

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 24 April, 2017**

### **Report of the Cabinet Member for Visible, Leisure and Regulatory Services**

### **Shared Regulatory Services - Review of Joint Working Agreement**

#### **Purpose of the Report**

1. To recommend changes to the Joint Working Agreement between the participant Councils for the provision of Regulatory Services.

#### **Recommendations**

1. That Cabinet approves, and recommends to Council for approval, the proposed changes to the Joint Working Agreement between the partner councils for the provision of Regulatory Services as set out in the Deed of Variation.
2. That the Head of Legal Services in consultation with the Senior Responsible Officer with responsibility for the Shared Regulatory Service be given delegated authority to approve administrative changes to the Joint Working Agreement in consultation with the Cabinet Member for Visible, Leisure and Regulatory Services as long as there is no extension of delegations to the Shared Service or additional financial implications.
3. That Cabinet authorises the Head of Legal Services to execute the required Deed of Variation reflecting changes when approved by Council.

#### **Reasons for the Recommendations**

1. Amendments to the Joint Working Agreement will improve the functioning and governance of the Shared Regulatory service. Such changes require ratification by each Council.
2. To authorise minor administrative changes to the Joint Working Agreement without seeking ratification by Cabinet and Full Council.
3. In order to formally document the approved changes.

#### **Background**

2. In April 2015, Bridgend County Borough Council, the City Council of Cardiff, and the Vale of Glamorgan County Borough Council signed a Joint Working Agreement for the provision of regulatory services across the three Council areas. The document

created the Shared Regulatory Service (SRS) and the Shared Regulatory Services Joint Committee.

3. At the time of creating the Joint Working Agreement, some of its provisions were conceptual in nature and over the last 18 months, it is evident that some aspects of the agreement require amending to allow the more effective operation and management of the service.

4. Any changes to the Joint Working Agreement are subject to Clause 26 of the Agreement which states:

"This Agreement cannot be varied without the approval and prior written consent of all Participants. Where the Participants agree to make changes to this Agreement, a Deed of Variation shall be entered into between the Participants and appended to this Agreement."

### **Relevant Issues and Options**

5. The first eighteen months of the SRS has been dominated by the move toward, and development of, the new Operating Model agreed by the three Councils in Autumn 2014 and formally initiated in April 2015. Creating a shared service has involved significant change. Many of the changes are provided for within the Joint Working Agreement, and those changes have been implemented successfully. In December 2015, an audit of the shared service concluded that that the effectiveness of the internal control environment was sound and substantial assurance can be placed upon the management of risks.

6. However, there are aspects of the Joint Working Agreement that require updating and amending. Some of the changes proposed in this report are administrative in nature, while others advocate a change in the current operating practices. These changes have been considered by the officer Management Board for the Shared Service, all three Section 151 officers, and agreed as appropriate by the Joint Committee. The proposed changes are set out below in paragraphs 7-11.

7. Clause 11.9.2 of the Joint working Agreement states:

In the case of expenditure which is less than 5% in excess of the Approved Budget (as indicated in accordance with clause 7.8.1.1) without the prior written consent of each s.151 Officer for each of the Participants liable to contribute towards such expenditure. For such purposes the S151 Officers shall respond to written requests to consent to such additional expenditure within 10 working days of receiving the same and shall state whether they consent to the incurring of such additional expenditure or not.

Consequently, written consent needs to be provided by all participants for spend in excess of the budget. Obtaining written permission in the event of a spend of up to 5% within 10 working days from the s151 officers of the participating authorities is reasonable and prudent. However, it is proposed that this clause is further qualified with the following clause

The Head of the Shared Regulatory Service, in consultation with Lead S151 Officer, may in the case of an unexpected event incur expenditure of up to £100,000 in excess of Agreed Budget, without the provision of prior consent. Details of the expenditure will be reported back to the participant's S151 Officers within 5 working days of the commitment being known and reported to the next Board and Committee meetings.

8. Schedule 5, Clause 3 of the Joint Working Agreement relates to budget approval and monitoring by the Joint Committee. It is proposed to insert two new clauses as follows:

Clause 3.1A Notification of any proposed saving requirement to be made by the Service must be provided to the Head of Service and the Lead S151 Officer at least 12 months in advance of the year to which they relate. Indications of the following 3 year savings requirement should be provided to the Head of Service prior to the start of each financial year.

