

REPORT FOR RESOLUTION

SUBJECT: APPOINTMENT OF CHESHIRE EAST AS THE NEW
LEAD AUTHORITY

REPORT OF: THE HEAD OF SERVICE ON BEHALF OF THE
ADVISORY BOARD

PURPOSE OF REPORT

To make recommendations in relation to the transfer of Lead Authority function on behalf of the Joint Committee.

RECOMMENDATIONS

The Joint Committee is recommended to:

1. In accordance with the Bus Lane Adjudication Service Joint Committee (BLASJC) Agreement, appoint Cheshire East Council as Lead Authority (to be known for day to day purposes as the Host Authority) to the Joint Committee with effect from 1st April 2013 for a period of five years to 31 March 2018. The commencement date will be preceded by a phased transition to enable premises to be commissioned by 31 March 2013
2. Agree to new Terms of Appointment of the Lead Authority being negotiated between the Joint Committee and the Lead Authority in accordance with the Agreement, such new Terms of Appointment to be in the form of a Service Level Agreement between the Joint Committee and the Lead Authority to be presented for approval to the BLASJC meeting in January 2013.
3. Agree that the Service Level Agreement will be informed by the Memorandum of Understanding between the Adjudicators and the Joint Committee, with both documents being reviewed annually.
4. Request the Chief Executive of Cheshire East Council to nominate the Head of Service to undertake the role of Lead Officer in accordance with the BLASJC Agreement and a Scheme of Delegation from the Joint Committee.

5. Agree that a Scheme of Delegated Functions will be presented to the June 2013 meeting of the Bus Lane Adjudication Service Joint Committee for approval.
6. Agree that the Joint Committee will reimburse Cheshire East Council for all services provided to the Joint Committee in accordance with the provisions of the BLASJC Agreement.
7. Agree that the Section 151 Officer of Cheshire East Council be appointed the Joint Committee's Treasurer and will be consulted in the review of the Joint Committee's Reserves and Treasury Management policies scheduled for January 2013 and Financial Regulations in June 2013.
8. Note that the auditors appointed by the Audit Commission are retained following the transfer to Cheshire East Council.
9. Approve the TUPE transfer of staff to Cheshire East Council anticipated to take place on 1st April 2013 and meet the additional travel costs incurred by employees over a period of four years.
10. Request Cheshire East Council to enter into a lease for five years on behalf of the Joint Committee at the earliest opportunity (preferably before 1st January 2013) with a view to premises being operational by end of March 2013.
11. Request Cheshire East Council to assist the Joint Committee in identifying governance arrangements which continue to promote the independence of the Adjudicators, support the arms length nature of the Joint Committee and facilitate future growth.
12. Record its thanks to Manchester City Council and Cheshire East Council for their assistance in effecting this transfer.

FINANCIAL CONSEQUENCES

Provision has been made for the move to Cheshire East Council in the 2012/13 budget and will be reflected in future budgets.

CONTACT OFFICERS

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1. BACKGROUND

- 1.1 The Joint Committee has been established to enable councils undertaking civil bus lane enforcement to exercise their functions under Regulation 11 of The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005. These functions are exercised jointly with other councils in accordance with the requirements of Regulation 12 of The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005.
- 1.2 Because the Joint Committee does not have corporate status and therefore cannot itself enter into contracts, one of the constituent councils is required to act as Lead Authority, which in practice involves being host authority, to enable goods and services to be provided to and on behalf of the Joint Committee. The Lead Authority provides such goods and services as the Bus Lane Adjudication Service Joint Committee (BLASJC) may from time to time determine (Schedule 6 attached)
- 1.3 Schedule 6 of the BLASJC Agreement sets out the terms and conditions of the arrangement between the participating authorities and the Lead Authority. The Agreement includes the provision of a review of the Lead Authority arrangements every five years.
- 1.4 Manchester City Council gave formal notice of their intention to relinquish the role of Lead Authority in January 2012. The current five year tenure concludes in 2013.
- 1.5 The BLASJC at their meeting in September 2012 were informed of the decisions of Cheshire East Council's Cabinet meeting of 17 September in relation to undertaking the role of Lead/Host Authority and resolved that Cheshire East Council would be formally nominated at the next meeting of the Bus Lane Adjudication Service Joint Committee.
- 1.6 Section 4 (attached) of the BLASJC Agreement sets out the arrangements for varying the terms of the appointment and for terminating the agreement. Section 4.2 states "The Terms of Appointment of the Lead Authority may be varied at any time by an agreement in writing between the BLASJC and the Lead Authority. In the absence of such agreement, the terms set out in Schedule 6 will apply.
- 1.7 The revised Terms of Appointment will be evidenced by a Service Level Agreement between the Joint Committee and Cheshire East Council to be presented for approval to the BLASJC in January 2013.

