

Council17th December 2015**Agenda Item 65**

Brighton & Hove City Council

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| Subject: | Support Functions Review | | |
| Date of Meeting: | 17 December 2015 3 December 2015 – Policy & Resources Committee | | |
| Report of: | Interim Executive Director of Finance & Resources | | |
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| Ward(s) affected: | All | | |

FOR GENERAL RELEASE**1 PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The report updates the Policy & Resources Committee on the outcome of the Support Function Review. On balance, the findings of the review indicate that joining the newly forming local shared service arrangement is for most cases, the preferred option for meeting the council's requirements. The report recommends that Brighton & Hove City Council (BHCC) becomes a founding partner of Orbis, which is currently established as a joint committee of East Sussex County Council (ESCC) and Surrey County Council (SCC) to provide a full range of support functions.
- 1.2 Adding the Revenues & Benefits service presents an opportunity for the council to lead within the partnership as a 'centre of excellence' in this area, increasing opportunities for growth for the service.
- 1.3 Performance, Improvement and Programmes and Customer Experience functions are not included within the partnership activities, so are not proposed as part of the recommendations.
- 1.4 Joining Orbis will support the council's priorities in delivering the required level of savings to contribute to predicted budget gap over the next 4 years whilst providing resilient and sustainable, locally based support functions that will help the council to:
- continue to make the best use of its resources;
 - deliver transformational change;
 - work closely with neighbouring local authorities and the wider public sector to support the development of devolution proposals for Greater Brighton and in the South East region.
- 1.5 This option also helps to ensure the city retains talent locally and continues to support the local and regional economy.
- 1.6 The report assumes that the savings contribution required from support functions will be in line with the overall predicted 4 year budget gap which will require

savings of circa 30% on the council's General Fund services. However, this may change as budget proposals are developed as part of the 4 year Integrated Service & Financial Planning process.

2 RECOMMENDATIONS:

That the Policy & Resources Committee:

- 2.1 Note the update on the wider Support Functions Review, as detailed in this paper.
- 2.2 Agrees that the council enters into an intra-authority agreement with the Orbis partners.
- 2.3 Agrees that the following BHCC services partner with Orbis:
 - ICT
 - Internal Audit & Corporate Fraud
 - Human Resources & Organisational Development
 - Property & Design
 - Finance & Procurement
 - Revenues & Benefits
- 2.4 Agrees that these services are delivered through Orbis as soon as practicable, with the timing of operational changes being subject to due diligence¹.
- 2.5 Recommends to Full Council that:
 - Brighton & Hove City Council joins the Orbis Joint Committee as a founding partner, with the terms of reference as set out in appendix 2 (as they now stand) subject to necessary modifications to reflect expanded membership and the Council's committee system.
 - It appoints Cllr Les Hamilton to the Orbis Joint Committee on behalf of BHCC.
- 2.6 Subject to Council agreeing to recommendation 2.5 above and satisfactory due diligence, delegate the power to enter into the inter-authority agreement and the power to make the final decision on operational changes to the Chief Executive, Section 151 Officer and the Monitoring Officer and authorise the same to take all steps necessary or incidental to the implementation of the recommendations.

3 CONTEXT/ BACKGROUND INFORMATION

- 3.1 As previously identified in updates to this Committee, the services in scope for the Support Functions Review are:
 - Finance & Procurement
 - Human Resources & Organisational Development

¹ In simple terms, 'due diligence' is a detailed audit or investigation of a potential investment, contracting or partnering arrangement. The Section 151 officer will lead the Due Diligence process in consultation with Members through a cross party working group.

