

Executive

9 February 2017

Report of the Deputy Chief Executive/Director of Customer and Corporate Services

Portfolio of the Executive Member for the Environment

Steps Towards a Single Health & Safety (H&S) Organisation

Summary

- 1 This report provides Executive Members with an update on the current position of the City of York Council (CYC) Health and Safety (H&S) Service following the secondment of the current five staff members from CYC H&S Team to North Yorkshire County Council (NYCC).
- 2 The current temporary arrangements are in place until April 2017 and this report and the Business Case at the Annex provides an options appraisal for a more permanent structure for a Health and Safety Shared Service between NYCC and CYC (referred to as YorSafety).

Recommendations

- 3 The Executive is asked to:
 - a) consider the options contained within the body of the report and Annex A supporting the adoption and implementation of a sustainable shared YorSafety service;
 - b) approve Option 1 as being the most effective at achieving the aim of creating a resilient and sustainable service in the future;
 - c) delegate to the Executive Member for the Environment the final arrangements for transfer including sharing agreements for any surplus made by YorSafety.

Reason: To ensure the Executive and residents are informed of the CYC/NYCC approach to ensuring both H&S services are resilient and are better able to support the two organisations.

Background

- 4 In 2014/15 the post of H&S Manager at CYC was vacant and the service needed to find a saving of £25k; consequently the decision was taken to appoint a Shared Head of H&S with NYCC. This arrangement has been working well and a further saving of £47k in 2015/16 was identified from the H&S service through efficiency improvements. It has been identified, however, that any further savings through staffing would be difficult and lead to significant risk in providing H&S assurances for the council.
- 5 The CYC service is provided by a team of highly qualified and skilled individuals but due to its size (5 officers plus the shared Head of Service) there is a need to build service resilience and to maintain an effective and professional internal H&S advisory function. This would be increasingly difficult in the face of problems in covering key staff vacancies and difficulties in being able to respond to changing priorities and increasing workload demands.
- 6 There is also the need to retain skilled and experienced staff by creating greater critical mass and providing more opportunities for career development and specialism. In addition, there is also a need to make best use of scarce experienced, professional and knowledgeable H&S Advisors in specific areas (for example fire safety, education, construction and social care), particularly where both councils have encountered difficulties in building sufficient capacity without recourse to expensive external providers.
- 7 The Shared Head of H&S has reviewed the current arrangements for providing H&S services for both councils and also considered the impact of the reduced spending power of each council which are expected to continue to reduce until at least 2020. The outcomes of this review can be found in the published report to the Executive Member for the Environment presented in May 2016.
- 8 Aside from increasing pressure to drive out savings and efficiencies the following needs have also been identified:
 - to build service resilience and capacity across both authorities to maintain an effective and professional H&S function;
 - to retain skilled and experienced staff by creating greater critical mass and providing more opportunities for career development and specialism;
 - to make best use of the scarce professional H&S expertise available (particularly in property risk, construction and education);

- to further enhance the professional standards of the H&S services in both councils so as to maintain and develop the effectiveness of the function and comply with legislative and regulatory requirements;
- to maximise potential in improving effectiveness and developing the best of both systems and practices, through a coherent single structure;
- to build on existing trading experience to develop a viable commercial offer.

- 9 There have already been a number of examples of where each organisation has supported each other in relation to H&S and these are summarised in both the May and November 2016 Executive Member reports.
- 10 As a result of the May 2016 report an endorsement of the recommendation to second the current five staff members from CYC H&S Team to NYCC was given. This was subject to the provision of a further report on how the new arrangements are performing to a future Executive Member Decision Session.
- 11 Following the decision session and after consultation with both staff and the relevant trade union representatives the CYC team were formally seconded to NYCC whilst ensuring staff current terms and conditions were protected. This has allowed for closer working, collaboration and has built capacity to develop more long term projects for supporting each council. The arrangement is supported by a Service Level Agreement (SLA) which is monitored by the Assistant Director (Customer and Digital Services) acting as client to the informal shared service arrangement.
- 12 In November 2016 the follow-up report was published which gave examples of the benefits that the informal shared service had achieved alongside a performance update against the SLA. It was reported that the service has been working well without any detriment to required service levels and the current performance measures for monitoring this performance have been satisfactorily achieved. The report also informed the Executive Member that an options paper and business case was to be developed for Executive to consider in early 2017 regarding permanent arrangements.
- 13 In addition to the above, work is ongoing to standardise quality and performance measures and consistency of service delivery including removal of duplication. This is to ensure the service to clients continues to improve.

