

Adur & Worthing Services
working in partnership

Meeting **Simultaneous Executive Meeting**

Subject **Adur and Worthing Services – The Move Towards a Single Authority Employer - Update**

Date **27 February 2007**

Joint Authors **Adur District Council**
Peter Latham
Director of Services
Andrew Gardiner
Director of Resources
Worthing Borough Council
Tim Everett
Director of Services
Alan Smith
Director of Resources

1.0 SUMMARY

- 1.1 This report updates members on the process that is to be followed in order to create a single Adur and Worthing Services (“AWS”) structure.
- 1.2 As previously agreed, the Direct Services Organisations of Adur and Worthing are being combined to create AWS. This will deliver the agreed new single and improved refuse and recycling service and ultimately a single cleansing operation.
- 1.3 To do this it is necessary to create a single employer so that the terms and conditions of all AWS staff are the same. The SEM meeting of 16th March 2006 agreed a staff structure for the service. Various methods of achieving a single employer have been considered and it is recommended that staff transfer to one of the Councils applying the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”).
- 1.4 On balance it is recommended that the staff should transfer to Adur for administrative and employment purposes, under the overall control of the Joint Committee upon which both Councils are represented. This fits the agreed principle of sharing the provision of support services to AWS by both Councils and for practical purposes it will mean that Adur will provide human resources and financial services for AWS. It has previously been agreed that the transfer to a single employer should happen with effect from 1st July 2007 (SEMs on 21 September 2006) so that the new structure is in place for the launch of the new refuse and recycling service. However, this transfer may need to be reviewed if the two Councils agree to proceed with a more comprehensive joint staff structure as part of the partnership strategy.

- 1.5 It is proposed that Worthing provide IT services. It is proposed that Adur should provide legal and administrative services to SEMs and the AWS Joint Committee.
- 1.6 All costs will be shared on the basis previously agreed (based on the number of properties served by AWS) and the no detriment approach, whereby no one authority will not benefit as a result of additional cost/commitment being incurred by the other, will be applied.

2.0 RECOMMENDATIONS

2.1 The Adur Policy and Strategy Committee and the Worthing Cabinet are recommended to:

a) approve the arrangements whereby staff employed by Worthing Contract Services will transfer to employment by Adur applying TUPE with effect from 1st July 2007; subject to any further decision on implementing the partnership strategy;

b) note that the Joint Committee arrangements will provide for Adur to be the employing authority for administrative purposes under the overall control of the Joint Committee upon which both Councils are represented; and

c) approve the commencement of the Joint Committee arrangements as soon as the final terms of the agreement governing them have been agreed by the Chief Executive of Adur and the Director of Services of Worthing in consultation with the respective Leaders, pursuant to minute 5 of their meeting of 12 July 2006.

d) approve the appointment of a temporary HR officer for 3 months to assist with the transfer of staff at a cost of £8,000 to be split between the two authorities on the basis of the number of households.

3.0 BACKGROUND

- 3.1 Both Councils have agreed to introduce a single service for refuse collection and recycling services throughout Adur and Worthing, based on a wheeled bin system with a weekly collection of residual domestic waste and an alternate weekly collection of dry recyclables.
- 3.2 To enable this new service to be provided it is essential that the two Direct Services Organisations of the two Councils formally be joined as a single operational unit, so that there can be effective management arrangements.
- 3.3 This will enable all staff to be managed under one common structure. The creation of a single identity for the service follows, with appropriate operational branding and promotion of the joint working ethos of both Councils.

- 3.4 It is recognised that many of the issues involved in selecting the single employer will be mirrored in the work necessary as part of the overall partnership to create a single officer structure. However, due to the differing timescales and the need to put the AWS structure in place as soon as possible in order to deliver the new service arrangements, work on this must proceed in advance of the larger partnership project.
- 3.5 The proposed employment arrangements set out in this report may not be that to be taken if the two Councils agree to the wider partnership strategy. It is necessary to take a decision now in relation to AWS so that the necessary arrangements can be put in place. However this decision will need to be reviewed to ensure it is consistent with a subsequent decision affecting all staff.