- ICT
 - Internal Audit & Corporate Fraud
 - Legal & Democratic Services (Legal developing Orbis Public Law separately and Democratic Services not in Orbis)
 - Performance, Improvement & Programmes (PIP) (Not proposed to join Orbis)
 - Property & Design (Scope of service in Orbis to be confirmed)
 - Revenues & Benefits
- 3.2 Some of these services are also delivered outside Finance & Resources and Legal & Democratic Services, for example procurement functions in Children's and Adult's Services or ICT services in the Libraries and Museums services. These services may or may not be included in the Orbis partnership. An assessment of suitability will be made during due diligence.
- 3.3 The total cost of delivering the services outlined is circa £24m². The services in scope for the review provide strategic support, such as helping service managers achieve transformational change and developing the budget and medium term financial strategy. They also provide operational services, such as running the council's human resources and financial systems and providing a wide range of transactional services. While the Revenues & Benefits service is a front line service, it has been included within this review because opportunities for service redesign, working in partnership with others or outsourcing are similar in nature to operational support functions.
- 3.4 Support functions must be able to provide effective support to the council whilst also ensuring value for money and making a fair contribution to the savings required. This paper assumes that support functions will need to contribute savings in the region of £8m representing 30% of the total cost, in line with the overall requirement to meet the predicted 4 year budget gap.
- 3.5 The council is a major employer in the city and any redesign of the way services are delivered also needs to consider the impact on the local economy.
- 3.6 The Policy & Resources Committee in March 2015 approved the full exploration of the option to join a newly created shared service formed by East Sussex and Surrey County Councils (then known as South East Business Services (SEBS) and now rebranded as Orbis). Approval included the development of an outline business case whilst remaining open to alternative models such as outsourcing. It also updated the Committee on ongoing work to develop an internal trading model, which would be required for any future service model.
- 3.7 A further report was taken to the Policy & Resources Committee on 9 July 2015, updating the committee on the progress of the Support Function Review, including the development of the internal trading model, further exploration of the option to join Orbis as a founding partner, and information about a related "Management Spans and Accountability" initiative.

² The £24m is the cost of running these services. For example, it includes the cost of managing property on behalf of services but excludes landlord costs such as utilities and maintenance.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Following the work to develop an internal trading model and a good understanding of baseline service cost and quality, all available options were considered. A shortlist of four main options was developed as follows:

- “Do nothing” option: not to make the 30% savings within the Support Functions and continue to support the rest of the organisation as it delivers the required 30% savings across other services. This is clearly not tenable and was not taken forward. Support functions cannot be immune to the financial challenges faced by the organisation as a whole.
- Retain and redesign in-house and reduce costs by 30% over 4 years
- Joining the Orbis Partnership
- Outsourcing

The analysis for the three potentially viable options are summarised below. A detailed evaluation of the options is available in Appendix 1.

In-house

4.2 Under this option, services would be retained within BHCC and savings delivered through far-reaching service redesigns. Analysis shows that whilst for some services there are advantages for remaining in-house, there are clear disadvantages identified with this option. For example, the impact of achieving 30% savings in-house would mean that support functions would need to reduce capacity and deteriorate their service levels. Services would be likely to lose expertise and become much less resilient. This means that over time some functions will not be able to provide effective or quality services and will not meet customer requirements.

4.3 Under this option there will be substantial impact on the services resilience to support change across the council. This will put at risk other services’ 4 year savings plans and their ability to redesign to meet increasing demand.

4.4 It would be possible but very challenging for support functions to achieve 30% savings under this option, as it would significantly reduce their capacity to support other services through the necessary organisational change ahead. It could also lead to costs growing back elsewhere as services could look to plug gaps in support service provision.

4.5 The in-house option also misses out on benefits achieved through economies of scale and any investment would be borne solely by the council at a time when there are substantial competing demands for limited investment capital. The council will also struggle to develop broader commercial opportunities under this option including increased trading.

Joining the Orbis Partnership

4.6 Partnerships work with a common goal to collaborate on and integrate services to provide functions across all partner bodies. There are benefits from creating efficient joint management structures, sharing systems and investment, and through standardised processes for support functions.

