

Cumberland Shadow Executive

28th March 2023

Collaboration Agreements, Memoranda of Understanding and Delegations to Statutory Officers

Report from: Leader of the Council

Report Author: Monitoring Officer

Wards: All Wards

Key Decision: No

1.0 Purpose/Summary of report

- 1.1 The purpose of the report is to recommend entering into agreements with Westmorland and Furness Council under which the parties will collaborate and work together in the management of certain framework agreements taken over from Cumbria County Council, a Memorandum of Understanding in relation to data sharing, an agreement for the shared occupation of council offices and a Service Level Agreement under s113 Local Government Act 1972. Delegated authority is requested for the Monitoring Officer to agree final terms.
- 1.2 The report also requests delegated authority to each of the s 151 Officer, the Chief Executive and the Monitoring Officer, following consultation with the relevant Portfolio Holder, for the period up to the 1 April 2023 to take such steps, including incurring of any expenditure if necessary and entering into any agreements with Westmorland and Furness Council in relation to future collaboration, as may be required to ensure that the Council and Westmorland and Furness Council can deliver economic, efficient, effective, safe and legal services from 1 April 2023.

2.0 Recommendation

It is recommended that the Executive:

- 2.1 Agrees to enter into an agreement with Westmorland and Furness Council (the "Framework Collaboration Agreement") under which the

councils will collaborate in the management of the Framework Agreements taken over from Cumbria County Council;

- 2.2 Delegates authority to the Monitoring Officer to agree the final terms, following consultation with the Leader and Chief Executive, and execute the Framework Collaboration Agreement;
- 2.3 Delegates authority to the Monitoring Officer, following consultation with the Leader and Chief Executive, to agree final terms and execute the Accommodation Agreement, the Section 113 Local Government Act Agreement and the Data Sharing Memorandum of Understanding; and
- 2.4 Delegates to each of the s 151 Officer, the Chief Executive and the Monitoring Officer, following consultation with the relevant Portfolio Holder, for the period up to the 1 April 2023 the authority to take such steps, including incurring of any expenditure if necessary and entering into any agreements with Westmorland and Furness Council in relation to future collaboration, as may be required to ensure that the Council and Westmorland and Furness Council can deliver economic, efficient, effective, safe and legal services from 1 April 2023.

3.0 Background and Proposals

Framework Collaboration Agreement

- 3.1 Cumbria County Council has in place a number of Framework Agreements which are fundamental to the delivery of some of its key services including domiciliary care, highways works and transport. In preparation for the dissolution of the County Council the management of the Framework Agreements is being divided between the two successor authorities.
- 3.2 Framework Agreements enable identified purchasers, in addition to the managing authority, to buy services, goods or works from the suppliers who are part of the Framework Agreement. If an Authority selects to use a Framework it follows the process set out within the Framework Agreement to award contracts to the suppliers. Where a supplier is selected a standalone contract is entered into between the purchaser and the supplier. There is no obligation on the authority to use any of the Frameworks identified in the collaboration agreement.

- 3.3 As Framework Management can involve adding and removing suppliers from the Framework, controlling which provider can bid for work and amending its terms it is proposed the two Authorities enter into a collaboration agreement to help facilitate such management. The only resource requirement of the proposed agreement is officer time in attending any management meetings which will vary between each individual framework.

Section 113 Local Government Act 1972 Agreement

- 3.4 As part of the exercise in which County Council staff were allocated to one of the two new authorities, it became apparent that a small number of employees held particular roles or skills which meant that an allocation to one authority would leave the other exposed to risk in terms of service delivery or skills shortage.
- 3.5 As a result, the authorities are asked to agree that these staff are shared for a period of time until recruitment or training is able to take place. This would mean that an employee may be employed by Cumberland Council but also provide a service to Westmorland and Furness, or vice versa.
- 3.6 The arrangements which could be put in place to govern the shared roles, enabling the authorities to work effectively together, with appropriate protections in place for each, are currently being negotiated and developed. It is proposed that an agreement is entered into pursuant to s113 of the Local Government Act 1972 and that the costs of the shared roles are met equally between both authorities (unless there are service specific arrangements in place to the contrary)

Accommodation Agreement

- 3.7 In order that staff across the two authorities can continue to work in the same offices and buildings as previously, it is proposed that reciprocal arrangements are put in place for the sharing of the following buildings:
- 3.7.1 Cumberland:
- Cumbria Archive and Local Studies Centre, Whitehaven;
 - Cumbria House, Carlisle;
 - Lillyhall Depot, Workington;
 - Parkhouse Building, Carlisle;