Development of Options

- 14 As part of the future planning of the shared service a YorSafety Project Board was established to consider the options regarding working more closely. The Board includes the Assistant Director (Customer and Digital Services) at CYC, the Assistant Director (Central Finance) at NYCC, CYC Programme Manager and the Shared Head of H&S. The Project Board has considered a variety of options which culminated in five realistic options being considered. The summary results of the options appraisal are shown below with the detailed options analysis given in the business case in the **Annex A** attached to this report.
- 15 Following initial assessment two of the five options were discounted as being unacceptable as they could not fulfil the partners' needs to create a future resilient service.

The remaining 3 preferred options considered in more detail were:

- Option 1 – Internal Shared Service with options for trading
 - Option 2 - Separate Organisation (such as a company guaranteed by shares)
 - Option 3 – Remain as is (informal secondment)
- 16 The options considered by the Project Board to be viable are described in detail at paragraphs 17 to 19 below. For Executive Members' information the other options dismissed by the Project Board were as follows:
- **Internal Shared Service with no options for trading** –both services are currently growing income streams for their respective councils which they both strongly wish to protect and build upon to fund other council services and allow an element of investment to take place. This option would, in all likelihood, create redundancies and significant disruption to customers (mainly schools), this is not a tenable option for either council.
 - **Return to previous arrangements (prior to current informal secondment arrangements)**– in the view of the Board, this would present sustainability risks to the deliverability of H&S responsibilities at CYC. The resource is so minimal that any absence of any type would affect either the provision of the core service to the council or the income generating service to schools.

Remaining Preferred Options:

- 17 **Option 1 (Internal Shared Service with options for trading)** .This option consists of the TUPE transfer the CYC staff to NYCC. The transfer of staff

from NYCC to CYC was discounted as it had greater financial and TUPE implications. The health and safety services would be provided on a service level agreement to each council and would also provide services to fee paying organisations such as academies, public bodies, publically owned companies and potentially other organisations. This option deals with the need to develop a resilient service as it addresses some of the funding issues in allowing additional sources of funding to be achieved by selling services. It also provides opportunities for growth. This would be subject to a surplus/dividend legal agreement based on, for example, the level of investment given by each council into the shared service or on a geographical basis.

- 18 **Option 2 (Separate Organisation)** To create a vehicle such as a publicly owned trading company to deliver the services and TUPE transfer of all staff at both councils into this new vehicle. The company would be wholly owned by the two councils, with a board of directors responsible for strategic decision making and policy setting. Operational decisions would be taken by company management. The company would be able to own assets, enter into contracts and employ staff in its own right. Both councils would be able to receive dividends from the company.
- 19 **Option 3 (Remain As Is)** To continue with the secondment arrangements indefinitely. This option realises some potential in that some joint working can be achieved which has been recently demonstrated in the time the secondment SLA has been in place. However it would not achieve the benefits from creation of a more permanent structure to work across both councils, rationalisation of systems and the creation of a resilient service which can plan for the future and take advantage of commercial opportunities as they arise.

Recommended Option

- 20 **Option 1** is considered to be the preferred option as it carries the least risk. It provides opportunities to deliver efficiencies through the creation of a coherent structure. This option also provides opportunities for growth by increasing funding sources through the provision of services to others on a commercial basis. This approach was considered the most likely to deliver the significant benefits of collaboration. These benefits could not easily be achieved by either council continuing to operate in isolation or continuing with the current arrangements. In addition the problems caused by lack of capacity and resilience would not be addressed and the resource pressures on both councils would only continue if changes to the existing service provision were not made. Option 2 would require longer term detailed plans to be agreed by both NYCC and CYC Executive bodies and remains an option, should Option 1 be chosen in the short term.

