

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

26 JANUARY 2011

JOINT REPORT OF HEAD OF TECHNICAL AND PROCUREMENT SERVICES, HEAD OF FINANCIAL SERVICES AND HEAD OF HUMAN RESOURCES AND CUSTOMER SERVICES

A.6 PROPOSALS FOR REVISED ARRANGEMENTS FOR THE PROVISION OF ON AND OFF STREET CAR PARKING

(Report prepared by John Ryan, Karen Neath and Carol Schleip)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Members to determine revised arrangements for the provision of both on and off street car parking administration following the termination of the existing agency arrangement with Essex County Council (ECC) on 31 March 2011.

EXECUTIVE SUMMARY

On Street Car Parking Enforcement

- On Street Car Parking enforcement is an Essex County Council (ECC) function which, in the Tendring District, has been carried out by Tendring District Council (TDC) on behalf of ECC since October 2004 under an agency agreement.
- With effect from 1 April 2011 ECC has terminated the agency agreement with TDC and with all other District and Borough Councils.
- ECC now proposes to enter into an agreement with two lead authorities (Colchester and Chelmsford) to provide the service across the county on its behalf.
- Colchester Borough Council will be the lead authority for the Partnership for the North of Essex providing the service across Tendring, Colchester, Braintree, Uttlesford, Epping and Harlow.
- Each of these Councils has been requested to join the Partnership which would mean them being members of the Joint Committee which will govern the Partnership.
- Membership would allow TDC to continue to have some influence over on street parking policy in Tendring through a place on the Joint Committee although decisions would be through a majority vote with the Lead Authority having the casting vote.
- Membership would also mean that any surpluses or deficits incurred by the Partnership after 2 years would fall on the Partnership – with a proportion on Tendring. (NB – the deficit for Tendring in 2009/10 was £295,768.)
- TDC can determine not to join but in that case ECC would ask the Partnership to deliver parking enforcement within the Tendring District. In that case TDC would not have a place on the Joint Committee and would therefore bear no financial risk but would also have no influence on local parking policy other than as a statutory consultee.
- There is no option to continue with the current arrangements. TDC must either determine to sign up to the Partnership or not.
- ECC has indicated that they will bear the costs of establishing the Partnership

(including any redundancy costs) and have indicated verbally that they will underwrite any acceptable deficits incurred by the two Partnerships in the first two years.

- The general terms of the proposed Partnership Agreement are set out in this report but the final detail is still being negotiated and finally determined.
- Staff will transfer (in accordance with the TUPE regulations) from TDC to ECC on 1 April and they have been notified of this.
- Members need to decide whether they wish to join the Partnership in principle and, if so, to delegate to the Heads of Technical and Procurement, Financial and Legal Services in consultation with Executive Leader the power to agree the final terms and sign the agreement.

Off Street Car Parking

- Off Street Car Parking is a TDC function and operates at a surplus.
- It is for TDC to determine how to deliver its off street function but, if TDC were to join the Partnership in respect of on street parking, there is an opportunity for the Partnership to provide the off street function as well.
- Otherwise off street parking would be retained by TDC with a small team employed to deliver this.

RECOMMENDATION(S)

(a) That Members determine, in principle, whether to enter into the arrangements that will be put forward by Colchester Borough Council for a Parking Partnership Joint Agreement.

(b) That, subject to (a) and in view of the proposed effective date of implementation of the agreement of 1st April 2011, authority be delegated to the Heads of Technical and Procurement Services, Financial Services and Legal Services in consultation with the Executive Leader to agree the terms and conditions of the final agreement.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

On and off street car parking policies and practices have implications for some of the Councils key priorities in that parking can be used to encourage regeneration and promote economic growth. They are also important to the tourist industry and contribute to providing a quality environment for residents.

The way in which the policies are delivered (i.e. who employs the staff and manages on a day to day basis) is less significant and can be done either directly or through a joint arrangement.

At the present time the Council has an Off Street Parking Strategy which is due for renewal in 2011. It does not have a written strategy for on street parking. An integrated Parking Strategy covering both on and off street parking which reflects the specific needs of the various parts of the District would be of great benefit to the Council regardless of the delivery mechanism selected. It would allow Members to agree their overall vision for parking within the district and set a framework for contribution to debate on parking and

dovetail into whatever operational arrangements are agreed.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The 2011/12 budget for on and off street parking is as follows:-

	Direct Costs £	Direct Income £	Reimbursement from ECC	Net Direct Costs £	Support Costs £	Total Net Cost £
On Street	547,350	(287,360)	(184,570)	75,420	103,030	178,450
Off Street	472,620	(797,590)	-	(324,970)	119,870	(205,100)
Total	1,019,970	(1,084,950)	(184,570)	(249,550)	222,900	(26,650)

Although budgets for both on and off street parking for 2011/12 will need to be amended to reflect the new arrangements once agreed they provide a basis for understanding the current costs of the service and would be the starting point against which any changes would be measured to determine the overall impact on the Council's budget position.