4.0 THE PROPOSED PROCESS

a) Single employer

- 4.1 The best way to ensure a consistent and focused approach to service provision is to adopt a single service. As regards staff this means that all AWS personnel should be employed by the same organisation under the overall control of the Joint Committee upon which both Councils are represented.
- 4.2 Your officers have been looking into the best way to achieve the single employer status.
- 4.3 Given the declared commitment of both Councils to the joint working agenda it is proposed that all staff be transferred to one of the Councils for administrative purposes.
- 4.4 On balance it is felt that Adur should administer the employment arrangements. This will fit into the principle of sharing of support services that has been endorsed by both Councils. It will serve to reinforce the introduction of working practices based on the highly developed and admired Adur ethos of community service and customer care. However, this may need to be reviewed in the light of any decision regarding the broader partnership arrangements.
- 4.5 This should happen by 1st July 2007 so that the new structure is in place in sufficient time to prepare for the new service (the first phase is due to start in September 2007).
- 4.6 This will mean that Adur will provide human resources and financial services for AWS for administrative practicality.
- 4.7 Members are reminded that it has already been agreed that Worthing provide IT and insurance services.
- 4.8 It is proposed that Adur should provide legal and administrative services to the AWS Joint Committee. One of the first tasks will be to establish a formal legal

arrangement between the two Councils relating to the full range of AWS operational and support services.

- 4.9 All costs will be shared on the basis previously agreed (based on the number of properties served by AWS) and the no detriment approach will be applied.
- 4.10 These issues are explored in more detail in the following section.

b) Process

- 4.11 It is first of all necessary to agree the basis upon which any transfer is to take place.
- 4.12 In this respect the potential use of secondment has been considered as an attempt to minimise the workload whilst the broader partnership arrangements were further considered as opposed to a full TUPE transfer. However, this will not address the harmonisation of working and management arrangements as staff would still be covered by their original employing authority policies and procedures such as grievance and disciplinary. Secondment is also meant to be time limited. This option has consequently, been rejected.
- 4.13 The best and cleanest way is to transfer staff as if the TUPE applied. This provides for transfer on grounds offering protection to staff since no detrimental terms and conditions may be applied to staff vis-à-vis existing terms, unless they arise from economic, organisational or technical reasons connected with the transfer. A managerial structure for the service is to be devised and staff would be selected for it.
- 4.14 There is considerable work involved in preparing for a TUPE transfer of staff. Both HR and Payroll are extensively involved in the process. As a starting point all staff affected need to be identified and their individual circumstances recorded. They then need to be consulted and whilst some consultation, particularly at the initial stages can be undertaken via Unison there remains a need to undertake consultation on a more personalised basis. A programme of the various steps involved and the timings is being prepared.
- 4.15 Unison has already been made aware that this process is likely and will play a vital role in achieving a smooth transfer.

5.0 FINANCIAL AND OTHER SUPPORT SERVICES IMPLICATIONS

a) Pay and Related Matters

- 5.1 Currently, the two Councils have differences in the way that the pay of staff is constructed. The overall pay levels for similar jobs are not the same (many are very close) and the way in which the pay is determined varies. In particular the basic pay and application of add-ons is not the same.

- 5.2 The new service will mean that many staff will be working together on the same jobs, so harmonising pay is essential. This has been costed into the joint financial model previously presented to SEMs.
- 5.3 The setting of appropriate pay levels for individual jobs will need to be undertaken. Without this it will not be possible to deal with transfer as the new structure, grades, and associated pay needs to be known prior to any transfer negotiations. The Joint Pay and Grading Review will underpin this work.
- 5.4 There is also the risk that, for whatever reason, should one of the two authorities not apply the results of the Joint Review, then the impact of that decision on the new AWS structure and grading will need to be assessed. This may be another factor to take into account in deciding which authority will be the employing authority. Given the recommendation that Adur will be the single employer it is relevant to note that Adur have given a commitment to implement the P & G Review for the refuse and recycling service of AWS.

