

CABINET

Wednesday, 13 September 2017

SECTION 113 AGREEMENT FOR WAVENEY DISTRICT COUNCIL STAFF ASSISTING LOWESTOFT TOWN COUNCIL AND OULTON BROAD PARISH COUNCIL (REP1679)

EXECUTIVE SUMMARY

1. Section 113 of the Local Government Act 1972 permits a local authority to enter into an agreement to place their staff at the disposal of another local authority, for the purposes of their functions.
2. This report seeks agreement from Cabinet Members, for Waveney District Council (WDC) to enter into s113 agreements with the newly created Lowestoft Town Council (LTC), and Oulton Broad Parish Council (OBPC), so that certain members of Waveney District Council staff may be placed at the disposal of LTC and OBPC to facilitate the transfer of functions, services and assets to the new councils.
3. This support is required to affect the changes already agreed by members, following the decision to create the new councils and transfer assets and services to them made at Full Council on 16th November 2016, and implemented by the making of a Reorganisation Order on 25th January 2017.

Is the report Open or Exempt?	Open
Wards Affected:	All
Cabinet Member:	Councillor Mark Bee, Leader of the Council
Supporting Officer:	Kelly Wigley Project Officer 01502 523213 Kelly.wigley@eastsuffolk.gov.uk

1 INTRODUCTION

- 1.1 During 2016, WDC carried out a Community Governance Review to consider the creation of a new parish/town council(s) in the previously un-parished area of Lowestoft.
- 1.2 The Review began on 24th March 2016, and was concluded on 16th November 2016 with recommendations to create a new town council for Lowestoft and a new parish council for Oulton Broad.
- 1.3 These recommendations were formally approved and implemented through a Reorganisation Order that was made at Full Council on 25th January 2017.

2 IMPLEMENTATION OF THE NEW COUNCILS AND TRANSFER OF ASSETS AND SERVICES

- 2.1 WDC, upon considering the creation of the new councils, gave its commitment to supporting the new councils through the transitional period of their creation and implementation.
- 2.2 In order to create the new councils and to transfer the assets and services identified in the Reorganisation Order, the new councils require the support of WDC staff to fulfil certain functions, and provide certain information and services to assist them.
- 2.3 A s113 agreement is required therefore between WDC and LTC, and between WDC and OBPC, in order that staff at WDC will be able to provide assistance, where required, and to support the new councils, facilitating their creation and the transfer of assets and responsibilities. Agreements of this type are in a fairly standard form, and are used, for example, to allow staff employed by either Suffolk Coastal, or Waveney, to work for the other, as part of the Councils partnering arrangements.

3 TERMS OF THE S113 AGREEMENTS

- 3.1 The s113 agreements for LTC and OBPC will be drawn up on terms that protect the Council's interests.
- 3.2 The agreements will be in force until 31st May 2018, at which point continuation of the services will be subject to the consent of both parties. It is anticipated that the vast majority of the support required will have been realised by this date.
- 3.3 The terms of the agreements will provide for staff to be put at the disposal of the new councils to fulfil the duties and assist with the services as set out in the specification. The members of staff that are affected will be consulted.
- 3.4 It is anticipated that some of the following services may be required by LTC and OBPC, and if so, support will be offered under the s113 agreements:
 - 3.4.1 Legal
 - 3.4.2 Finance/accounts
 - 3.4.3 Project Management
 - 3.4.4 Estates/Asset Management
 - 3.4.5 ICT
 - 3.4.6 Communications, press and publicity
 - 3.4.7 Event Management
- 3.5 For the avoidance of doubt, employees employed by WDC in the capacity of Head of Paid Service (Chief Executive), Section 151 Officer or Monitoring Officer shall not (when acting

for WDC in accordance with their statutory duties) be entitled to perform similar services for LTC/OBPC at any time and will be excluded from the terms and operation of the agreement.