- 1.8 The BLASJC Agreement defines “Lead Officer” as the Officer of the Lead Authority to whom functions are delegated pursuant to the Deed of Arrangements and the Standing Orders of the BLASJC (Schedule 4)
- 1.9 The current BLASJC Standing Orders (Schedule 4 (24)) interprets the Lead Officer as the Chief Executive of the Lead Authority or such Officer of the Lead Authority nominated by him. For the purposes of protecting the integrity and independence of the Tribunal, the Joint Committee is recommended to request the Chief Executive to nominate the Head of Service as the Lead Officer with functions delegated from the Joint Committee.
- 1.10 The Joint Committee reviews its Standing Orders on an annual basis and it is recommended that this nomination is reflected at the annual review in June 2013.

2. GOVERNANCE

- 2.1 The Joint Committee will review under separate cover a Memorandum of Understanding between the Adjudicators and the Joint Committee. The Adjudicators and Joint Committees are committed to a fair adjudication service for appellants including visible independence of adjudicators from the authorities in whose area they are working. The purpose of the Memorandum of Understanding is to clarify the relationship between the Adjudicators and the Joint Committees and the shared requirements to preserve judicial independence.
- 2.2 The Memorandum of Understanding will inform the review of the Schemes of Delegated Functions, the Service Level Agreement between the Joint Committee and Cheshire East Council and the annual review of Standing Orders.

3. FINANCIAL ASSURANCE

- 3.1 Cheshire East Council will be reimbursed for all services provided to the Joint Committee in accordance with the provisions of the BLASJC Agreement.
- 3.2 The Service Level Agreement will be developed between the Joint Committee and Cheshire East Council, identifying services to be provided by Cheshire East Council and arrangement for reimbursement which will be reviewed on an annual basis.
- 3.3 The Section 151 Officer of Cheshire East Council will be appointed as the Joint Committee's Treasurer. The Joint Committee reviews its Reserves and Treasury Management Policy in January each year and its Financial Regulations in June each year. The Treasurer will be consulted on these matters.
- 3.4 For audit purposes, the Joint Committee is classified as a small body i.e. with income or expenditure below £6.5 million as prescribed by the Accounts and Audit (England) Regulations 2011. This limited assurance external audit is currently undertaken by BDO LLP and following consultation with the Audit Commission, BDO LLP will continue to provide this service following the move to Cheshire East.

4. PRACTICAL ARRANGEMENTS

- 4.1 The Head of Service is working with Officers from Cheshire East Council and Manchester City Council to develop a detailed programme to support the Traffic Penalty Tribunal being operational from premises in Cheshire East by the 31st March 2013.
- 4.2 As part of the Joint Committee's Reserves Policy, a sum has been set aside to remove any financial liability on the part of Cheshire East Council should the Joint Committee require an early withdrawal from the lease. Suitable premises have been identified in Wilmslow which require refurbishment.
- 4.2 The move to Cheshire East Council will involve staff transferring from an office in central Manchester to Wilmslow, Cheshire. This will be undertaken in accordance with TUPE regulations. It is anticipated that this will take place on 1 April 2013. It is proposed that Joint Committee adopt the "sending" council's (i.e. Manchester City Council) policy in relation to meeting the additional travel costs incurred by staff over a period of four years.

5. RECOMMENDATIONS

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