

Subject: Salisbury City Council Asset Transfer – Cabinet
Approval of Transfer from Wiltshire Council

Cabinet member: Councillor Dick Tonge
Cabinet Member for Finance

Key Decision: No

Executive Summary

Following decisions by [Salisbury City's Full Council](#) on 1st June 2015 and [Wiltshire Councils Cabinet](#) on 21st July 2015, Members and officers of both organisations have worked to finalise the detailed package of assets and services to transfer and the impact for each organisation.

The final package of assets and services to transfer to Salisbury City Council consists of the following:

- 10 properties assets
- 4 Public Conveniences
- Shop Mobility service
- CCTV services
- Grounds Maintenance and Street Scene services within the City boundary
- Grounds Maintenance and Street Scene services at 5 Park and Ride sites
- S106 monies allocated to activities within the City boundary

Due to difficulties in relation to land tenure it is proposed that the freehold transfer of any land is excluded. The responsibility to carry out services and maintenance on all land assets will be discharged by way of an Agency Arrangement.

The transfer of the Grounds Maintenance and Street Scene services is likely to take place on the basis of novation of the existing contract until 2020. All future amenity and cleaning services within the Salisbury City boundary will be the responsibility of Salisbury City Council to manage.

Subject to the City Council agreeing to the wider asset and service transfer, Wiltshire Council will invest a capital sum in a new CCTV system.

In the financial year 2016/17 Wiltshire Council will fund all shop mobility and grounds maintenance and Street Scene activities in Salisbury.

The budget transferred to Salisbury City Council will be reduced by 25% in each subsequent full year.

Section 106 monies and responsibility for appropriate spending of such monies will transfer to Salisbury City Council.

Significant resource from both Wiltshire Council and Salisbury City Council will be required to complete the transfer.

The experience of working up the recommendations with Salisbury City Council has highlighted some issues and the model for further transfers has been revised.

A phased programme of work is recommended for engaging with other Town and Parish Councils.

Proposal(s):

It is recommended that Cabinet:

- a) Consider and approve the final list of assets and services listed that will be transferred to Salisbury City Council
- b) Note the net revenue impact to the council.
- c) Approve the service transfer budget principle of “tapering” to zero cost over 4 years.
- d) Delegate the implementation of the transfer of properties and the service delegation to a Corporate Director.
- e) Use the work and model established for Salisbury for further transfers.

Reason for Proposal

To complete the transfer of the package of assets and services to Salisbury City Council and ensure an agreed process is in place for other asset and services transfers to parish and town councils.

Dr Carlton Brand
Corporate Director

Subject: Salisbury City Council Asset Transfer – Cabinet Approval of Transfer from Wiltshire Council.

Cabinet member: Councillor Dick Tonge
Cabinet Member for Finance

Key Decision: No

Purpose of Report

1. To recommend a final package of assets and services to transfer to Salisbury City Council and to provide detailed information in relation to the financial impact this will have on Wiltshire Council.
2. To recommend the process and timescale for other asset and service transfers to parish and town councils.

Relevance to the Council's Business Plan

3. The council has a Business Plan objective to transfer packages of assets and services, where applicable, to parish and town councils.

Main Considerations for the Council

Proposed elements on transfer

4. The proposal is the transfer of the following:
 - 10 properties assets (see table below)
 - 4 Public Conveniences (see table below)
 - Shop Mobility service (includes 3 staff under TUPE)
 - CCTV services
 - Grounds Maintenance and Street Scene services within the City boundary
 - Grounds Maintenance and Street Scene services at 5 Park and Ride sites
 - S106 monies allocated to activities within the City boundary

List of assets to be transferred from Wiltshire Council to Salisbury City Council

Property	Market Value
47 Blue Boar Row	£490,000
Rampart Road Store	£20,000
Salisbury Fawcett Statue Mar. Sq.	Heritage
Salisbury Poultry Cross	Heritage
Salisbury Brown Street Alzheimer's Centre Site	£21,000
Salisbury Post Office Pembroke Road	£71,000
Salisbury Stratford Road Social Club	£173,000
Salisbury Fisherton Clock Tower	Heritage
Salisbury 84 Fisherton Street	De-minimus
Salisbury Market Place	TBC
Public Conveniences	
Salisbury Market Place PC	Included with Market Place evaluation
Central car park PC (Lease)	Leased
Coach Station car park PC (Lease)	Leased
Culver Street PC (Lease)	Leased
Total	£775,000

