

## Bath & North East Somerset Council

MEETING:	<b>Cabinet</b>	
MEETING/ DECISION DATE:	<b>16 January 2020</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 3179</b>
TITLE:	<b>Integrated Transport Authority (West of England Combined Authority)</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> <b>N/A</b>		

### **1 THE ISSUE**

- 1.1 The West of England Combined Authority (WECA) Order 2017 transferred to the Combined Authority responsibility for certain public transport functions. This report provides an update on the work to transfer the specified functions from this organisation to WECA.

### **2 RECOMMENDATION**

The Cabinet is asked to;

- 2.1 Approve the transfer to WECA of the staff (and associated costs) to enable the direct delivery by WECA of the four core public transport functions contained in the WECA Order 2017, on the basis that there is no additional cost to this authority or loss of income
- 2.2 Delegate to the Director of Environment authority to progress the transfer arrangements, in consultation with the Cabinet Members for Transport

### **3 THE REPORT**

- 3.1 The WECA Order 2017 transferred to the Combined Authority responsibility for certain transport functions, primarily related to public transport operations including Concessionary Travel, Bus Service Information, Community Transport and Supported Bus Services (as a joint function), but also including responsibility to develop transport policies for its area and to carry out its functions to implement those policies.
- 3.2 For practical reasons the delivery of these functions has remained with the Unitary Authorities (UAs) since the establishment of WECA. However, the WECA Committee on 30th November 2018 agreed that delivery of the public transport functions be carried out

directly by WECA, and that the WECA Director of Infrastructure, in consultation with equivalent Directors from the constituent councils, develop and implement a transition plan.

- 3.3 The Integration Project has made good progress in clarifying how the delivery of these functions should be transferred, including the staff.
- 3.4 The creation of WECA as the Transport Authority for the region is expected to bring the following benefits:
  - Principle of “greater than the sum of the parts” – meaning we can achieve more by combining resources through WECA than as councils working individually
  - Providing a consistent transport offer across administrative boundaries
  - Improved resilience and operational efficiency
  - Stronger negotiating position with transport providers
  - Improved visibility/influence of the region at a national level
  - Greater opportunities to advance sustainability and climate change agendas
  - Access to more capital funding
  - Delivering a regionally prioritised transport investment programme
- 3.5 The Integration project is being led by WECA, with close involvement from the UAs at all levels to ensure the proposals are fit for purpose. It is steered by a Directors Board and guided by a Heads of Service Group. Officers from each UA have been seconded into the Integration project team within WECA to feed their knowledge and expertise into the projects and provide a link back to the technical teams within each UA.
- 3.6 Technical Working Groups have been established, including representatives from each of the UA Public Transport Teams, to provide input into the detail of the proposal, around existing and future working arrangements.
- 3.7 Working Groups with representatives from each UA have also been established for HR, Communications, ICT, Legal and Finance work streams.
- 3.8 The integrated team will be incorporated within the Infrastructure Directorate at WECA. The WECA Transport Board, comprising transport members from the UAs plus the WECA Mayor, will provide guidance to the WECA Committee on any transport related matters.
- 3.9 The WECA Committee will agree the allocation of the Transport Levy as part of approving the annual WECA budget. This decision is subject to a unanimous vote in accordance with the WECA Constitution.
- 3.10 An overarching operating agreement between WECA and the UAs will be established with the Directors Board, setting out how the integrated WECA team will work with and support teams remaining in the UAs, the senior managers and local Councillors. More detailed protocols will define the working arrangements at a technical level, clarifying responsibilities, lines of communication and prioritisation.

## 4 STATUTORY CONSIDERATIONS

- 4.1 The WECA Order 2017 states that the following are exercisable by the Combined Authority in relation to the area:
- a. The functions of the constituent councils specified in Part 4 (local passenger transport services) and Part 5 (financial provisions) of the Transport Act 1985: and
  - b. The functions of the constituent councils as local transport authorities specified in Part 2 (local transport) of the 2000 Act.
- 4.2 The first set of legislative functions grouped under (a) have been translated into the WECA constitution which specifically highlights the following functions: Concessionary Travel; Bus service information (including Real Time Information); Community Transport; and a joint responsibility, with the constituent councils, for Supported Bus provision. Joint responsibility means that individual Unitary Authorities must make a decision independently of the Combined Authority in line with their own constitutions.
- 4.3 A full list of contracts related to transferring functions has been established by the project team. WECA has employed legal advisors to assess the changes required to novate, or otherwise transfer, these contracts as part of the integration. Following this decision WECA will work with the UAs' legal representatives to make the necessary arrangements.
- 4.4 The transfer of the public transport functions to WECA is a 'Service Provision Change' and as such the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) applies. The staff assigned to the core functions, and/or related activities, would transfer to WECA under TUPE regulations, which aim to protect employees if the business they work for changes hands. An HR work stream has been established, comprising Senior HR Officers from WECA and the UAs. The requirements of the TUPE Regulations have been followed and implemented. There are 3.5 FTE posts in scope to transfer to the ITA. The council would retain a part time vacant post to deliver the retained functions.
- 4.5 The public sector equality duty created under the Equality Act 2010 means that public authorities must have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the Act
  - Advance equality of opportunity between people who share a protected characteristic and those who do not
  - Foster good relations between people who share a protected characteristic and those who do not
- 4.6 The Act explains that having due regard for advancing equality involves:
- Removing or minimising disadvantages suffered by people due to their protected characteristics.
  - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
  - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low