b) Human Resources and Payroll

- 5.5 Currently, staff are subject to the HR and payroll policies and procedures of their employing authority.
- 5.6 There is considerable work involved in preparing for any staff transfer and some potential effects on staff of Human Resources in terms of capacity, especially in the short term whilst transfer is taking place.
- 5.7 The transfer process will need to start around the end of the financial year, at the same time that HR staff will be finalising and implementing the Job Evaluation Scheme and payroll staff will be dealing with year-end processing and tax and pension returns.
- 5.8 There is therefore, a need for some short-term investment in employing temporary staff or perhaps using consultants (currently assisting on the Joint Pay and Grading review) to undertake this work. The appointment of a temporary HR consultant for 3 months will cost approximately £8,000.

c) Other Support Services

- 5.9 The transfer of staff to one Council will have an impact on several other support services. In particular, financial services in terms of cash flow and making arrangements for the recharge of costs on a no detriment basis.
- 5.10 With this also comes the need for legal and administrative services support to be provided to the employing authority and the recommendation is that Adur provide this.

d) Financial Services

- 5.11 The basis of apportionment for the costs of the single service should reflect the same basis as has been agreed for the costs of the revised

refuse/recycling service. This reflects the benefit to each Council and is based on the number of household served by each of the two authorities. At present this would equate to 36.4% to Adur and 63.6% to Worthing Borough Council.

6.0 LEGAL IMPLICATIONS

6.1 The SEMs meeting on 12 July 2006 agreed to provide governance arrangements for the AWS service by means of a Joint Committee and authority was given to the Chief Executive of Adur and the Director of Services of Worthing to approve the final terms of the Joint Committee arrangements in consultation with the respective Leaders. It is now appropriate to implement them so that any necessary member decisions upon implementation of the new service can be put to it.

6.2 The proposed TUPE transfer is dealt with elsewhere in this report.

7.0 CONCLUSIONS

7.1 Implementation of the new refuse and recycling arrangements, and the development of remaining AWS services is an extremely complex project.

7.2 Delivery of the new services is dependent on the creation of a single AWS structure, if this is not in place the new service cannot be provided.

7.3 To achieve the single structure it is intended to provide for the transfer of staff to Adur as the employing authority applying TUPE.

7.4 There will be a knock on effect on a range of support services as a result of the transfer.

7.5 The arrangement between the two Councils will be formalised by means of the Joint Committee agreement.

Peter Latham
Director of Services
Adur District Council

Tim Everett
Director of Services
Worthing Borough Council

Andrew Gardiner
Director of Resources
Adur District Council

Alan Smith
Director of Resources
Worthing Borough Council

Principal Authors

Les Mockford, Head of Strategy, AWS Tele: 01273 263054

Sarah Gobey, Assistant Director - Finance, Worthing BC Tele: 01903 221221

Harry Loomes, Head of Financial Services, Adur DC Tele: 01273 263427

Background Papers

Report to SEMs –21 September 2006

AWS Offices, Commerce Way Depot
Lancing Business Park
Lancing West Sussex BN15 8TA

LM. 19/02/07

APPENDIX

1.0 Council Priority

1.1 Promoting a cleaner, greener, safe Adur. Improving recycling rates and reduce levels of waste collected.

2.0 Specific Targets

2.1 Improve the efficiency and effectiveness of waste management and seek to meet government recycling targets. Improve services people want through better consultation and improved customer involvement.

2.2 Move towards the Government recycling target of 30%.

3.0 Sustainability Issues

3.1 Matters considered and no issues identified.

4.0 Equality Issues

4.1 Matters considered and no issues identified.

5.0 Community Safety issues (Section 17)

5.1 Matters considered and no issues identified.

6.0 Human Rights Issues

6.1 Matters considered and no issues identified.

7.0 Financial Implications

7.1 Matters identified within the report.

8.0 Legal Implications

8.1 Matters identified within the report.

9.0 Consultations

9.1 Matters identified within the report.

10.0 Risk assessment

10.1 Matters identified within the report.

11.0 Health & Safety Issues

11.1 Considered but no direct matters identified.

12.0 Procurement Strategy

12.1 The proposals within this report reflect the approach to be taken under the agreed Procurement Strategy.

13.0 Partnership Working

13.1 The report is prepared on behalf of the AWS Partnership.