Services to be included in the YorSafety Service

- 21 The services currently included in the review are those which meet a statutory requirement to make provision for competent health and safety advice in accordance with appropriate standards of professional practice, as set out in the HSE guidance to the Management of Health and Safety Regulations 1999. Local authorities also have a duty to protect the health and safety of others who may be affected by council activities and to ensure that statutory duties are fulfilled. Both councils need to ensure that there are robust measures in place to monitor systems to ensure compliance and report on any areas of concern. In addition, all local authorities are required to maintain policies and procedures to ensure compliance with health and safety legislation.
- 22 In addition to these core functions, the health and safety service at CYC is responsible for delivering a programme of value for money advisory service, audits and inspections and reviewing accidents. This includes reporting these to the enforcement agencies in accordance with the provisions of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations together with investigating and liaising with enforcement agencies that may arise as a consequence. NYCC H&S services undertake a similar role.
- 23 The scope of the project has continued to be kept under review, and the following are outside the scope of the project:
 - **occupational health service and employee wellbeing services** which are currently included in the CYC service (but not in NYCC's) but will be managed by HR at CYC in the short term working with Public Health on longer term solutions.
 - the provision of an appropriate information technology based **Health & Safety system** was considered essential to the effective delivery of services in the future. The Health & Safety system development which is part-way through at CYC will be co-funded by both CYC and NYCC and managed through the two councils' ICT functions.
 - Importantly officers and councillors responsibilities as outlined by legislation and as an employer, the CYC Health & Safety Policy cannot be delegated to the shared service and remain firmly with the council.

Current and Proposed Staffing Arrangements

- 24 At CYC there are currently 5 FTE who deliver health and safety services and these form part of the Customer and Corporate Services Directorate. Following the implementation of the revised structure it is proposed to ensure that CYC receive the equivalent level of support as to that which is currently delivered subject to any efficiencies which can be achieved through collaboration. In NYCC there are 16 FTE staff who provide similar services - the Health and Safety Service forms part of the Central Property Service Unit, within the Central Services Directorate and as based in the Corporate Services Directorate. The combined establishment is therefore 21 FTE. Copies of the structure charts for the two council's existing services are given in **Appendix 3 to Annex A**.
- 25 Whilst the two councils' health and safety services have been working together since 2014, Phase 1 of the informal shared service commenced on 29th August 2016 when the 5 CYC staff were formally seconded to NYCC to allow for joined up working. In reality no detailed structural work has been undertaken and as such both functions have been working within their existing structures.
- 26 A combined structure will be developed, subject to consultation across both staff groups, should either Option 1 or Option 2 be approved.
- 27 The CYC staff are based in West Offices, Station Approach, York. The NYCC staff are more dispersed with the majority being home based, based in other council buildings across the county or working out of the Service's main base at Morgan House, Northallerton.

Future Governance Arrangements

- 28 Should the preferred option be supported then the Chief Officers on the existing Project Board would continue to meet on a formal basis as client managers on the Yorsafety Board to monitor the Shared Service Agreement and related service delivery and performance levels, in order to safeguard each council's Health & Safety arrangements. They would also review any developments related to income generation and growth strategies. For clarity, this would be an officer board managed as part of the council's internal management structures with no additional pay or reward structures.
- 29 The Executive Member for the Environment has requested a published Annual Report to his Decision Session on the council's Health & Safety arrangements, and it is proposed that an update on the performance of the Shared Service is covered in that report.

- 30 Any proposal to grow the organisation significantly and/ or to move towards a commercially viable organisation, as described in Option 2 above, would return to each council's Executive for their consideration and approval.