Land transfer complexities

5. There are three main categories of land upon which Wiltshire Council provides services on within Salisbury:
 - Housing Revenue Account (HRA Land)
 - Land associated with the Highway
 - Approximately 720 'other' plots of land
6. The council cannot transfer the freehold of HRA and Highway associated land and will therefore only be able to transfer the maintenance responsibility via an Agency Arrangement.
7. Nearly 80% of the remaining plots of land have issues in relation to Section 106 liabilities, HRA "right to buy" liabilities or are of unknown tenure caused by complex historical ownership issues which had not been resolved by the predecessor authorities to Wiltshire Council. To do this would be prohibitively expensive, would delay the transfer and is deemed unnecessary.
8. Due to these difficulties it is proposed that the freehold transfer of any land be excluded. The responsibility to carry out service and maintenance of all 3 categories of land assets will however transfer in full an Agency Arrangement.

Transfer of Properties

9. All ten properties will be freehold transferred to Salisbury City Council. This will include the public conveniences at the Market Place.
10. The remaining public conveniences will be leased as these are situated in a Wiltshire Council owned car parks or sites that are earmarked for future development. The term will be agreed according to any current known plans for sites with appropriate break clauses.

Transfer of Services

11. The transfer of the Grounds Maintenance and Street Scene services is likely to take place on the basis of novating the existing contract with The Landscape Group (TLG) until it ends in May 2020.
12. The current contract with TLG is 'resource' based and the council's officers currently make decisions on priorities if there is any conflict with delivering the specification with the resources available. The responsibility for making these decisions will fall to Salisbury City Council following the transfer.
13. All future amenity and cleaning services within the Salisbury City boundary will become the responsibility of Salisbury City Council to manage.
14. Subject to the City Council agreeing the wider asset and service transfer, Wiltshire Council will invest a capital sum of up to £500,000 in a new CCTV system. The new CCTV service will be run by volunteers from a location within Bourne Hill, thereby freeing up Pennyfarthing House for sale
15. Tenders for the new CCTV system are due back on 1st April and the contractors have been asked to hold their tendered rates for 30 weeks (until 28th October 2016). If the transfer has not been agreed to at this point and the successful tenderer is not prepared to hold their rates beyond the thirty week period, the procurement process may need to be restarted.
16. The Shop Mobility service will continue to run from its existing location in the Maltings car park until such time as this area is redeveloped.
17. The employment of Shop Mobility staff will transfer from Wiltshire Council to Salisbury City Council by virtue of TUPE.
18. The terms of occupation for the CCTV and Shop Mobility service within Wiltshire Council buildings will need to be formulated and any charges agreed as appropriate.
19. Due to the timescales, Wiltshire Council will continue to fund the four public conveniences for 3 months until 30th June 2016 to enable the asset transfer to take place. It is likely that this will involve the TUPE of staff from the existing provider to the new provider.
20. Following the transfer Salisbury City Council will become responsible for these public conveniences. Any delay in the transfer beyond the end of June could result in the public conveniences at the four locations list in the table being suspended.

Transfer of Funding

21. In the financial year 2016/17 Wiltshire Council will fund all shop mobility and grounds maintenance and Street Scene activities in Salisbury. Wiltshire Council will transfer the remaining revenue budget for this year to Salisbury City Council as part of the transfer.
22. The budget transferred to Salisbury City Council will be reduced by 25% in each subsequent full year.
23. Wiltshire Council will be funding the four public conveniences for 3 months until 30th June 2016 to enable the asset transfer to take place. This will need to be met from existing 2016-17 revenue budgets.

Resources

24. Significant resource from legal, finance and Strategic Asset and Facilities Management (SA&FM) will be required to complete the transfer to Salisbury City Council.
25. The legal team have already spent significant time on the transfer of these assets and it is estimated that to transfer 10 buildings to Salisbury City Council a further 50 hours' worth of legal work is required. This assumes that the Council will not be required to provide replies to pre-contract enquiries nor negotiate the form of transfer.
26. It is estimated that to produce and negotiate a bespoke Agency Arrangement agreement to cover all the elements discussed in this report will take at least 10 hours of a lawyer's time. Note that this is an estimate and will depend on complexity of instructions and progress of negotiations with Salisbury City Council.
27. It is estimated that a further 6 days of officer time from SA&FM will be required to complete the asset transfer.
28. Significant finance resources will also be required to complete the works.
29. The progress with the transfer in Salisbury has generated interest amongst other town and parish councils which are also keen to take on assets and services within their area. Currently the council does not have sufficient resources to manage these requests concurrently and therefore a programme of work is recommended in this report.