- Townfoot Depot, Brampton;
 - West Cumbria House, Workington
- 3.7.2 Westmorland and Furness:
- Bridge Mills, Kendal;
 - Craven House, Barrow in Furness;
 - Kendal County Hall;
 - Kendal Day Care Centre;
 - Kendal Library;
 - Nan Tait, Barrow in Furness;
 - Skirsgill Depot, Penrith.
- 3.8 It is proposed that the arrangement will last for up to five years, subject to either Council having the right to terminate the licence on the second, third or fourth anniversary, giving no less than 12 months' prior written notice.
- 3.9 The proposed licence terms include:
- 3.9.1 Unrestricted access to the named buildings during normal operating hours for the purpose of delivering each Council's functions;
- 3.9.2 There will be no licence fee or service charge payable initially, although it is proposed that after two years an assessment of use is made, and a reasonable annual service charge is agreed in respect of all the named buildings;
- 3.9.3 Reprographics and printing costs will be captured by each Council's ICT teams and recharges at the same rate as the Licensor will recharge its own internal teams.

Data Sharing Memorandum of Understanding (MoU)

- 3.10 A memorandum of understanding is required to support the sharing of data in accordance with the requirements of the UK General Data Protection Regulation (UKGDPR) and the Data Protection Act 2018. The scope of the document is limited to services not covered by the Inter-Authority Agreements for each authority, and their transitional management, beyond Vesting Day.
- 3.11 The MoU shall come into effect on 1st April 2023 and, in effect, covers the sharing of data, both electronic and manual, between the two authorities.
- 3.12 The authorities will review the MoU under the direction of the Senior Information Risk Owner for each authority and shall continue, amend

or terminate it depending on the outcome of the review. The MoU will expire on 1st April 2025 unless extended, and should be read alongside the Inter Authority Agreements.

Delegated Authority

- 3.13 As part of the LGR planning process it has been identified that some services should be hosted by one of the two authorities either to provide time until any dependencies are resolved to support a future split or in the medium or longer term because splitting them is impractical or undesirable from a cost or service delivery perspective. Members will be asked to consider a separate report on the Inter Authority Agreement at this meeting.
- 3.14 In addition to the hosted services some roles have been identified as shared roles as set out earlier in this report.
- 3.15 In addition to the hosted services and the shared roles there will need to be collaboration and cooperation between the two Councils in relation to the delivery of some services in order to ensure that both Councils can continue to be able to ensure that all services are delivered from vesting day in an economic, efficient, effective, safe and legal basis.
- 3.16 Under the Shadow Constitution, limited decision making is delegated to officers and, therefore, in order to ensure that all necessary steps can be taken as the two Councils approach the deadline of 1 April 2023 it is recommended that authority is given to the Statutory Chief Officers to ensure all arrangements and agreements can be put in place to deliver safe and legal services from day 1. This delegated authority is only proposed to be for a temporary period to allow decisions to be taken at short notice prior to 1 April 2023 where those decisions cannot be delayed until after 1 April 2023. From 1 April 2023 the Statutory Officers will have broad delegated powers under the new constitution.

4.0 Consultation

- 4.1 Those staff whose roles are proposed to be shared have been consulted as part of the allocation exercise. The Trades Union have also been involved in this exercise. No consultation has been carried out on the other matters in this report.

5.0 Alternative Options

- 5.1 The Council could decide not to enter into the Agreements described in this report, however, that would put the Council at risk in regard to procurement of goods and services at preferential rates, staff resource and capacity to deliver services, data breaches and loss of rights to use accommodation.
- 5.2 The Council could decide not to delegate authority to the Statutory Officers but there is a risk that it will not be possible to put in place all agreements and arrangements necessary to ensure the two Councils can operate on a safe and legal basis from day 1.

6.0 Implications

Financial, Resources and Procurement

- 6.1 The recommendations within this report will enable collaboration and cooperation between the two councils to ensure we can continue to deliver all services from vesting day in an economic, efficient, safe, and legal basis. It also delegates responsibility to the Chief Executive/ S151 / MO in consultation with the relevant PH to incur expenditure and enter into any agreements.

Human Resources

- 6.2 There are no specific HR concerns regarding the recommendation which will support safe and legal delivery of service for day 1.

Alice Madden 15/3/23

Legal

- 6.3 The legal implications of the proposals are discussed in the main body of the report.

Health and Sustainability Impact Assessment

- 6.4 Have you completed a Health and Sustainability Impact Assessment? No

- 6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no health and sustainability impacts arising out of the recommendations in this report.

Equality and Diversity

- 6.6 Have you completed an Equality Impact Analysis? No

- 6.7 If you have not completed an Impact Analysis, please explain your reasons:

There are no equality impacts arising out of the recommendations in this report.

Contact Officers

Clare Liddle, Monitoring Officer

Appendices Attached to this Report

Background Documents Available

None