Consultation

- 31 Council Management Team continues to support the changes recommended in this report.
- 32 The staff groups have also been consulted and are aware of the contents of this report.
- 33 NYCC, through the project board have been fully represented on this work and support the recommendations. A formal decision has already been made at NYCC in support of these proposals.

Options

- 34 All options are considered in Paragraphs 16 to 19 above and are fully evaluated in Annex A to this report.

Analysis

- 35 All information is contained in the body of the report and the Business Case at Annex A.

Council Plan

- 36 Outcomes achieved by the activities covered in this report help to deliver priorities in the Council Plan 2015-19 in support of 'A prosperous city for all', ensuring that as an employer the council sets a positive example of supporting employees to achieve their full potential.

Implications:

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- a. Financial:** There are no known additional costs to CYC. The current budget of the service shown at Annex A and will form the charging basis of the CYC SLA. Current salaries will provide the top strata for a new combined salary structure at NYCC, therefore should not attract any pay protection costs. With regard to the financial arrangements of the shared service including the distribution of any year end surplus or dividend, it is recommended that the Director of Customer and

Corporate Services be delegated to agree the arrangements in consultation with the Executive Member for the Environment.

- b. Human Resources (HR):** The staff at both councils and trade unions at CYC have been informally consulted on the changes. The council will comply with its obligations under TUPE (Transfer of Undertakings Protection of Employment Regulations 2006), should Executive Members approve Option 1 or Option 2.
- c. Equalities:** None
- d. Legal:** Legal Services at both councils have been consulted on the proposals and provided assistance in drawing up the current secondment agreements and Service Level Agreements. A future YorSafety agreement would be developed in a similar way.

The content of this report does not absolve the council, its officers and elected members, of their responsibilities under The Health and Safety at Work etc Act 1974, to provide a safe workplace environment for themselves, the council's workforce and the public.

Both councils have the necessary powers under the Local Authorities (Goods and Services) Act 1970 and the Localism Act 2011 to enter into such a shared service agreement. The partnership would not be a legal entity in its own right. Each council would need to maintain its own contracts for the supply of goods and services. Similarly any arrangements for providing contracts to supply health and safety services to external customers would need to be agreed in the income sharing agreement.

- e. Crime and Disorder:** There are no crime and disorder implications to this report.
- f. Information Technology (ICT):** There are no IT implications for CYC arising from this report. Work is ongoing to develop appropriate H&S management systems so it will be necessary to make arrangements to enable YorSafety staff to use the systems applicable to each council. This arrangement is already in place for the Shared Head of H&S.
- g. Property:** There are no property implications to this report. It is proposed that the Council would provide fully serviced accommodation to YorSafety staff, keeping with the provision currently made available to NYCC/CYC H&S staff.
- h. Other:** No known implications.

Risk Management

37 The YorSafety proposal offers an opportunity to deliver efficiencies and economies of scale. The risks of the project due to the limited scope are primarily related to staff and councillor engagement which have been mitigated through staff and trade union meetings and public reports to Executive Portfolio Holder Decision Sessions . Should the arrangement not be approved then the benefits of joint working may not be realised and the resilience of the service could be affected.

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Report Approved

Date 26/1/17

Specialist Implications Officer(s)

Financial/HR: Ian Floyd, Director of Customer & Corporate Services
Legal: Andrew Docherty, AD for Legal & Governance

Wards Affected: *List wards or tick box to indicate all*

All

Background Papers:

Report and decision record from Executive Member for Environment Decision Session on 9th May 2016. The record is [here](#)

Report and decision record from Executive Member for Environment Decision Session on 28th November 2016. The record is [here](#)

Annex

Annex A Business Case: *Future Health & Safety Organisation for City of York Council and North Yorkshire County Council*

List of abbreviations used in this report:

CYC	City of York Council
HR	Human Resources
H&S	Health & Safety
ICT	Information and Computer Technology
NYCC	North Yorkshire County Council
SLA	Service Level Agreement
FTE	Full Time Equivalent <i>staff numbers</i>