Since TDC took on the function of on street parking enforcement from October 2004 the on street account has operated at a deficit. The agency arrangement was agreed with ECC on the basis that TDC met the first £20,000 of the deficit with the remaining deficit being reimbursed by ECC. The last settled deficit claim by ECC was for 2009/10 and was for £295,768 (subject to audit).

Following concerns raised by ECC on the growing level of the deficit on the on street account, the base budget, since 2006/07, has been prepared to provide for the eventuality that the net deficit is not fully reimbursed by ECC. Up to and including 2009/10 the full deficit sum has been reimbursed (subject to audit). This approach to budgeting means that the ending of the agency arrangements will have a reduced impact on TDC's overall budget.

The ending of the agency arrangement will mean that the direct costs and income associated with on street parking will need to be removed from the budget. Although some overheads may also reduce as a result of the function transferring to the partnership e.g. cash collection, the majority of support costs are fixed and will therefore remain with the council. The level of fixed costs currently charged to on street parking and to be retained is around £103,000. If these costs are retained by the Council they will be subject to review and reduction as a part of the planned Fundamental Service Review programme to be carried out from June 2011.

As the prospective lead authority for the proposed North Partnership, Colchester Borough Council has produced a business case to support the viability of this partnership. The proposal is that there will be a single partnership account rather than individual accounts for each constituent authority. Both partnerships will be established afresh with no financial deficit or liability carried over from the current arrangements. In addition, in order that the two partnerships have time to get established, to embed new ways of working and deliver efficiencies, ECC has stated that it will fund the deficit on the partnership parking account in year one with an undertaking to fund an acceptable deficit in year 2. Beyond 2012/13 the partnerships must be self financing or in surplus or any deficit must be borne by the

partner authorities. The business case must therefore demonstrate that the partnership can move out of deficit by 2013/14. In year one, sizeable efficiencies are anticipated from combining the front and, in particular, the back office on street functions of the constituent partner authorities and by substantially reducing staff numbers at back office and management level. Although no additional income is anticipated in year one, a key premise of the viability of the business case is that additional income will be achieved in future years so that the partnership can move to a surplus position by 2013/14. Clarity is awaited from ECC on the funding that may be available to meet the cost of order making and signing and lining which is fundamental to the ability to raise additional income. These costs are not reflected in the business plan and may be significant. It is anticipated that funding from ECC will initially be available towards this cost and that in future years the costs can be met from the anticipated surplus.

The net cost of the partnership in 2011/12 (as projected in the Colchester Borough Council Business Plan) is estimated to be around £200,000 which would be met by ECC. ECC would also meet implementation costs related to the setting up of the partnership and any redundancy and pension strain costs arising from establishing the new structure.

The business case projections show that the partnership can operate in a surplus position but this is dependent on efficiencies in costs being achieved and additional income being generated. The merging of multiple staffing, management and administration arrangements will provide the opportunity to streamline operations to ensure that the required efficiencies can be achieved. In relation to income generation, TDC will need to play its part in meeting the partnership income targets and this will most likely mean both an increase in existing permit charges and the introduction of additional on street charging.

The business case as prepared by Colchester Borough Council is attached at Appendix A. The figures are indicative based on the latest information available but may change as further details are finalised.

From the figures available, it is anticipated that transferring on street parking to the partnership, if agreed, together with the provision of off street parking, either in-house or through the partnership, would not result in any additional cost to the council's budget.

Risk

The success of the Partnership is reliant on the robustness of the business case and the ability for the Partnership to operate in surplus from 2013/14 onwards. Although the business case does show a surplus from 2013/14 there is a risk that the assumptions within the business case are not borne out and that there is a deficit position that needs to be met by the partner authorities. In order to mitigate this risk there will need to be robust income targets and there will be greater pressure for all authorities including TDC to increase on street charging. However, this leads to a further risk that proposals for increased charging are likely to be a locally contentious issue.

Although not joining up to the Partnership would alleviate the risk of TDC being required to contribute to a deficit it would also mean that TDC would have no position on the Joint Committee and would therefore have no influence over policy and income setting other than through required consultation.

The detailed Partnership and governance arrangements agreement has not yet been finalised but the principles are set out in the body of the report.

