

1. Delegation to Devon City Council

Background

1.1 On 15th September 2020 Cabinet agreed the following:

“For Plymouth to enter into a joint Trading Standards Service with Devon, Somerset and Torbay subject to; the satisfactory conclusion of negotiations in relation to the legal agreement on the principles contained in the business case/cabinet report, a report authorising the detailed governance arrangements and any necessary proposed amendments to the constitution. The Director for Public Health is authorised to conclude the terms of the legal agreement.”

1.2 Devon County Council is currently the lead and employing authority of a joint service for Devon, Somerset and Torbay local authorities and the model has proved effective and efficient in the view of the participating authorities.

1.3 Plymouth City Council Trading Standards will join and create an extended Joint Service covering the Heart of the South West area. A single service will be formed through partnership to cover the local authority areas of Devon, Somerset, Torbay and Plymouth. It is proposed that the new service is called the ‘Heart of the South West Trading Standards Service’.

1.4 Plymouth’s nine staff in its Trading Standards Service will TUPE transfer to Devon County Council. The formal TUPE consultation process has started.

1.5 It is proposed that the Joint Service will begin operating from 1st April 2021.

2. Delegation

2.1 In order for the Joint Service to be able to operate in Plymouth and carry out investigations and prosecutions, and deliver a range of Trading Standards Services, Plymouth’s Trading

Standards functions need to be delegated to Devon County Council. Plymouth City Council will retain the ability to enforce relevant legislation post-merger.

- 2.2 It is proposed that this delegation will take effect from 1st April 2021 and remain in place for the duration of the Legal Agreement forming the Joint Service. At present the agreement stipulates this to be ten years although there is provision for parties to terminate earlier.

3. Legal Considerations

- 3.1 It is necessary to formally delegate Trading Standards functions to Devon County Council under Section 13 and 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000. This needs to be done by making an amendment to the Leaders Scheme of Delegation.
- 3.2 The proposed wording of the amendment is as set out in Appendix A
- 3.2 Any future Trading Standards prosecutions will be undertaken by Devon County Council with no liability for costs to Plymouth City Council.

4. Delegation to Executive of Birmingham City Council

- 4.1 The delegation to the Executive of Birmingham City Council of the power to discharge the functions and enforcement part 3 of the Consumer Credit Act 1974 to carry out enforcement of illegal money lending is no longer required as this legislation has been repealed so the reference to this in paragraph 8 of the Leaders Scheme of Delegation should be deleted.

5. Recommendations

- 5.1 To approve the governance arrangements in relation to the trading standards joint service in line with the recommendation from cabinet dated 15 September 2020 and as a consequence request the Leader to -
- 5.2 Amend the Leader's Scheme of Delegation to delegate to Devon County Council the ability to undertake Trading Standards functions on behalf of Plymouth City Council as part of the

“Heart of the South West Trading Standards Service”, effective from 1 April 2021 and remaining in place for the duration of the legal agreement

- 5.3 Amend the Leader’s Scheme of Delegation to delete the delegation to the Executive of Birmingham City Council, as this is no longer required

APPENDIX A

WORDING FOR ADDITION TO LEADERS SCHEME OF DELEGATION:

Delegation to Devon County Council for Heart of the South West Trading Standards Service

Plymouth City Council has entered into an agreement with Devon County Council for them to become the lead and employing authority of a joint Trading Standards Service for Devon County Council, Somerset City Council, Torbay City Council and Plymouth City Council, known as ‘Heart of the South West Trading Standards Service’.

To facilitate this the Leader has delegated to Devon County Council the executive functions and powers calculated to facilitate, incidental to or conducive to the discharge of the functions outlined in the joint agreement to carry out the Trading Standards Service on behalf of Plymouth City Council