

WELWYN HATFIELD BOROUGH COUNCIL  
COUNCIL – 9 APRIL 2018

Recommendation from the Cabinet on 6 March 2018:-

106.1 Transfer of Building Control Functions to Three Rivers District Council

The Cabinet considered the further work undertaken on the joint outsourcing project and the next steps to be taken to finalise the project.

In July 2015 the Cabinet received a report setting out the challenges facing building control and it was agreed that the Council should explore the principle of transferring functions into a Hertfordshire joint arrangement.

In August 2016 the Cabinet received a report setting out the business case and financial, legal and risk implications of a joint service. It agreed to form a holding company and two subsidiary companies and to transfer delegable building control functions to these companies. It also confirmed that non-delegable functions would be transferred to one of the authorities in the joint service.

As a result the companies were formed and staff from the seven participating authorities including this Council were TUPE transferred into them in August 2016.

It was now confirmed that Three Rivers District Council would be the company LA1 to whom non-delegable functions would be transferred.

Contrary to the original proposal, it had been decided that LA1 would not employ a qualified building surveyor to make decisions, but would apply checks and balances and auditing arrangements to give proper consideration to each decision and ensure quality control was maintained. This recognised the direction of travel established by Dame Judith Hackitt's interim report into the Grenfell tragedy.

Three Rivers District Council would employ a contract manager to oversee the building control companies and each participating authority would nominate a representative to sit on a commissioning panel to oversee the contract manager and building control companies.

This Council would pay about £28,000 per year for statutory functions and lead authority costs. Other functions such as events safety advice could be procured at an hourly rate.

Legislation indicated that all fees should as nearly as possible equate to the costs of providing the service. Fees would be proposed by the building control company and confirmed by LA1 and the commissioning panel.

It was considered that these arrangements would create a robust, professional and resilient building control service and ensure structural, electrical and fire safety for the Borough's residents and business.

The Cabinet agreed:-

- (1) That the Council's statutory building control functions (as set out in Appendix A to the report) be transferred to Three Rivers District Council so that it could carry out the duties and responsibilities of LA1 as described in the report on behalf of Welwyn Hatfield Borough Council.
- (2) That the Executive Director (Public Protection, Planning and Governance) be given delegated authority to authorise the Services Agreement and Inter-Authority Agreement referred to in the report using the power in Section 5(2)(a) of the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012 to transfer the functions listed in Appendix A to the report to Three Rivers District Council.
- (3) That the Head of Public Health and Protection be appointed as the Council's "Commissioning Panel Representative" as part of the Commissioning Panel established in accordance with the Services Agreement and Inter-Authority Agreement.
- (4) That delegated authority be given to the Head of Public Health and Protection, in consultation with the Executive Director (Public Protection, Planning and Governance), to appoint a "Deputy Commissioning Panel Representative" to attend the Commissioning Panel in the event of the Panel representative's absence.
- (5) That consideration be given to any consequential revisions to be made to the Council's Constitution and schemes of delegation with recommendations made to the Council for adoption of these revisions.

The Cabinet **RECOMMENDS** the Council to give delegated authority to the Head of Public Health and Protection, in consultation with the Executive Director (Resources, Environment and Cultural Services) as the Council's Section 151 Officer and Executive Member (Resources), to negotiate and agree fees for both statutory and non-statutory building control activities, in negotiation with other members of the Commissioning Panel, Three Rivers District Council acting as LA1 and Hertfordshire Building Control Ltd.