To take advantage of the partnership each district will have to sign up to the agreement.

The process of being part of the partnership and therefore influencing decisions on whether to implement on street restrictions is separate from the statutory process. Even if not a member of the partnership Districts will remain statutory consultees under the Traffic Regulation Order process.

The Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)) known as TUPE, are the [United Kingdom's](#) implementation of the [European Union Acquired Rights Directive](#), and is the main piece of legislation governing the transfer of an undertaking, or part of one, to another. It is an important part of [UK labour law](#), protecting employees whose business is being transferred to another business.

The regulations are designed to protect the rights of employees in a transfer situation enabling them to enjoy the same terms and conditions, with continuity of employment, as formerly.

The regulations' main aims are to ensure that,

- + just because of the transfer, employees are not dismissed before or after (unless there is an 'economic, technical or organisational reason, r 7(1)(b))
- + employees' most important terms and conditions of contracts are not worsened before or after the transfer (unless there is an 'economic, technical or organisational reason, r 4(4)(b))
- + affected employees are informed and consulted through representatives

TUPE 2006 applies to all relevant transfers including service provision changes where services are outsourced, 'insourced' or assigned to a new contractor, for example in labour-intensive services such as office cleaning, catering, security and refuse collection.

Essex County Council (ECC) is responsible for the enforcement of on-street parking restrictions (Civil Parking Enforcement) under the Traffic Management Act (2004).

The TUPE transfer will apply to Substantive Posts, the agreement with ECC is that 70% would be considered the substantive split, therefore any post where 70%+ of the work was on-street Civil Parking Enforcement (CPE) work then this would be subject to the TUPE transfer.

Currently all existing staff work on both on and off street parking, ECC provides 79.5 % funding to Parking Services for the CPE element of its work, therefore all staff within Parking Services will be subject to the TUPE transfer on 1 April 2011.

OTHER IMPLICATIONS

All wards are affected.

The new arrangements will have influence on the approach taken to dealing with Crime and Disorder / Equality and Diversity / Health Inequalities issues.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Since October 2004 TDC have, by agreement, discharged the functions relating to on

street enforcement of parking on behalf of Essex County Council. In accordance with the agreement ECC have reimbursed the cost of running this service. ECC also reached similar agreements with all the other district and borough authorities in Essex, although the terms and conditions of these other agreements were all somewhat different.

Over the years since 2004 it has emerged that there has been a large and growing deficit in on street parking accounts across the County. In order to deal with this issue ECC gave 2 years notice of the termination of the existing legal agreements and this notice is due to expire at the 1st April 2011. During the notice period ECC has been gathering information on the services in each of the authorities and considering what arrangements to put in place as from 1st April 2011.

Progress has been very slow and by June 2010 ECC had still not reached a conclusion as to the way forward. At that point ECC commissioned 'Blue Marble' from the Improvement East Solution Centre to look at the issues. They set up a group with representatives from each authority with the intention of coming up with a solution in a managed and structured way. The group held 10 sessions to develop a recommended solution to the issues identified

CURRENT POSITION

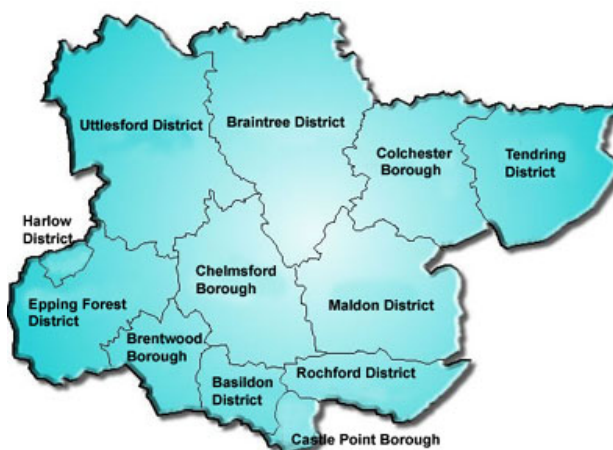
The summary solution provided is that two parking Partnerships are proposed:

Group 1

Colchester
Braintree
Uttlesford
Tendring DC
Epping Forest
Harlow

Group 2

Brentwood
Basildon
Chelmsford
Castle Point
Maldon
Rochford



It is proposed that each partnership will be owned by the district/borough councils. Each will have an operation manager and management team, back office and a number of geographically based enforcement teams.

Method of Working

- The current district and borough on street parking operations would be transferred into these two strategic partnerships run and owned by the district and boroughs.
- There would be one lead authority running centralised back office and support offices.
- There would be a partnership agreement and plan and there would be a Partnership Board.
- Each Local Authority that agrees to be part of the partnership will retain influence on parking policy and decisions.
- There will be an opportunity to buy in a service to run district off street parking from the partnership.

