

Wiltshire Council

Cabinet

22 June 2010

Subject: TUPE Transfer of Grounds Maintenance Staff

Cabinet member: Councillor Richard Tonge – Highways and Transport

Key Decision: No

Executive Summary

This report considers the TUPE transfer of 12 Grounds Maintenance staff from Sodexo, as part of the unification of the grounds maintenance service. The key points to consider are:

- Wiltshire Council has inherited different service levels and providers in the area of grounds maintenance, following the successful transition to One Council. In the first season, the status quo was generally maintained to ensure continuity of service.
- The Sodexo contract is being renegotiated by the Corporate Procurement Team and the grounds maintenance services elements of this contract have been removed. 12 Sodexo staff have been identified who qualify for TUPE transfer.
- The removal of grounds maintenance from the expired contract and transferring to ongoing suppliers (both in-house and external suppliers) will facilitate unification of grounds maintenance services from 2011 onwards.
- The transfer of 9 staff to Wiltshire Council and 3 to English Landscapes means that the Council will meet its legal responsibilities to the staff involved and allows the Council to benefit from operational efficiencies.

Proposal

The Council should TUPE transfer the staff as part of TUPE process for the grounds maintenance service and staff. The 12 staff identified will transfer as follows: 9 to Wiltshire Council and 3 to English Landscapes.

Reason for Proposal

The proposal will allow the Council to start the harmonisation of the grounds services across the County. The consequence of the harmonisation is the resultant staff movements which are managed by the TUPE process.

MARK SMITH

Director of Neighbourhood Services

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Purpose of Report

1. This report considers the TUPE transfer of 12 Grounds Maintenance staff from Sodexo, as part of the unification of the grounds maintenance service.

Background

2. Wiltshire Council has inherited different service levels and providers in the area of grounds maintenance (see **Appendix A**), following the successful transition to One Council. In the first season, the status quo was generally maintained to ensure continuity of service.
3. The Council is now considering the options for service unification, provision and delivery. This will have to be undertaken in a timely manner to ensure the minimum service disruption. Ultimately, a joined up harmonised service will deliver the service efficiencies and savings envisaged in the One Council bid.
4. The Sodexo contract is currently being renegotiated by the Corporate Procurement Team and the grounds maintenance services elements of this contract have been removed. The consequence of this is that Sodexo has identified 12 staff currently providing grounds maintenance services that will be eligible to transfer to one of the other existing providers of grounds maintenance services, whether in-house to the Council or to another provider, English Landscapes, to capture economies of scale and the synergy derived from a smaller number of priorities.

Main Considerations for the Council

5. The Sodexo contract is the first contract to come to a natural end and presents the first opportunity to 'join up' the services. The Sodexo contract is being renegotiated by the Procurement Team and the removal of the grounds maintenance services and the staff providing those services from the contract has been agreed; as a result, 12 Sodexo members of staff qualify for TUPE transfer.
6. The Council needs to make incremental changes to its current grounds maintenance provision to allow for a unified service.

7. The Council has a vested interest in ensuring that the grounds maintenance services are delivered effectively. Whilst Sodexo is the transferor within this process, the Council has actively engaged with Sodexo and English Landscapes to ensure that the process runs smoothly. The Council needed to determine what was the most operationally effective option for the delivery of the services and was faced with the choice of either:
 - (i) Transferring all the staff into the Council itself and then providing the service itself, or
 - (ii) Transferring the staff to the existing area suppliers of the service (including in-house as well as external providers) and delivering the service via those routes. The Council would then need to tackle those services when their arrangements come to an end.
8. Taking the second option allows the Council to take a more strategic approach to the service unification and allows considerations around service standards to be fully developed and agreed.
9. The sites that currently receive the services have been analysed with the labour element to identify how much staff resource should go to each provider.

Environmental Impact of the Proposal

10. The Council currently provide grounds maintenance via several routes across the county. Not only does this mean duplication of provision, but also resources, and offers differing standards. The ideal solution would be to have just one route of provision, thereby reducing mileage, CO2 emissions and delivering economies of scale.

Equalities Impact of the Proposal

11. Unified service provision would improve equalities as the Council would have one less set of 'contracted conditions' and ultimately only one set across the county. This relates to both standards of service provision and in terms and conditions for staff employed on these services.

Risk Assessment

12. Officers have undertaken due diligence to understand the potential HR, legal and financial implications of this proposal.
13. Time – The Sodexo contract is currently being renegotiated and therefore officers need to deliver in a timely manner, as proposed transfer will be 1 July 2010.
14. TUPE transfer – This needs to be managed and controlled as some staff will need to move to external contractors. The Council has followed the recommended process for TUPE and is ready to proceed.

