

Cabinet Meeting		Agenda Item:
Meeting Date	22 February 2017	
Report Title	Single Employing Authority for Mid Kent Environmental Health Service	
Cabinet Member	Cllr David Simmons, Cabinet Member for Environment and Rural Affairs	
SMT Lead	Mark Radford	
Head of Service	Tracey Beattie	
Lead Officer	Tracey Beattie	
Key Decision	No	
Classification	Open	
Forward Plan	Reference number:	
Recommendations	<ol style="list-style-type: none"> 1. That staff within the Mid Kent Environmental Health Service move to a single employing authority from 1 June 2017. 2. That Tunbridge Wells BC becomes the single employing authority for Mid Kent Environmental Health. 3. That delegated authority is given to the Acting Chief Executive, in consultation with the Cabinet Member for the Environment and Rural Affairs, to finalise the arrangement and sign any documents necessary to implement the decision. 	

1 Purpose of Report and Executive Summary

- 1.1 This report proposes the introduction of a single employing authority for staff within the Mid Kent Environmental Health (MKEH) service from 1 June 2017, and recommends that Tunbridge Wells Borough Council becomes the single employing authority.
- 1.2 Since MKEH has been formed it has become clear that adopting a single employer would help to drive forward the management and development of the service. A single employer also provides equality, fairness, and consistency of terms and conditions across the service for officers.
- 1.3 Of the options available, adopting Tunbridge Wells as the single employer will see a greater proportion of existing staff opting to move to Tunbridge Wells' terms and conditions compared with the other authorities, and consequently a more consistent approach for HR and Health & Safety processes for officers within the Service.

- 1.4 Adopting Tunbridge Wells as the single employing authority for Mid Kent Environmental Health also provides the opportunity to spread employment and financial risk amongst all three authorities across the range of shared services.
- 1.5 The proposal does not change the way in which the Service is delivered through the current two-site model. Nor is the staffing structure being changed significantly, as the current arrangement has delivered the expected benefits and worked to the advantage of each authority. Hence any consolidation to a single employer would be via a TUPE transfer (Transfer of Undertakings (Protection of Employment) Regulations) arrangement.
- 1.6 This would mean that all MKEH staff will become the employees of Tunbridge Wells BC, but be given the opportunity to choose to transfer to Tunbridge Wells terms and conditions or remain with their existing terms and conditions. Going forwards, all new staff appointments will join on Tunbridge Wells' terms and conditions.
- 1.7 Through a reduction in staff costs which are already planned, the move to Tunbridge Wells BC as the single employing authority can be achieved without any net increase in cost to the three authorities.

2 Background

- 2.1 The Tri-Cabinet recommendation agreed on 12 June 2013 was that "Environmental Health Services be approved for a shared service amongst Maidstone, Swale and Tunbridge Wells Borough Councils; that an Interim Shared Environmental Health Manager be appointed to develop the shared service; that a two site model be approved with the stipulation that Maidstone be treated as a single territory for the delivery of its food and commercial premises inspections; and that the final operational model of the service, be delegated to the portfolio holders for Environmental Health at each authority".
- 2.2 The business case for the shared service centred on providing resilience, quality, and efficiencies within the current service costs. The decision to use a single authority as the employing authority was not taken at this time.
- 2.3 As a result, MKEH was established and went live in June 2014. It operates from two sites - the Sittingbourne and Tunbridge Wells' offices. The organisational arrangements of the service are detailed in Appendix I.
- 2.4 The MKEH service has provided resilience for the three organisations through its ability to deliver frontline statutory services in the face of long term sickness absence and recruitment and retention gaps, whilst dealing with a number of significant and complex legal cases. Officers have been able to work across each authority and, crucially, support each other during these periods, sharing expertise and providing cover to continue the delivery of the day-to-day service.

- 2.5 However, the future of local government in the medium and long term pose considerable challenges, with central government reviewing how regulatory services are delivered, including a thirst to reduce 'red tape' and the impact of regulatory services on the business sector. MKEH therefore needs to be in a strong position to address these changes, and moving to a single employing authority for officers will provide a robust platform from which to meet them, as well as the flexibility to enhance the service and deliver further efficiencies.
- 2.6 All other MKS shared services were either been established as a single employer or migrated to one within two to three years of being established; Audit, ICT, Planning Support and HR to Maidstone BC, and Legal to Swale BC. Revenues and Benefits have a strategy to move employment to Maidstone BC through a mechanism that whenever there are leavers in the service they are recruited on Maidstone BC terms and conditions, irrespective of which site they are based at. It should also be noted that the rationale for MKS shared service single employer arrangements has not always been or only been financial savings – they have often also been for operational purposes.
- 2.7 Within MKS, the spread of shared services lean heavily towards Maidstone BC, which has to date taken most of the responsibility for the MKS employee liabilities, financial risk, and HR burden.
- 2.8 Whichever authority is selected as a single employer, there will be an initial increase in cost due to changes in terms and conditions, and the protection that TUPE provides for officers moving to another employer. Any increase in costs would be apportioned using the formula for splitting the cost of the service based on service delivery and demands set out in the MKEH Collaboration Agreement.
- 2.9 The changes in costs are summarised in the following table, and represent the total additional cost to the Partnership over present costs for three years:

Table 1: Summary of Comparative Costs Changes for MKEH based on each authority acting as Single Employer over the period 2016/17 to 2018/19

Single Employer Authority	2016/17	2017/18	2018/19	Total across Partnership
TWBC	23,140	17,850	18,490	59,480
MBC	-1,180	-430	400	-1,210
SBC	6,440	13,250	26,240	45,930

- 2.10 The figures above for Maidstone BC becoming the single employer reflect a situation where there is no movement of staff from Swale BC and Tunbridge Wells BC to Maidstone terms and conditions.