ECC took these proposals to the December 2010 meeting of the Leaders and Chief

Executives Group and it was agreed that the ideas should be pursued using the Partnership model based on two geographical areas, one for the north of the County and one for the south.

Colchester Borough Council has been invited by ECC to be the lead authority for the north of Essex and has commenced negotiations with Essex County Council to agree a Strategic Commissioning Agreement. The Agreement will be for 7 years, with an option to extend for a further 4 years.

Following this agreement it is proposed that a Partnership Agreement will be prepared by Colchester to be signed by all the participating Borough and District authorities. This agreement will detail the arrangements of the service and set out each partner authorities' financial and operational responsibilities.

The alternative of continuing with existing stand-alone arrangements in each district area has been judged unsustainable by the County Council. Whether they join the proposed partnership or not District Councils would still remain, as now, statutory consultees under the Traffic Regulation Order process.

A decision is now needed by each Council, whether or not to join the new Partnership.

DETAILS OF THE PROPOSED AGREEMENTS

ECC, via its own Board, will have a Strategic Commissioning Agreement with the Partnership Lead Authorities (Colchester and Chelmsford). This will be the main operating agreement for the new on-street services provided for the County Council by the lead authority.

There will be a Joint Committee established by the lead authorities to carry forward the governance of the Partnership. The Joint Committee will consist of one member from each client authority. Each member will have one vote and decisions will be by majority vote. The chairmanship will rotate but the current proposal is that the lead authority will have a casting vote if this should be necessary to resolve disputes.

The Partnership lead authority will have an agreement with the client authorities; there will be two proposed sections to the Partnership Agreement documents, one for on-street services (yellow line and residential enforcement) and one for off-street (car park operations).

Each authority needs to make a decision about whether it wishes to join the partnership and sign up to the agreement and can also opt to include off street parking as part of the agreement.

Advantages and Disadvantages of Joining the Partnership

The main advantage of joining the partnership is that TDC will be able to have a direct input in determining and influencing on street parking policy through a seat on the Joint Committee. Instances of this would be where to implement or not on street car parking regulation and charges, levels of enforcement, development of other parking initiatives etc. This input would allow local representation at an early stage for issues of direct relevance to Tendring.

The implied logic of the partnership which would be owned by the districts/boroughs is that the partnership will carry both the risk and the opportunity associated with ensuring that on street enforcement operates at a surplus (current loss across Essex is in the order of

£900k and was £422k for the North Partnership in 2009/10). Colchester have drawn up a business plan which shows that a surplus is planned which will be ring fenced to be used on parking and traffic related issues. However, were the Partnership to continue to operate in deficit beyond the first two years then all these signed up authorities would bear a share of that deficit. This is contrary to the current situation where any deficits are met by Essex County Council who are the Highway Authority. On the other hand should the Partnership make a surplus then this can be reinvested and this reinvestment will be under the control of the partnering authorities.

TDC can determine not to join the Partnership but in that case ECC would ask the Partnership to deliver parking enforcement within the Tendring District. TDC would not have a place on the Joint Committee and would therefore bear no financial risk but would also have no influence on Local parking policy other than as a statutory consultee.

There is no option to continue with the current arrangements. TDC must either determine to sign up to the Partnership or not.

The partnership will, if required, also be able to take over the day to day operation and enforcement of the Council's off street enforcement and this may offer operational efficiencies. Further discussion of this point is also provided in the finance section.

In summary, whilst ECC will remain the Highway authority with the powers to carry out on street traffic regulation and enforcement, the partnership will be take over this role under an agency agreement. As part of that agreement all financial risk will then rest with the partnering authorities.

OFF STREET PARKING PROVISION

Off street car parking in Tendring covers 40 car parks across the district, 30 of which are currently fee paying. The service is currently run alongside and integrated with the on street car parking operation. In this way there are economies of scale and efficiencies gained by officers being able to carry out these two functions in the same area at the same time.

There is an opportunity, if TDC sign up to the Partnership for on street, for the partnership to also provide off street. Otherwise TDC would continue to provide off street in-house and a small team would need to be established to deliver this given that all the existing staff will transfer back to ECC under the TUPE regulations from 1 April 2011.

Once TDC determine whether to sign up to the Partnership for on street then a decision will be made regarding off street and a report prepared for members accordingly.

BACKGROUND PAPERS FOR THE DECISION

Correspondence with ECC
Blue Marble working papers

APPENDICES

Appendix A - Business Case prepared by Colchester