- 4.7 Consideration has been given to the possibility of joining existing shared services or creating a Brighton & Hove shared service. Analysis suggests that Orbis is probably the only one that can:
- deliver savings in time (because it is already in place with significant momentum, having already received expert external advice on its development, structure, legal make-up and financial business case);
 - work effectively with local partners from Greater Brighton to support Greater Brighton Devolution;
 - retain talent locally and so support the local economy;
 - provide a similar environment and culture through local authorities working together.
 - provide appropriate commercial opportunities for the services joining the partnership, through trading and new partnerships.
- 4.8 Orbis was established in April 2015 as a joint committee of East Sussex County Council and Surrey County Council. Its aspiration is to grow beyond the initial two founding partners to create further scale, resilience and efficiencies to deliver “a compelling alternative to the private sector in delivering support services”. Orbis is not a separate legal entity and cannot enter in to contracts itself. Instead, contracts are entered into jointly or severally by member councils. Details of the Joint Committee arrangements are set out in Appendix 2. BHCC assets would continue to be owned by the council and BHCC staff would remain employees of the council. The partnership would also provide wider employment opportunities to staff.
- 4.9 Orbis covers most of the support functions included in the review, but not Performance, Improvements & Programmes (PIP), Revenues & Benefits or Democratic Services. However, adding a Revenues & Benefits service presents an opportunity for the council to lead as a ‘centre of excellence’ in this area, increasing opportunities for growth for the service and adding resilience to the service offer.
- 4.10 The Orbis business plan is committed to 12.8% savings from removal of duplication as services integrate, and through process improvements and streamlining. This saving is shared by all partners and is not expected to have any impact on services provided. Further savings are expected through transformational change, realised by working in partnership across Orbis. Whilst transformational change may not provide all of the remaining 17.2% saving to meet the 30% requirement of BHCC, initial discussion with colleagues from Orbis indicate that the remaining saving could be achieved and mitigated by reviews of service pressures, reviews of service offer and service levels and the identification of opportunities that may be specific to Brighton & Hove. As a result, the impact of 30% savings delivered through Orbis on the effectiveness, quality and resilience of the services provided is likely to be less than the in-house and outsourcing options. Developing this option would require a complex programme of work and investment in programme resource would be needed.
- 4.11 Acknowledging the need for each Partner to be able to operate in partnership and also as sovereign organisations is an important and recognised

characteristic. Strategic influence and oversight of the services and support provided by Orbis will be managed through:

- membership of Joint Committee
- agreement of Orbis Business Plans
- membership of Joint Management Board and Policies
- development of Partner specific strategies e.g. information management and communications strategy, employment policies etc.

Appointment to positions in the Partnership will be evaluated as part of the due diligence process. It needs to be recognised that appointments to a number of roles have already been made in order to enable Orbis to deliver the Business Plan recently agreed by ESCC and SCC Cabinets. Early confirmation of BHCC as a founding Partner will enable the council to be integral to the implementation of the operating model for Orbis and the further design of management and service structures and recruitment to roles. If we were to delay any decision to join Orbis, we would risk losing the opportunity to shape the development of the service and there would be fewer opportunities for our staff to apply for management posts.

- 4.12 Any decision to join Orbis would need to be followed by a period of due diligence where further detail of how the partnership will operate would be agreed, and assurance provided that BHCC membership of the Partnership remains the best option for supporting the council's organisational objectives. Specifically, achievement of 30% savings for BHCC in line with 4 year savings plans would need to be an important focus area. The due diligence phase would also confirm the likely investment required and any changes to the current systems and how these changes could impact on our ability to deliver 30% savings across the council as a whole. The Section 151 officer would lead the Due Diligence process in consultation with Members through a working group.
- 4.13 The scale of Orbis, and its ambition for business growth, would provide increased commercial leverage and offer economies of scale to drive down costs and simultaneously increase sustainability and service resilience.
- 4.14 Through its member authorities Orbis will also retain the ability to contract externally for services within its overall business strategy by taking a partnership approach to such decisions to secure skills, capability and capacity where appropriate. In order to determine the appropriate delivery model, a rigorous evaluation of current services across the Partnership will be undertaken, to create modern, resilient, agile and cost effective business services contributing to enhanced public value for our residents. It should be noted, however, that Orbis is described as the compelling alternative to the private sector, and there are no plans for large-scale outsourcing of its services.
- 4.15 Due diligence will also need to be undertaken by the Orbis Partnership as part of any process for integrating a new founding partner into the Partnership.
- 4.16 Joining the Orbis partnership does not commit the council to adopting their business management software or other systems, but does offer more efficient use of resources and shared resilience. There may be opportunities to invest in a common system in the future and any investment would be subject to a separate

business case. Regardless, some level of investment would be required to integrate services.