Clause 3.1B In the event of financial changes that are outside of the control of the Shared Regulatory Service such as, but not restricted to changes in legislation, inflation or pension fund contributions, that the Shared Regulatory Service shall commence consultation with the Participants on funding these changes as soon as possible.

9. There are a number of references to legislation within the JWA. For example, Schedule 1, Regulatory Services functions, sets out a lengthy list of statutes and statutory instruments authorising and governing the functions that comprise the core services of the collaborative service. Unfortunately, some of the said statutory references are incorrect, or have been superseded; these issues have been highlighted in some external audits of the service. It is proposed that Schedule 1 is updated and the proposed deed of variation includes wording designed to avoid having to refer to the Councils each time amendments of this nature are needed. The amended Schedule 1 also includes new areas of legislation that the SRS administers on behalf of the partner Councils, such as the provisions of the Housing Act (Wales) to deal with unlicensed landlords, currently funded through Welsh Government grant.
10. If any future legislation is enacted in the realms of Public Protection, outside the existing scope of Schedule 1, such as the forthcoming Public Health Bill, the Councils will need to determine whether this is assigned to the SRS and any financial implications.
11. There is currently no recognised role for the Executives of the partner authorities in the sense that there is no clear conduit for each executive to be apprised for information of the work of, and the decisions taken by, the Joint Committee. It is proposed to insert a new Clause 5.6 to allow the business of the Joint Committee to become included in Executive business agendas.
12. Schedule 4 of the JWA outlines the functions delivered by the Shared Service. It is proposed to make some minor administrative amendments to provide greater clarity on the range and scope of the services provided. These include, an update on the range of Authority specific services indicating the SRS role in acting as a "Responsible Authority" for the purposes of the Licensing Act 2003; The rapid response regime originally operated previously only in Cardiff is now extended to operate across the region and a fuller acknowledgement of the "Primary Authority " function in providing support to local businesses. There are no additional financial implications arising from these amendments.
13. Given the size of the Deed of Variation which includes as a schedule the Conformed Agreement (i.e. the JWA with the track-changed amendments in line with the Deed of Variation), the Deed of Variation excluding the Conformed Agreement is attached at [Appendix A](#), with a complete copy of the Deed of Variation including the Conformed Agreement being available in the Members Room for consideration.

## **Resource Implications (Financial and Employment)**

14. The implications are contained in the body of the report.

## **Sustainability and Climate Change Implications**

15. Sustainability and climate change implications have been taken into consideration when drafting the SRS Business plans referenced in this report.

## **Legal Implications (to Include Human Rights Implications)**

16. The Council has a duty to improve under the Local Government (Wales) Measure 2009. The report outlines achievements in 2015/16. It will be necessary to execute the agreed Deed of Variation to the Joint Working Agreement setting out the agreed changes.

## **Crime and Disorder Implications**

17. Crime and disorder implications have been taken into consideration when drafting the Business plans referenced in this report.

## **Equal Opportunities Implications (to include Welsh Language issues)**

18. Equalities issues have been taken into consideration when drafting the Business plans referenced in this report.

## **Corporate/Service Objectives**

19. The SRS Annual report demonstrates the partner Councils commitment to improving social, economic, environmental and cultural well-being and promoting sustainable development in line with the Well-being of Future Generations (Wales) Act 2015. Improving how the Council evidences and reports achievement of its Well-being Outcomes contributes towards promoting well-being.

## **Policy Framework and Budget**

20. This report is a matter for Executive decision by Cabinet and by Council.

## **Consultation (including Ward Member Consultation)**

21. There are no implications for Ward Members resulting from this report.

## **Relevant Scrutiny Committee**

22. Scrutiny is undertaken at each partner council.

## **Background Papers**

The Shared Regulatory Services Business Plans 2015/16 and 2016/17  
The Joint Working Agreement executed on 10th April 2015

## **Contact Officer**

Dave Holland - Head of Shared Regulatory Services

## **Officers Consulted**

Corporate Director, Bridgend Council

Director (Environment), Cardiff Council  
Director of Environment and Housing Services, Vale of Glamorgan  
Legal Services, Bridged, Cardiff and Vale of Glamorgan Council  
Section 151 Officers, Bridgend, Cardiff and the Vale of Glamorgan

**Responsible Officer:**

Miles Punter - Director of Environment and Housing Services