

## **Wiltshire Council**

**Cabinet  
7 November 2017**

**Overview and Scrutiny Management Select Committee  
28 November 2017**

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### **Rapid Scrutiny Exercise: Asset and Service Devolution and Community Asset Transfer Policy**

#### **Purpose**

1. To report to Cabinet and the Overview and Scrutiny Management Select Committee (OSMC) the outcome of the rapid scrutiny exercise established by the OSMC on 26 September 2017 and held on 01 November 2017 to consider the revised Asset and Service Devolution and Community Asset Transfer Policy (which will be referred to as “policy” in this report) prior to its consideration by Cabinet on 7 November 2017.
2. To make recommendations to the Cabinet Member for Finance, Procurement, ICT and Operational Assets with regards to this policy.

#### **Background**

3. When the OSMC considered the Council’s new Business Plan, at its meeting on 21 June 2017, it was noted that the Leader had expressed a wish that the policy be revised in order that the process of transferring assets could become faster and more cost effective. The OSMC resolved to contribute to the review of the policy.
4. At its 26 September 2017 meeting the OSMC resolved to establish a rapid scrutiny exercise to consider the revised policy prior to its approval by Cabinet on 7 November 2017.

#### **Membership**

5. The opportunity to take part in the rapid scrutiny was offered to all non-executive members of the council and the following Councillors were appointed:  
Matthew Dean  
Stewart Dobson  
David Halik, subsequently unable to attend the meeting  
Ruth Hopkinson, elected as lead member for the rapid scrutiny exercise  
Andy Phillips  
Pip Ridout

## Evidence

6. The following papers were made available prior to the meeting:  
[Modelling devolution – Working together to deliver local services](#) (LGA and NALC report)  
[Community Asset Transfer policy](#) ([Appendix 1](#), [Appendix 2](#) and [Appendix 3](#)) - Cabinet – 15 December 2009  
[Policy for the Transfer of Community Assets](#) - Cabinet Capital Asset - 26 July 2011  
Community area Asset Transfer and Service Delegation to Salisbury City Council – Cabinet – 21 July 2015  
[Salisbury City Council Asset Transfer](#) – Cabinet Approval of Transfer from Wiltshire Council – Cabinet – 19 April 2016  
Signed officer decision by Dr Carlton Brand, *Approval for the pausing of any further package community asset transfers to allow time to develop a community asset transfer and service delegation policy*, 15 March 2017  
[Asset and Service Devolution and Community Asset Transfer](#) - Cabinet – 7 November 2017  
[Asset and Service Devolution and Community Asset Transfer Policy](#) - Cabinet – 7 November 2017

## Witnesses

7. Members of the rapid scrutiny would like to thank the following councillor and officers for attending the meeting and providing evidence:  
Cllr Philip Whitehead, Cabinet Member for Finance, Procurement, ICT and Operational Assets  
Mike Dawson, Asset Manager (Estates and Asset Use)  
Ian Gibbons, Associate Director Legal and Governance  
Emma Licciardi, Senior Solicitor (Commercial)  
Joanna Madeley, Team Leader Property and Planning, Legal Services  
Robin Townsend, Associate Director, Corporate Services and Procurement

## Deliberations

8. The Cabinet Member introduced the revised policy. During the ensuing discussion, a number of questions were asked and aspects of the policy further explored, including the following.
9. Establishing ownership. It was noted that, in paragraph 3.2.3 of the policy, “historic and / or complex land issues” was listed as one of the exceptions in considering a freehold transfer as it would become prohibitive to both Wiltshire Council and Town or Parish Council (which will be referred to as “T&P Council” in this report). Although understanding the view not to establish ownership for all land and assets, the scrutiny members felt that consideration should be given to establishing ownership for assets where service devolution is considered and that the threshold for “prohibitive” should be set as high as reasonable in those cases. This would support the rapid scrutiny’s view that “assets should follow services” and, wherever practicable, preference should

be given to freehold transfer, if requested by the T&P Councils, or at least to allow for freehold transfer in future by having established ownership.