4 CONFLICT OF INTEREST

- 4.1 Where a conflict of interest arises from any matter being dealt with by a member of WDC staff acting on behalf of LTC or OBPC, they will not be required to act and will refer the issue to LTC and OBPC accordingly.
- 4.2 In the case of legal matters that existed prior to the transfer of assets and services to LTC/OBPC, where WDC legal services are already advising, , and there is a conflict of interest, then LTC and OBPC will be able to commission their own external legal advice and the costs will be met by WDC. This does not include any new instructions on matters that did not exist prior to the creation of the new councils.

5 INSURANCE

- 5.1 For the purposes of insurance for those staff acting on behalf of LTC or OBPC, the members of staff will be treated by LTC and OBPC as if they were employed by them, and will therefore be covered under the Officials Indemnity Policies of LTC and OBPC.
- 5.2 In the event of a claim being made by a third party in relation to any services provided by WDC staff, the claim would be dealt with through the insurance policy of LTC or OBPC.
- 5.3 In the event of a claim being made, WDC will reimburse LTC/OBPC the full cost of the excess of their policy in relation to each claim.

6 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?

- 6.1 A key part of the vision set out in the East Suffolk Business Plan is 'Enabling Communities'. The creation of the new parishes to serve residents in Lowestoft and Oulton Broad will enable these communities to benefit from dedicated representation for their local area and to have a more direct influence over their local assets and services.
- 6.2 The Community Governance Review for the un-parished area of Lowestoft was a planned action within the East Suffolk Business Plan.
- 6.3 As a result of the Review and the subsequent recommendation to create two new parishes for the Lowestoft area, this support is now required to facilitate the successful creation of the new councils and support the transfer of assets and responsibilities.

7 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 7.1 The support services offered to LTC and OBPC will be provided free of charge, with the exception of the services provided by Estates/Asset Management in relation to the provision of basic compliance/inspections, as set out in a separate specification within the agreement. This work is charged separately as these services are not support services in the set up of the new councils but form actual services which LTC and OBPC will go on to either staff themselves or procure from an alternative external supplier once they have an agreed staffing structure/contract arrangements in place. As such the interim arrangement is for them to procure these services from WDC for a fixed term.

- 7.2 The support services provided will be on an ad-hoc basis as and when support is required, and will be carried out by staff within their normal contracted hours. As such there should be minimal financial impact for WDC.
- 7.3 Additional costs may include any outsourced legal work if there is a conflict of interest and members of WDC's Legal Services Team are unable to act for LTC/OBPC.
- 7.4 The provision of support is required to ensure the successful implementation of the new councils and to deliver the outcome of the Community Governance Review.

8 OTHER OPTIONS CONSIDERED

- 8.1 Do nothing – this option was rejected as it would be likely to jeopardise the successful implementation of the LTC and OBPC.
- 8.2 LTC and OBPC require information to be passed over to them from WDC to enable the transfer of assets, services and responsibilities. This information will not be available from any other source.
- 8.3 The LTC and OBPC require support in understanding current arrangements, setting up new arrangements, and transferring contracts and services.
- 8.4 WDC are committed to ensuring the successful implementation of the new councils, including supporting the councils with any transitional legal and asset related queries
- 8.5 As such, no other options are deemed appropriate in these circumstances

9 REASON FOR RECOMMENDATION

In order to facilitate the successful creation and implementation of LTC and OBPC, it is recommended that WDC enters into a s113 agreement with each of the new councils to enable the sharing of staff to support the new councils.

RECOMMENDATIONS

1. That Cabinet Members give approval for Waveney District Council to enter into an agreement under s113 of the Local Government Act 1972 with Lowestoft Town Council, and Oulton Broad Parish Council on terms that best protect Waveney District Council's interests, and to delegate authority for the Head of Legal and Democratic Services to sign the agreements on behalf of Waveney District Council, in consultation with the Leader of the Council.

BACKGROUND PAPERS

Date	Type	Available From
16th November 2016	Full Council report	<u>East Suffolk website</u>
25th January 2017	Full Council report	<u>East Suffolk website</u>