- 4.7 The general equality duty therefore requires organisations to consider how they could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected in the design of policies and the delivery of services, including policies, and for these issues to be kept under review.
- 4.8 Bath and North East Somerset Council proactively and routinely monitors the impact of changes to workforce numbers and organisational structures with regard to protected characteristic groups. Annual summary data is examined for wider and longer-term trends and to identify any potential mitigating action required at a strategic policy level. The Council publishes an annual report of equalities issues as well as a more detailed annual report on equalities in employment.
- 4.9 The Council's Organisational Change Procedure and, in particular, TUPE Procedure which have been equality impact assessed will be followed throughout the formal consultation and service implementation process to ensure no disproportionate impact for any 'protected characteristic' group. HR monitors equality related information in respect of staff.
- 4.10 Any TUPE exercise will not result in posts being deleted or fundamentally changed nor will it see there being any change to, in particular, contractual terms and conditions of employment of those staff affected, i.e. in accordance with the TUPE regulations

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 There are 3.5 posts in scope for transfer and the council is retaining one part time post.

A finance working group has been established including finance officers from each of the UAs and WECA. This group is working to establish the adjustments required to the Transport Levy to reflect the transfer of staff and resources. The approval of the adjustments to the transport levy for 2020/21 will form part of the annual budget setting process. The costs to be transferred to WECA as a result of the creation of the ITA that will be levied back to the Council are detailed below:

<b>Item</b>	<b>£</b>
Staff	158,704
Non-Staff	39,968
Contracts (supported bus)	663,208
<b>Total</b>	<b>861,880</b>

- 5.2 The 2018 WECA Committee Report stated one of the reasons for transfer as "no additional costs will be incurred by the constituent councils as a result of any transfer and, where appropriate, efficiencies will be realised" (section 8, f.).
- 5.3 All existing supported bus service contracts will run their course. It is anticipated that, as is currently the case, there will be some yearly fluctuations in the actual costs of running the functions due to the unpredictability of Concessionary Fares take-up. The base budget for 2020/21 will be reviewed by the Director of Investment and Corporate Services (WECA) in consultation with the Unitary Authority Section 151 Officers.
- 5.4 Park and Ride services, including discussions on the division of roles and responsibilities (post April 2020), the nature of support through the ITA, form part of on-going discussions with WECA personnel.

## **6 RISK MANAGEMENT**

6.1 The risk register relating to this project is held by WECA. The Director Project Governance Board reviews the risk register and mitigation measures on a regular basis. Our risk assessment indicates that the following represent the key risks:

- Ability to maintain continuity of service to the public as the functions are transferred
- Insufficient resources are transferred to maintain the existing level of service
- Systems and equipment do not work in a new location or with new operating systems; and
- Local knowledge and experience is lost following the transfer of functions.

6.2 To mitigate these risks the project has established a technical group to consider in detail how the delivery of functions will happen following the transition. The group includes representatives from each UA with experience of the day to day operation of the current functions. As referred to above, the overarching operating agreement between WECA and the UAs will help manage the relationships between WECA and the UAs whilst more detailed protocols will define the working arrangements at a technical level.

## **7 CLIMATE CHANGE**

7.1 The integration of the public transport functions is expected to provide a stronger negotiating position with transport providers, advancing the agenda around environmental issues such as carbon emissions and local air quality. In addition, the delivery of public transport services by a single authority is expected to result in an improved service to the public (through cross-boundary consistency and increased negotiating powers), further encouraging the use of public transport.

## **8 OTHER OPTIONS CONSIDERED**

8.1 Transfer of concessionary pass eligibility assessment and pass printing/issuing. These services are delivered by the UAs via a combination of customer services, administration/business support and revenues & benefits teams with a variety of application processes including online. WECA does not currently have an equivalent Customer Service facility and is unlikely to be able to provide this in the near future. Whilst online applications could be encouraged it is unlikely that the customer group can be entirely moved to online services in the short term. Regardless, the online application process requires standardisation for use at a regional level. It is therefore considered that this activity would best remain within the UAs, at present, whilst the integrated team considers the appropriateness and practicality of standardising processes.

## **9 CONSULTATION**

9.1 Staff were given an initial briefing on the project in August 2019. An update has been provided to them in October/November 2019 setting out the progress of the project. The formal TUPE consultation process in January/February will confirm which staff will transfer to WECA and provide an opportunity to discuss personal issues. The implementation date being 1 April 2020. Further work will be undertaken, as part of Phase 2 of this project, to determine whether there is a business case to transfer additional functions in to the ITA. Statutory Officers and the Cabinet Members for Transport will be fully engaged in the scoping and development of any Phase 2 proposals.

9.2 Bus operators were given an overview of the project at the West of England Bus Operators Association (WEBOA) meeting on 11th September.

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<b>Background papers</b>	Background information on the development of the Integrated Transport Authority (ITA) can be found in the WECA Committee Paper – Transport Functions (30 November 2018), please see the link below:  <a href="https://westofengland-ca.moderngov.co.uk/documents/s689/13%20-%20WECA%20ITA%20Functions%20paper%2030%20Nov%20final%2019%20Nov.pdf">https://westofengland-ca.moderngov.co.uk/documents/s689/13%20-%20WECA%20ITA%20Functions%20paper%2030%20Nov%20final%2019%20Nov.pdf</a>
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