- 2.11 If Swale were to become the single employer, the costs are lower overall than for Tunbridge Wells due to fewer employees likely to transfer to Swale BC under TUPE.
- 2.12 However, neither option achieves the important aim of spreading the MKS employee liabilities, financial risk and HR burden as evenly across all three authorities as the option for Tunbridge Wells to become the single employer does.
- 2.13 In this scenario, the average annual increase in budget for all three councils as a result of moving to Tunbridge Wells as the single employer is £19,800 allocated as; Maidstone BC: £6,300, Swale BC £5,800, Tunbridge Wells BC: £7,700.
- 2.14 In the proposals set out below, this increase will be offset through the reduction in establishment (deletion of a composite of nearly 1 FTE) that results in annual savings of £22,000. As such, there will be no increase in cost for any of the authorities as a result of the move.

3 Proposals

- 3.1 That the officers within Mid Kent Environmental Health move to a single employing authority from 1 June 2017; that Tunbridge Wells BC be the single employing authority; and that the Swale and Maidstone Environmental Health staff will be given the opportunity under TUPE to choose whether to move to the Tunbridge Wells BC terms and conditions, subject to consultation and agreement. The proposed date for transfer will allow for TUPE, financial and HR processes to be undertaken.
- 3.2 Given that TUPE applies to the transfer of officers to any single employer, Tunbridge Wells BC presents the option that many officers will find preferable, and therefore the option which is likely to see more officers choosing to transfer from their current employer under TUPE agreement. This will enable management to have a greater level of consistency across the service, and progress the service aims identified in the Collaboration Agreement for MKEH.
- 3.3 Although not the lowest cost option, the proposal does provide the best risk management benefits to the MKS Partnership by spreading the employee liabilities, financial risk, and HR burden across the three authorities. Plans are already in place for any increase in cost to be met through a reduction in staffing establishment.

4 Alternative Options

- 4.1 Option 2: That the MKEH officers move to Maidstone BC as the single employing authority. Whilst this option provides the lowest financial cost to the shared service, this option is not recommended as it reinforces the position of Maidstone BC taking virtually all the financial and employment responsibility and risks within MKS.

- 4.2 Option 3: That the MKEH officers move to Swale BC as the single employing authority. Whilst this option provides some further spread of financial and employment responsibility and risks within MKS than Option 2, this option is not recommended as it also does not spread that responsibility and risk to include Tunbridge Wells BC and it does so at a higher cost than for Maidstone BC alone.
- 4.3 Option 4: Establish one council, Tunbridge Wells BC, as the single employing authority for all new staff recruited to MKEH, making no changes to the employing authority arrangements for existing staff. This option is not recommended as this would be a slow process of movement to the new authority, and likely to take considerable time to achieve the aim of a single employer for the service.
- 4.4 Based on experience during 2016/17, the Service has seen two vacant posts occur and current employee posts across the service stands at 38. This will not therefore provide level of simplification of the management and financial processes desired as quickly as the preferred option or options 2 or 3.
- 4.5 Option 5: Make no change to the employing authority of officers and continue the service as it is. This option is not recommended as it fails to address the issue of overall employment and financial risk within MKS, provide any management efficiencies, or address inequalities of salary between officers carrying out the same work within the one service.

5 Consultation Undertaken or Proposed

- 5.1 MKEH employees are aware that consideration is being given to move to a single employing authority, and are also aware that a formal consultation process on the implications will be held following a decision at the co-located meeting.
- 5.2 The MKEH Manager has met with senior management at each of the three authorities to discuss the underlying organisational, management and risk mitigation reasons for the proposed single employing authority. This report reflects the useful advice and feedback provided in those meetings.
- 5.3 Subject to the agreement of recommendations through the three Councils' decision making bodies, staff will be informed of the latest position, and the proposals will be formally presented to them through the well-established consultation policies and processes in each authority, with a view to the new arrangements being in place on 1 June 2017.

6 Implications

Issue	Implications
Corporate Plan	<p>A borough to be proud of – by providing a wide ranging and highly skilled professional workforce to provide business with advice, guidance and appropriate enforcement proportionate to risk</p> <p>A council to be proud of – ensuring high standards of professional, competent officers to deliver services</p>
Financial, Resource and Property	<p>The average annual increase in budget for all three councils as a result of moving to Tunbridge Wells as a single employer is £19,800 allocated as: SBC £5,800; MBC: £6,300; TWBC: £7,700.</p> <p>This will be offset by a planned reduction in staffing establishment.</p>
Legal and Statutory	<p>There is an existing Collaboration Agreement covering the Service which can be varied, subject to sign-off by the Shared Service Board.</p> <p>The Head of Service will work with Legal Services to finalise the variation to that Collaboration Agreement to reflect the decisions in this report.</p>
Crime and Disorder	None identified.
Sustainability	None Identified.
Health and Wellbeing	None identified.
Risk Management and Health and Safety	<p>The proposal improves the risk management for MKEH.</p> <p>No health and safety implications have been identified at this stage.</p>
Equality and Diversity	Across the Service the proposal provides the opportunity for officers carrying out the same work to be on equal terms and conditions.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Supplementary information for Single Employing Authority Proposal for Mid Kent Environmental Health

8 Background Papers

Mid Kent Improvement Partnership (MKIP) - Environmental Health Shared Services report, 12 June 2013, available at:

<http://services.swale.gov.uk/meetings/CeListDocuments.aspx?MID=313&RD=Minutes&DF=12%2f06%2f2013&A=1&R=0>