

Communities, Housing & Environment Committee

22 February 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Single Employing Authority for Mid Kent Environmental Health Service

Final Decision-Maker	Communities, Housing and Environment Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Tracey Beattie – Mid Kent Environmental Health Manager
Classification	Public
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That staff within the Mid Kent Environmental Health Service move to a single employing authority from 1 June 2017.
2. That Tunbridge Wells BC becomes the single employing authority for Mid Kent Environmental Health.
3. That delegated authority be given to the Director of Regeneration and Place in consultation with the Chairman of the Communities, Housing and Environment Committee to finalise the arrangement and sign any documents necessary to implement the decision.

This report relates to the following corporate priorities:

- **Keeping Maidstone Borough an attractive place for all** - protecting the public through the wider determinants of health through pollution prevention control, air quality, contaminated land, food safety and health and safety.
- **Securing a successful economy for Maidstone Borough** - by providing a wide ranging and highly skilled professional workforce to provide business with advice, guidance and appropriate enforcement proportionate to risk.

Timetable

Meeting	Date
Communities, Housing and Environment Committee	22 February 2017

Single Employing Authority for Mid Kent Environmental Health Service

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report proposes the introduction of a single employing authority for staff within the Mid Kent Environmental Health (MKEH) service from 1 June 2017 and recommends that Tunbridge Wells Borough Council becomes the single employing authority.
- 1.2 Since MKEH has been formed it has become clear that adopting a single employer would help with the management and development of the service. A single employer provides equality, fairness and consistency of terms and conditions across the service for officers.
- 1.3 Of the options available, adopting Tunbridge Wells as the single employer will see a greater proportion of existing staff opting to move to TW terms and conditions compared to the other authorities and consequently a more consistent approach for HR and H&S processes for officers within the service.
- 1.4 Adopting Tunbridge Wells as the single employing authority for Mid Kent Environmental Health provides an opportunity to spread employment and financial risk amongst all three authorities for the range of shared services.
- 1.5 The proposal does not change the way in which the service is delivered through the two site model. Nor is the structure being changed significantly as the current arrangement has delivered the expected benefits and worked to the advantage of each authority. Hence any consolidation to a single employer would be via a TUPE transfer (Transfer of Undertakings (Protection of Employment) Regulations) arrangement.
- 1.6 This would mean that all MKEH staff will become the employees of Tunbridge Wells BC, but be given the opportunity to choose to transfer to the Tunbridge Wells' terms and conditions or remain with their existing terms and conditions. Going forward, all new staff appointments will join on Tunbridge Wells' terms and conditions.
- 1.7 Through a reduction in staff costs which are already planned, the move to Tunbridge Wells BC as the single employing authority can be achieved without any net increase in cost to the three authorities.

2. INTRODUCTION AND BACKGROUND

- 2.1 The Tri-Cabinet recommendation made on 12 June 2013 was that "Environmental Health Services be approved for a shared service amongst Maidstone, Swale and Tunbridge Wells Borough Councils; that an Interim Shared Environmental Health Manager be appointed to develop the shared service; that a two site model be approved with the stipulation that Maidstone be treated as a single territory for the delivery of its food and

commercial premises inspections; and that the final operational model of the service, be delegated to the portfolio holders for Environmental Health at each authority”.

- 2.2 The business case for the shared service centred on providing resilience, quality, and efficiencies within the current service costs. The decision to use a single authority as the employing authority was not taken at this time.
- 2.3 As a result, the Mid Kent Environmental Health service (MKEH) was established and went live in June 2014. It operates from two sites - the Sittingbourne and Tunbridge Wells’ offices. The organisational arrangements of the service are detailed in appendix A.
- 2.4 The MKEH service has provided resilience for the three organisations through its ability to deliver frontline statutory services in the face of long term sickness absence, recruitment and retention gaps, whilst dealing with a number of significant and complex legal cases. Officers have been able to work across each authority and, crucially, support each other during these periods, sharing expertise and providing cover to continue the delivery of the day to day service.
- 2.5 However, the future of local government in the medium and long term pose considerable challenges, with central government reviewing how regulatory services are delivered and a thirst to reduce red tape and the impact of regulatory service on the business sector. MKEH therefore needs to be in a strong position to address these changes and moving to a single employing authority for officers will provide a robust platform from which to meet them as well as the flexibility to enhance the service and deliver further efficiencies.
- 2.6 All the other shared services within MKS have either been established as a single employer or migrated to one within two to three years of being established; Audit, ICT, Planning Support and HR to Maidstone BC, Legal to Swale BC. Revenues and Benefits have a strategy to move employment to Maidstone through a mechanism that whenever there are leavers in the service they are recruited on Maidstone terms and conditions, irrespective of which site they are based at. It should also be noted that the rationale for such changes has not always been financial savings. The creation of some of the MKS shared service single employer arrangements have been made for operational purposes.
- 2.7 Within MKS, the spread of shared services lean towards Maidstone, which has to date taken most of the responsibility for the Mid Kent Improvement Partnership employee liabilities, financial risk, and HR burden.
- 2.8 There will also be an initial increase in cost due to changes in terms and conditions and the protection that TUPE provides officers moving to another employer. The MKEH Collaboration agreement provides a formula of splitting the cost of the service based on service delivery and demands, the changes in costs are summarised in the following table and paragraph.