- 4.17 Partnerships require all parties to work closely together to achieve common goals. This includes shared decision-making and common timelines. While this can provide great strength it would mean that the council would not have sole control over developing services. Orbis would require partners to enter in to a pooled budget arrangement. This could be realistically achieved by April 2017.

Outsourcing

- 4.18 Services are delivered by an external provider, for example, contracting out services or through a joint venture with the private sector. Based on professional advice received, the review has concluded that options are limited to pursuing existing outsourcing frameworks that are in place locally. This is because:
- the complexity and scope of services under review, means that the timescales to fully establish a new outsourcing framework are estimated at 18 months to select a new partner under European tendering rules and a further extended period of time to negotiate the framework;
 - This would not fit with the need for these services to be delivering savings throughout the period;
 - the number of frameworks joined would need to be limited to keep down the cost overhead of managing these;
 - the ability of staff to transfer to a new provider would depend on the location of the provider.
- 4.19 Research on local frameworks to which the council could have access, indicates potential for savings of up to 15-20%. Large providers can provide speed and depth of expertise while keeping costs down. With an existing outsourced arrangement, these could be accessed substantially quicker than developing a brand new contract.
- 4.20 Substantial preparation is still required before entering into an outsourced arrangement. Investment in systems would be significant and development of a strong commercial client-side function would be required to manage the contract, and prepare the council for change.
- 4.21 Based on the experience of others, there is also a substantial risk that transferring services to an outsourced framework, which has not been designed around the council's needs, would severely restrict those functions' ability to support the council through change and meet its savings targets.
- 4.22 This option would likely require a significant number of staff to be transferred to other work locations, often outside of the local area or region. While there may be the possibility of negotiating a Brighton & Hove location this would be expected to reduce the level of saving due to increased overheads.

5 CONSULTATION

- 5.1 Briefings have taken place with Unison and GMB and staff working in the Finance and Resources Directorate on the recommendation contained in this report. It is recognised by staff and union representatives that the proposal to work in partnership through Orbis is subject to a period of due diligence and that that they will have more opportunity to engage in the details as they emerge through this process. However they are concerned that they are able to clearly understand the detail of the transition into partnership working and any anticipated impact on staff.
- 5.2 Comments and questions are being captured via a shared email box and frequently asked questions will be published on a Wave page on support functions review alongside other relevant information.
- 5.3 We are committed to continued dialogue with the trade unions, through the Finance & Resources Consultation Group, Joint Consultative Group and other meetings as requested.
- 5.4 Information is also being made available across the council and in Schools as they will be engaged for their views as key stakeholders and recipients of the services that would be included in the partnership.

6 CONCLUSION

- 6.1 The conclusion drawn from analysis of the options available, is that BHCC should commit those services currently included within the Orbis model, together with Revenues & Benefits, to joining Orbis as a founding partner. For all services the specific scope is to be defined during due diligence.
- 6.2 Partnering with Orbis is the only option that is likely to be able to provide the level of savings required while maintaining strategic influence and alignment and providing resilient, sustainable services to support the council through transformational change. Early confirmation of BHCC as a founding Partner will enable the council to be integral to the implementation of the operating model for Orbis and the further design of management and service structures and recruitment to roles. If we were to delay any decision to join Orbis, we would risk losing the opportunity to shape the development of the service and there would be fewer opportunities for our staff to apply for management posts. The addition of Revenues & Benefits presents an opportunity for the council to lead on provision of a centre of excellence in this area, increasing commercial opportunities for growth and adding resilience to the service offer.
- 6.3 The decision to join Orbis would need to be followed by a period of due diligence, led by the Section 151 officer in consultation with Members through a cross party working group. This will determine further detail of how the partnership will operate and provide assurance that the partnership can support organisational objectives. Specifically, achievement of circa 30% savings for BHCC in line with 4 year savings plans will be an important focus area. The due diligence phase will also confirm the likely investment required, any necessary changes to the current systems, and how these could impact on the ability to deliver 30% savings.

