



Leicester
City Council

**WARDS AFFECTED
ALL WARDS**

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

**CYP Scrutiny
Cabinet
Council**

**18 February 2010
15 February 2010
25 March 2010**

Transfer of Statutory Responsibility of the Social Work function from Leicestershire and Rutland to Leicester City

Report of the Strategic Director, Children

1. Purpose of Report

- 1.1 To seek approval for the Transfer of Statutory Responsibility of the Social Work function from Leicestershire and Rutland to Leicester City in respect of the 'Emergency Duty Social Work' service.
- 1.2 To outline the context within which, this approval is sought – as part of the outcome and recommendations of the review of the Emergency Duty Social Work Service 2007 / 08.

2. Recommendations

- 2.1 CYPS Scrutiny is recommended to consider this report and make any comments to Cabinet.
- 2.2 Cabinet is recommended to:
- 2.3 Approve the Transfer of Statutory Responsibility of the Social Work Function from Leicestershire and Rutland in respect of the Emergency Social Work Service.
- 2.4 Note and agree that this takes effect upon the transfer of County Social Work staff to Leicester City and the agreement to and signing of a Service Level Agreement between all parties governing the form and function of the service, governance arrangements and legal and financial issues.
- 2.5 Subject to approval by Cabinet, Council notes and approves the resolutions of Cabinet as identified above.

3. Summary

- 3.1 The Current Emergency Duty Service covers the whole of Leicester, Leicestershire and Rutland and has been in place since Local Government Re-organisation in 1997. In recognition that there had been significant developments since that time in the delivery of Social Care and in the ability of the Emergency Duty Service to respond to such developments the service was subject to review during the course of 2007 / 08.
- 3.2 As part of it's recommendations, since accepted by all three Local Authorities and their respective 'Children's' and 'Adults' services, it was decided to contract all staff to one authority (currently staff have either City or County contracts) and that Authority (Leicester City) to run and manage the service on behalf of Leicestershire and Rutland.
- 3.3 In order for staff to have the legal right to act on behalf of another Authority in relation to the exercise of the statutory social work function it is necessary for all parties, i.e. Leicestershire and Rutland to formally agree to the transfer of that statutory responsibility to Leicester and for Leicester to accept that transfer.

4. The Report

- 4.1 The Review of the Emergency Duty Service was completed in 2008. The Service covers both Children's and Adults responsibilities. As a consequence the review was wide ranging and complicated as it had to cover 3 Local Authority Children's Services and 3 Local Authority Adult Services and seek both views and agreements across all.

The Review Report made a number of recommendations, focusing on areas such as the management and structure of the service. One recommendation concerned the transfer of staff from Leicester County Council to Leicester City Council, which this report addresses.

- 4.2 The Report specifically looked at the Staffing of the Service and noted that since Local Government re-organisation in 1997 that whilst the Service had always been managed by a Leicester City manager its other employees had either City or County Contracts. This had in the past led to a number of difficulties around unequal salary levels and differences in terms and conditions with the manager having to operate both within Leicester City and Leicestershire's HR and Personnel frameworks. In addition both policy and practice in Authorities have changed since disaggregation and these differences continue to widen making management of the service more complicated and time-consuming.
- 4.3 The Review Report recommended that all staff should be transferred to a single Authority on the basis that it
 - Would end direct comparison of different terms and conditions between Authorities for staff doing the same tasks as each other
 - Would simplify the management of staff particularly in the area of personnel and administrative issues
 - Would allow a single authority to be responsible for recruitment
 - Would not incur any significant costs

- Would allow a greater flexibility for the service to respond to anticipated changes particularly in both Adult and Mental Health Services (eg the development of extended hours services and the creation of Advanced Mental Health Practitioners and how Mental Health services will in future be delivered via the County –City wide Mental Health Service review).

- 4.4 The Process for transferring staff to one Authority has now been agreed and it is currently envisaged that the T.U.P.E. (Transfer of Undertakings Regulations 2006) process will have been completed by March 2010.
- 4.5 A Service Level agreement between all the participating Local Authorities is currently being drafted and will come into force upon the transfer of staff and the Transfer of Statutory Social Work responsibility should it be agreed.
- 4.6 It is necessary to seek a Transfer of Statutory Social Work Responsibility in order that staff in the 'new' Emergency Duty Service can whilst employed by one Authority act for, in this instance, two other Local Authorities in undertaking Statutory duties, e.g. Mental Health Assessments, Child Protection Assessments, the placement of Children in the care of one of the three Local Authorities covered by the service.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

Additional costs will arise from the transfer of staff to the employment of Leicester City Council and the statutory transfer of the service. These will include insurance costs, payroll arrangements, any Human Resources involvement and the payment of invoices relating to emergency action or support for County residents and the subsequent recharging to the County Council. Whilst not significant in terms of the Council's overall spending, these costs should be reflected in the financial arrangements with the County Council. The City Council should also ensure that liability for any employment or other claims that relate to events before the transfer date remain with the County Council, even if the claim is made after the transfer. - Colin Sharpe, Head of Finance and Efficiency, CYPS, ext. 29 7750

5.2 Legal Implications

The exercise by Leicester City Council of EDT functions for children and adults on behalf of Leicester, Leicestershire and Rutland represents a delegation of statutory functions by those Authorities to Leicester City. As such, Leicester City's Constitution requires [Part 2, Art 11.04c) and Part 3 Full Council Functions item (j)] Full Council to agree to the same.

It follows that whilst, operationally, those cases which invoke the EDT service will be handed-back to the relevant Local Authority social work Team the next working day, it is the City Council who will bear legal responsibility for the decision-making undertaken by the new EDT service. To that extent, the reform involves an increased (and voluntary) assumption of risk to the Council. (Kamal Adatia, Barrister, ext 7044)

Contractual and Employment matters are being dealt with separately.

6. Report Author

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)