2.9 The changes in costs are summarised in the following table and represent the total additional cost to the Partnership over present costs for three years:

Table 1: Summary of Comparative Costs Changes for MKEH based on each authority acting as Single Employer over the period 2016/17 to 2018/19

Single Employer Authority	2016/17	2017/18	2018/19	Total across partnership
TWBC	23,140	17,850	18,490	59,480
MBC	-1,180	-430	400	-1,210
SBC	6,440	13,250	26,240	45,930

2.10 The figures above for Maidstone BC becoming the single employer reflect a situation where there is no movement of staff from Swale BC and Tunbridge Wells BC to Maidstone terms and conditions.

2.11 If Swale were to become the single employer, the costs are lower overall than for Tunbridge Wells due to fewer employees likely to transfer to Swale BC under TUPE.

2.12 However, neither option achieves the important aim of spreading the MKS employee liabilities, financial risk and HR burden as evenly across all three authorities as the option for Tunbridge Wells to become the single employer does.

2.13 In this scenario, the average annual increase in budget for all three councils as a result of moving to Tunbridge Wells as the single employer is £19,800 allocated as; Maidstone BC: £6,300, Swale BC £5,800, Tunbridge Wells BC: £7,700.

2.14 In the proposals set out below, this increase will be offset through the reduction in establishment (deletion of a composite of nearly 1 FTE) that results in annual savings of £22,000. As such, there will be no increase in cost for any of the authorities as a result of the move.

2.15 The changes between 2017/18 and 2018/19 are not additional costs but total costs above the current base budget for these years. For Tunbridge Wells as single employer year increase is £640 between 17/18 and 18/19, for Maidstone £830, and Swale £12,990.

3. AVAILABLE OPTIONS

3.1 Option 1: That the officers within Mid Kent Environmental Health move to a single employing authority from 1 June 2017; that Tunbridge Wells Borough Council be the single employing authority; and that the Swale and Maidstone Environmental Health staff will choose to move to the Tunbridge Wells BC terms and conditions, subject to consultation and agreement. The

date for transfer will allow TUPE, financial and HR processes to be undertaken.

Although not the lowest cost option the proposal does provide the best risk management benefits to the MKS partnership by spreading the risk across the three authorities and the cost will be met through current vacancies.

Given that TUPE will apply to the transfer of officers to any single employer, Tunbridge Wells presents the option that many officers will find preferable and therefore the option which is likely to see more officers choosing to transfer from their current employer under TUPE agreement. This will enable management to have a greater level of consistency across the service and progress the service aims identified in the Collaboration agreement for Environmental Health.