- 6.4 While those joining Orbis are committing to long-term partnership in shared services, exit arrangements are a feature of the current Orbis agreement. Further details relating to this would be developed during the due diligence phase described above. Additionally, Orbis would need to undertake its own due diligence over coming months to determine whether to formally extend the Partnership to include the council.
- 6.5 An update paper will be submitted to the Policy & Resources committee in March 2016 giving further detail of the due diligence progress, timeline and actions.

7 FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The recommendations in the report are predicated on the requirement for the council to make savings in line with the 4 year Integrated Service & Financial Planning process. Draft savings proposals elsewhere on this agenda reflect potential savings across these services which are made more achievable and sustainable through joining the Orbis partnership. If joining the partnership is approved, any investment requirement linked to the development of services would require business cases to be developed and approved as normal. Undertaking due diligence and developing service integration plans for the partnership may require additional project and programme resources as well as dedicated officer support which may come from existing resources or otherwise will need consideration by Policy & Resources Committee.
- 7.2 Any Member expenses relating to membership of the Joint Committee can be managed within existing budgets.

Finance Officer Consulted: Name Nigel Manvell

Date: 24/11/15

Legal Implications:

- 7.3 Contracting authorities regularly enter into collaborative arrangements with each other and with other public bodies. The general rule is that public contracts between contracting authorities are subject to the procurement rules ([Commission v Spain \[2005\] ECR I-139](#)). However, two exceptions have been established in case law:
- The in-house, or Teckal, exception.
 - The co-operation, or Hamburg, exception.
- 7.4 This case law has been codified in Article 12 of the Directive 2014/24/EU on Public Procurement (Public Contracts Directive 2014). The Public Contracts Directive 2014 is implemented into UK law by the [Public Contracts Regulations 2015 \(SI 2015/102\)](#) (PCR 2015)).
- 7.5 It is likely that the proposals with Orbis will come within the cooperation (Hamburg) exception, but the structure of the proposed shared services and the likely customers and recipients of its services will need to be considered in detail

as part of the due diligence exercise before agreement is entered into. The current terms of reference of the Orbis Joint Committee are drafted on the assumption that the constituent authorities have an executive system (and hence the reference to the Leader appointing Members.) It will need to be modified to reflect the changed membership and the different governance systems.

- 7.6 The report deals with principles and provides high level information only. Although the Business Case agreed by the Surrey and East Sussex Joint Committee in September gives useful information, a significant amount of detail work will have to be undertaken to address issues as they affect Brighton & Hove, including savings, localisation of services, consistency of employment practices while employees remain employed by their respective organisations, dispute resolution and arrangements for termination. All these need to be addressed as part of the due diligence exercise and incorporated into the inter authority agreement.
- 7.7 A shared services option called Orbis Public Law is being explored for Legal Services and this will be the subject of a separate report in January.

Lawyer Consulted: Name Abraham Ghebre-Ghiorghis Date: 06/11/2015

Equalities Implications:

- 7.8 There may be equality implications arising out of the proposal particularly if there were any proposals regarding the logistical transfer of staff and the arrangements will need to ensure the location and accessibility of services (especially the public service considerations for Revenues and Benefits) and arrangements for the recruitment and selection of joint posts reflect equalities principles. Part of the due diligence exercise will involve ensuring that the way the arrangements are implemented take equalities implications into account.

Sustainability Implications:

- 7.9 None identified.

Any Other Significant Implications:

Procurement Considerations:

- 7.10 Outsourcing options would need to be run in accordance with the Public Contracts Regulations 2015. Under the Local Government Act (2000) Local Authorities have a duty to ensure value for money. Based on the research performed to date, this cannot be guaranteed and as such would require a robust market test.
- 7.11 As previously stated a full tender process is expected to take 18 months. This would only leave the potential to join existing framework arrangements. Careful consideration would need to be given to how any new service would be effectively contract managed to ensure requisite service delivery and optimal value for money.

Officer Consulted: Clifford Youngman

Date: 19/11/2015

SUPPORTING DOCUMENTATION

Appendices:

1. Outline Business Case (OBC)
2. Orbis Joint Committee Terms of Reference

Documents in Members' Rooms

1. None.

Background Documents

1. None.