programme has been proceeding in accordance with the plans adopted by both Councils in July 2022, which set out the intended benefits, activities, and timetable.

6.11. The estimated benefits were based on research into what had been achieved in other, similar councils, using the same transformational tools. As a result of the decoupling of the Councils, further work will need to be undertaken to take account of:

- a. The revised needs of the Councils, especially in relation to finance, that takes account the costs of separation and the impact of that on both the quantity and timing of savings to enable a budget to be set and for the transformation programme to deliver against the requirements of the medium-term financial strategies.
- b. The potential of the programme to deliver, given that the separation of the Councils potentially constrains some of the transformational pathways on which it is reliant, most notably services complying with a target operating model, and benefits to be derived from further sharing of services.
- c. It should be noted however that other pathways remain available; demand management, service re-design, use of digital, commerciality and community development. The Target Operating Model for the two Councils will need to be reconfigured to suit the needs of the Councils individually, and the Councils may yet decide to share some services where it makes sense to do so.

- 6.12. The activities of the programme are contained within the agreed timetable. Work has been completed to create an evidence base for determining the relative priority and current efficiency of each service in both Councils. Work has also gone into the development of a set of tools to be used in the transformation of services. A high-level method for redesigning services, called an Applied Programme in Service Redesign, has also been developed as well as a virtual learning environment to support service leaders as they progress through the programme. All these elements are owned by the Councils separately and are the foundations of any further transformational activity.
- 6.13. The currently planned next steps are to complete a target setting exercise which informs Heads of Service and their direct reports about the savings and improvements that are being targeted over the next three years. Thereafter, in clusters of interdependent services, these leaders were due to attend the Applied Programme, to develop service improvement plans to transform their services over that period.
- a. It is currently the intention to complete this exercise, as it will be necessary to ensure there is a credible plan within the medium-term financial strategy, and the current proposals relate to the Councils as separate entities.
  - b. It is also the intention to further develop the Applied Programme and the transformational tools, as this work can also be utilised by the Councils together or separately.
- 6.14. Further work will need to be undertaken on the service clusters, their timing, and attendees on the Applied Programme. The ending of the JTMA may well leave some services without leaders for a period, and it is the participation of service leaders that drives the Programme. Both Councils will need a credible transformation plan, and it will be up to each to determine how to utilise the work to date in ensuring they have a way forward which suits their individual needs.

**Shaping our Future Lead comments/sign-off**

Date: 18.01.22

Max Wide

Comments are set out above.



## Legal Implications

- 6.15. The JMTA sets out the legislative background upon which both Councils rely in order to allow the Joint Management Team and defined “shared staff” to work across both organisations.
- 6.16. On the 1<sup>st</sup> October 2010 a Joint Management Team was established across both Councils. On the 1<sup>st</sup> October 2011 the new Service Managers took up their posts to manage services across both Havant and East Hampshire Councils.
- 6.17. Protocols have been established to deal with (1) Conflicts of Interests of individual officers (appendix 3 of the agreement) and (2) Information sharing Protocol (appendix 2 of the agreement)
- 6.18. The Agreement sets out details of cost apportionment namely:
- a. that the apportionment for one-off redundancy and associated pension costs will be shared;
  - b. that the one-off costs of retaining recruitment consultants be apportioned equally;
  - c. the ongoing salary and on-costs be apportioned equally unless there are material factors that dictate that a different apportionment is appropriate in any financial year; and
  - d. that any proposal to apportion or share ongoing costs other than on an equal shares basis in a particular year shall only be made following a resolution of each Council’s Cabinet and if apportionment is a departure from the budget by each Council by its full Council.
- 6.19. The Agreement continues in force until terminated either unilaterally by one Council acting by its full Council only after a decision by one or both of the individual Cabinets that the withdrawing Council is unable to accept or by agreement by both Councils acting by the full Councils on the recommendation of one of the Cabinets.
- 6.20. In the event of either of the Councils wishes to withdraw from the Agreement they must give to the other not less than 24 months prior written notice expiring on the

31<sup>st</sup> March in a calendar year and such a decision to terminate or withdraw may only be made by the Councils acting by their full Council.

- 6.21. In the event of a termination or withdrawal from the Agreement the consequential costs, including costs of recruitment selection administration, but not salary costs after the termination date, shall be apportioned equally between the two Councils and each Council will indemnify the other Council in respect of the Council's share from and against any actions or causes of action, claims, demands, proceedings, damages, losses, costs, charges and expenses whatsoever arising from or in connection with termination or withdrawal.
- 6.22. There is provision within the agreement for dispute resolution in the event that the Leaders of the Councils in conjunction with the Chief Executive are unable to resolve any dispute. Any such unresolved dispute may be referred to an arbitrator appointed from the Chartered Institute of Arbitrators or such other professional body appropriate to the matter in dispute.
- 6.23. A consideration of the process for withdrawing from the JMTA, and the financial positions of both Councils, has the potential to give rise to a difference of position on commercial and financial matters; officers and councillors will need to adhere to the Council's conflict of interest policy when preparing advice, which is likely in practice to require a separation of advisory officer teams to ensure independent and confidential advice can be provided when and as required.
- 6.24. In order to comply with the JMTA and legislative duties which include reporting to council where appropriate on staffing and resource matters, the Chief Executive as Head of Paid Service will need to consider carefully, in practice, how to ensure conflict does not arise such that one council is not favoured over the other, for example in relation to the allocation of joint management team members or staff upon withdrawal. The two councils will be considering an expedited approach whereby the present Joint Chief Executive, who is employed by EHDC as host employer, will be made an offer as to a change of duties to that of a sole Chief Executive for EHDC. This process will need to comply with employment legislation including employee rights and entitlements, which will in practice need to be resolved and ensconced in a suitable agreement. Havant Borough Council, who are not the host employer of the Chief Executive, will be considering expediting an appointment of an acting Chief Executive for Havant Borough Council, pending recruitment in accordance with legislative and constitutional process, of an interim Chief Executive and then permanent Chief Executive for Havant Borough Council. The JMTA allows for variation and in the event of a decision by the two councils to engage that course, this could be affected by a variation to the JMTA, consulting both Leaders, to amend the new agreement such that that role is no longer a joint management team role.

## **Monitoring Officer comments**

Date: 17 January 2022.

Legal implications are set out above in the body of this report. Council officers will need to have careful consideration of the conflict-of-interest policy when preparing advice for each respective Council and this report reflects the broad principles in doing so.

## **7. Risks**

- 7.1. It is important as set out above in this report that in taking this matter further officers adhere with the conflict-of-interest policy and procedures and this report and recommendations set out proposals for this. Further risks not set out in this report will be set out in the business case which will be brought to the next meeting of the Council as set out in the recommendations above.

## **8. Appendices**

*None*

## **9. Background papers**

*None*

Agreed and signed off by:

Portfolio Holder: Cllr Alex Rennie

Monitoring Officer: Daniel Toohey

Section 151 Officer: Lydia Morrison