15. Existing suppliers - The recommendation made in this report relies on the support of existing suppliers. The suppliers have also been included in the process.

Financial Implications

16. The Council may not realise any initial savings due to the TUPE arrangements; however, the Council will be to absorb with no extra costs. However, there will be immediate service benefits, around standards, capacity and reducing the number of contracts. The unifying of service allows the Council to commence the process of bringing services together, ensuring they will be in a position to maximise the financial benefits of procuring the service as one large block in the future.
17. The Council currently spends circa. £2.5 million on grounds services. It would be reasonable to expect a 5% saving, £125k, on this figure at the point of complete unification and re-procurement.

Legal Implications

18. Legal Officers have conducted due diligence into the proposed transfer.
19. The legal considerations for the TUPE transfer of staff that currently work on the grounds element of the Sodexo contract have been considered. Sodexo is the Transferor and the Council and English Landscapes are the Transferees. The Council has a vested interest in ensuring that the TUPE process runs smoothly. These staff will be transferred to the service providers in the relevant areas, the process will need to be managed to allow the timely transfer of the staff without affecting service delivery.
20. There are a number of stages and points to consider in respect of TUPE, which the Council has been following:

- (i) Who would transfer?

Sodexo has identified 12 employees which have the right to TUPE transfer; this would need to be confirmed by Council officers. Employees will TUPE transfer to the Council where an employee's time is predominantly spent on the Wiltshire contract and this has been confirmed by Council officers. It has been agreed that 9 of these staff will TUPE transfer to the Council and that 3 of the employees will TUPE transfer to English Landscapes.

- (ii) Analysis of Terms and Conditions

The information that has initially been provided by Sodexo, regarding the terms and conditions of employees, does not appear to identify anything that gives concern. However, further employee liability information will be provided by Sodexo as part of the TUPE consultation process and will include information relating to any collective agreements; instances of any disciplinary action, grievances, and instances of legal actions that have taken place in the last two years with respect to the employees transferring.

(iii) Consultation

There is a requirement in the TUPE regulations that would require Sodexo and the Council to consult representatives of the affected workforce before the relevant transfer takes place. In the case of the Council the affected employees might include existing employees within the Council whose jobs might be affected by the transfer.

21. The initial meeting between Sodexo, English Landscapes and the Council took place in early May 2010. All rights and liabilities of the transferring employees will transfer to the Council on 1 July 2010. Further meetings have taken place between Sodexo and the Council to identify changes required to terms and conditions post transfer and employees have been made aware as part of the consultation that the Council will be undertaking a process of unification of all grounds maintenance services from 2011 onwards.

Options Considered

22. In producing this report three options were considered:
- (i) The Council could continue the negotiations to extend the Sodexo contract including the grounds element. This would preclude the Council from benefiting from the increased volume of grounds services and the possible efficiency savings. It would also delay the ultimate combination of these services, due to the continue disparities of contract termination dates and the future process of drawing together specifications and volumes. This would result in no TUPE transfers.
 - (ii) The Council could bring the service completely 'in-house' to allow time for the other arrangements to expire. This would not allow the Council to maximise operational benefits and would lead to some duplication as there would be two providers in the West and South. This would leave the Council with all the TUPE transferred staff.
 - (iii) The Council could bring the service in-house where the service is already in-house and negotiate with the contracted suppliers to vary their contracts to include the sites in their areas. This would allow the Council to benefit from operational efficiencies, possible rate reductions and start the harmonisation of the service. This option requires the Council to retain 9 on the TUPE staff and 3 transferring to English Landscapes.
23. The ultimate aim for the grounds service is to bring together the whole County service in one package to maximise the benefits, both operational and financial.

Conclusions

24. The Council is aiming to unify and transform its services, the removing of grounds maintenance from the expired contract and transferring to ongoing suppliers will facilitate unification of grounds maintenance services from 2011 onwards. The transfer of 9 staff to Wiltshire Council and 3 to English Landscapes means that the Council has met its legal responsibilities to the staff involved and allows the Council to benefit from operational efficiencies.

Proposal

25. The Council should TUPE transfer the staff as part of TUPE process for the grounds maintenance service and staff. The 12 staff identified will transfer as follows: 9 to Wiltshire Council and 3 to English Landscapes.

Reason for Proposal

26. The proposal will allow the Council to start the harmonisation of the grounds services across the County. The consequence of the harmonisation is the resultant staff movements which are managed by the TUPE process.

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The following unpublished documents have been relied on in the preparation of this Report:

None

Appendices:

Appendix A – List of current Grounds Service suppliers