- 3.2 Option 2: That the MKEH officers move to Maidstone Borough Council as the single employing authority. Whilst this option provides the lowest financial cost to the shared service this option is not recommended as it reinforces the position of Maidstone BC taking virtually all the financial and employment responsibility and risks within MKS.
- 3.3 Option 3: That MKEH officers move to Swale BC as the single employing authority. Whilst this option provides some further spread of financial and employment risk within MKS than Option 2, this option is not recommended as it also does not spread that responsibility and risk to include Tunbridge Wells BC and it does so at a higher cost than for Maidstone BC lone.
- 3.4 Option 4: Establish one council, Tunbridge Wells as the single employing authority for all new staff recruited to MKEH, making no changes to the employing authority arrangements for existing staff. This option is not recommended as this would be a slow process of movement to the new authority and likely to take considerable time to achieve a single employer for the service.
- 3.5 Based on 2016/17 the service has seen two vacant posts occur and current employee posts across the service stands at 38. This will not therefore provide level of simplification of the management and financial processes desired as quickly as option 1 or options 2 and 3.
- 3.6 Option 5: Make no change to the employing authority of officers and continue the service as it is. This option is not recommended as it fails to address the issue of overall employment and financial risk within MKS, provide management efficiencies or address inequalities of salary between officers carrying out the same work within the one service.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option 1, that officers within Mid Kent Environmental Health move to a single employer from 1 June 2017; Tunbridge Wells Borough Council be the single employing authority, and that the Swale and Maidstone Environmental Health staff will be given the opportunity under TUPE to choose whether to move to the Tunbridge Wells BC terms and

conditions, subject to consultation and agreement. The proposed date for transfer will allow for TUPE, financial and HR processes to be undertaken.

- 4.2 Given that TUPE applies to the transfer of officers to any single employer, Tunbridge Wells BC presents the option that many officers will find preferable, and therefore the option which is likely to see more officers choosing to transfer from their current employer under TUPE agreement. This will enable management to have a greater level of consistency across the service, and progress the service aims identified in the Collaboration Agreement for MKEH.
 - 4.3 Although not the lowest cost option, the proposal does provide the best risk management benefits to the MKS Partnership by spreading the employee liabilities, financial risk, and HR burden across the three authorities. Plans are already in place for any increase in cost to be met through a reduction in staffing
-

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 MKEH employees are aware that consideration is being given to move to a single employing authority and are aware that a formal consultation process on the implications will be held following a decision at the co-located meeting.
 - 5.2 The MKEH Manager has met with senior management at each of the three authorities to discuss the underlying organisational, management and risk mitigation reasons for the proposed single employing authority. This report reflects the useful advice and feedback provided in those meetings.
-

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Subject to the agreement of recommendations through the three Councils decision making bodies, staff will be informed of the latest position, and the proposals will be formally presented to them through the well established consultation policies and processes in each authority, with a view to the new arrangements being in place on 1 June 2017.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	There is an existing collaboration agreement covering the service which can be varied, subject to sign off by the Shared Service Board. Legal will work with the Head of Service to finalise the variation to that collaboration agreement to reflect the decisions in this report.	Estelle Culligan, Interim Head of Legal Partnership
Finance and other resources	The average annual increase in budget for all three councils as a result of moving to Tunbridge Wells as a single employer is £19,800 allocated as: SBC £5,800; MBC: £6,300; TWBC: £7,700	Mark Green, Director of Finance and Business Improvement
Staffing establishment	There would be changes for staff as a result of this proposed transfer, in terms of management processes. Staff would be offered the opportunity to transfer to Tunbridge Wells' terms and conditions, but could opt to retain Maidstone or Swale terms and conditions if they prefer, which would mean additional work for HR and Payroll teams to manage those differences, but this could be managed within current resources.	Mark Green, Head of Finance and Business Improvement
Risk management	Operational risks will be reduced by transferring MKEH employees to one employer and with TWBC as the single employer it will assist in sharing risks across the MKIP	Tracey Beattie Mid Kent Environmental Health Manager
Environment and sustainability	None identified at this stage	Tracey Beattie Mid Kent Environmental Health Manager
Community safety	None identified at this stage	Tracey Beattie Mid Kent Environmental Health Manager
Health and Safety	The management of health and safety across the service will be simplified and a single consistent set of policies and procedures will be applied providing clarity for staff and managers.	Tracey Beattie Mid Kent Environmental Health Manager
Health and wellbeing	None identified at this stage	Tracey Beattie Mid Kent Environmental

		Health Manager
Equalities	None identified at this stage	Tracey Beattie Mid Kent Environmental Health Manager

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: **Supplementary information for Single Employing Authority Proposal for Mid Kent Environmental Health**

9. BACKGROUND PAPERS

Minutes of Tri-Cabinet Meeting of Maidstone BC Swale BC and Tunbridge Wells BC Wednesday, 12th June, 2013:

<https://services.maidstone.gov.uk/meetings/ieListDocuments.aspx?CId=146&MId=1924&Ver=4>