10. Service delegation. Reassurance was sought regarding the reputational and legal risks, and potential future costs, associated with service delegation, especially with regards to statutory duties. It was explained that where Wiltshire Council has a statutory duty to carry out the service in question, delegation will not remove Wiltshire Council's underlying statutory obligations. However, it was confirmed that service delegation agreements offered legal protection, including an indemnity from the T&P Council to cover any losses to Wiltshire Council as a result of the T&P Council carrying out a service. In terms of cost, these services were currently provided by Wiltshire Council. Therefore, even if delivery reverted to the council, this would not be a new / additional cost.
11. Raising awareness. Although there may already be interest expressed by T&P Councils in engaging with devolution and transfers as per the policy, there should be a programme of communication to T&P Councils to ensure that all T&P Councils are aware of the opportunity. It was noted that T&P Councils would be informed of the policy at a T&P Councils Training and Networking Day on 17 November 2017.
12. Support to T&P Councils. The issue of support to T&P Councils was raised with regards to advice, information provided (including costs of services, maintenance, etc.) and dedicated officer time. It was acknowledged that there could be no legal advice offered by Wiltshire Council as this would present a conflict of interest. It was also noted that, as per appendix 5 of the policy, identifying revenue / cost and value for money for each asset was identified at an early stage in the process of considering community asset transfers, in response to identified issues in previous cases.
13. Further devolution. Scrutiny members reported that other local authorities were considering "further devolution" such as non-statutory signage, parking, fly tipping enforcement, etc. It was recognised that the policy had been written to be as non-prescriptive as possible but consideration was given to additional wording to ensure that all T&P Councils would be aware that all and every possible devolution and transfer would be considered.
14. Savings and / or cost. It was confirmed that this was not designed as a short-term savings exercise but as a long-term enablement of service provision.
15. Potential scale of the programme. It was acknowledged that the revised policy aimed to ease the process and therefore facilitate take up by T&P Councils. This raised concerns about the potential scale of the programme if there was a high demand from T&P Councils and the amount of resources (mostly officers time and associated costs) that would be required to maintain an accurate and timely delivery of the programme. It was noted that the level of resources required would only be identified once a draft programme of package transfers had been developed and that staffing capacity had been identified as a risk in the Cabinet report (paragraphs 22 and 31 respectively).

The issue of “selection” was also identified (i.e. which requests would be considered if the demands exceeded capacity to deliver the programme).

## Recommendations

16. The rapid scrutiny group recommends:

17. That the Cabinet Member for Finance, Procurement, ICT and Operational Assets notes the following recommendations and comments and makes representations as such to Cabinet at its meeting on 7 November 2017:

- a. Scrutiny members welcomed the opportunity to be involved before the policy was considered by Cabinet;
- b. To consider establishing ownership, to enable freehold transfers, for assets where service devolution is considered, as detailed in paragraph 9 of this report;

*Executive response: Not all T&P Councils want both service and assets, to be left on a case by case and risk based basis.*

- c. To consider indicating a high threshold for costs that are considered “prohibitive” as in paragraph 3.2.3, third bullet point, of the policy;

*Executive response: To be considered on a case by case basis.*

- d. To consider the following amendment to paragraph 4 of the Cabinet report to ensure that T&P Councils are aware of the non-prescriptive nature of services and assets to be considered for devolution or transfer:  
(add at the end of paragraph 4) Town and parish councils are invited to submit all and any services and associated assets within their boundaries that they wish to be considered as part of their request(s) for the transfer of packages of services and assets;

*Executive response: Amendment accepted. Additionally to inform T&P Councils of the new policy and draw their attention to paragraph 4 of the Cabinet report.*

- e. To allocate appropriate staffing resources to ensure that the programme can be delivered in an accurate and timely manner, once the scoping exercise has been completed and the size of the programme is known; this would include the capacity to provide information about the services and assets (including related costs) in a timely manner as well as the ability to provide advice and information to T&P Councils about the overall process to support a smooth and efficient programme;

*Executive response: Accepted, subject to financial limitations within any financial year.*

- f. To develop and implement a programme of communication to ensure that all T&P Councils are aware of the policy and the opportunities it presents. This

could include advertising in the T&P Council newsletter and inviting Wiltshire Councillor to raise awareness through their Area Boards and through their involvement with their T&P Councils;

*Executive response: Confirmed there would be a programme of communication.*

18. That the Overview and Scrutiny Management Select Committee, following consultation with the Cabinet Member for Finance, Procurement, ICT and Operational Assets regarding timing(s), considers the following further scrutiny activities:
- a. To review the programme for the transfer of packages of services and assets to T&P councils, once established. A “selection” process to determine whether packages are considered could be required, should there be such a high demand from T&P Councils as to exceed capacity to deliver the programme. If a “selection” process is required OSMC may wish to review this as well;
  - b. To monitor the implementation of the programme for the transfer of packages of services and assets to T&P councils. This should enable the OSMC to identify the need, if any, to scrutinise specific packages of transfer, such as those considered of strategic importance, before they are considered by Cabinet;
  - c. To consider the appropriateness of overview and scrutiny involvement closer to the policy being reviewed in 2020.

*Executive response: There were no issues raised with the proposed future scrutiny.*

19. That Cabinet take into account the outcome of the rapid scrutiny exercise as detailed in this report and the recommendations and comments detailed in paragraphs 17 and 18 above when considering the revised policy on 7 November 2017.

*The report from the rapid scrutiny exercise was fully considered at the 7 November 2017 Cabinet meeting.*

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**Cllr Ruth Hopkinson, lead member for the rapid scrutiny exercise**

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**Background documents** None