The process and timescale for other asset and service transfers

30. The experience of working up the recommendations with Salisbury City Council has highlighted many problems with incomplete records from predecessor authorities and legal complexities of land ownership. The model for further transfers has been revised.
31. The effort needed for such transfers is high and as a result it is not possible to respond to the many requests concurrently.
32. The recommendations shows a phased approach over four years and reflects the level of discussion that has already taken place with those Councils and the perceived political commitment to devolved services.
33. A further recommendation is that the Towns and Parishes are consulted on the priorities shown at a meeting to be arranged once a decision has been made by Salisbury City Council.

Background

34. Wiltshire Council and Salisbury City Council have been working closely together to enable the City to have control of their local assets and services and to deliver their local priorities.
35. Following decisions by [Salisbury City's Full Council](#) on 1st June 2015 and [Wiltshire Councils Cabinet](#) on 21st July 2015, Members and officers of both organisations have worked to finalise the detailed package of assets and services to transfer and the impact for each organisation.
36. In parallel to this Cabinet paper Salisbury City Council are preparing their own paper to be considered at a Full Council meeting before the end of July 2016.
37. The financial assessment in this paper differs from the July Cabinet paper as it includes the revenue implications of Grounds Maintenance, Street Scene and public toilets.
38. It was expected that this transfer would take place 'by no later than April 2016' but this has been delayed due to the legal complexities of land ownership. This has been resolved by delegation of the maintenance responsibility of such land to Salisbury City Council by way of an Agency Agreement.
39. Salisbury City Council has had sight of this paper.

Overview & Scrutiny Engagement

40. None

Safeguarding Implications

41. None

Public Health Implications

42. None

Procurement Implications

43. This proposal affects current contracts and will result in a reduced requirement in future contracts. The procurement team will be involved further where appropriate.

Equalities Impact of the Proposal (detailing conclusions identified from Equality Analysis, sections 4 and 5)

44. The transfer of assets raises no issues in respect of equalities impact.

Environmental and Climate Change Considerations

45. None

Risk Assessment

46. Significant resources will be required to complete the work for the transfer.

Risks that may arise if the proposed decision and related work is not taken

47. None

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

48. Relationships with the existing supplier of Grounds Maintenance and Street Scene activities will be carefully managed through the novation process by officers who currently manage this contract for Wiltshire Council and officers from Salisbury City Council.

49. Staffing/TUPE risks will be managed through working closely with HR and Legal colleagues throughout the process.

Financial Implications

Ongoing Revenue

50. A detailed financial analysis has been conducted to examine the impact for the council. This is shown in the appendix. The financial model is based on the following assumptions:

- The model assumes the transfer will take effect from 1st July 2016.
- In year 1, Wiltshire Council fund the full budget for shop mobility and grounds maintenance and Street Scene activities. The remaining budget for this year will be transferred to Salisbury City Council as part of the transfer.
- This is reduced by 25% in each subsequent full year.
- The financial year 2020/21 is the first year in which no payment is made to Salisbury City Council.
- HR, Legal, Finance, SA&FM, Highways staff time costs for processing the transfer are excluded from the table below.
- Both Shop Mobility and CCTV will continue to be located in Wiltshire Council buildings. This will be the subject of a lease to Salisbury City Council for occupation of the building. This does not include any third party charge which may be agreed as result of para 3.15.

51. The table below shows the revenue impact over the next 5 years.

	Wiltshire Council Revenue				
	Net Impact 2016/ 2017 Part year	Net Impact 2017/ 2018	Net Impact 2018/ 2019	Net Impact 2019/ 2020	Net Impact 2020/ 2021
Income lost from 10 Properties	33,600	44,800	44,800	44,800	44,800
Interim cost of running 4 Public Conveniences (3 months)	60,899*	-	-	-	-
Shop Mobility Budget	-	(12,475)	(24,950)	(37,425)	(49,900)
Street Scene and Grounds Maintenance Budget	-	(76,402)	(152,804)	(229,205)	(305,607)
Summary Position	94,499	(44,077)	(132,954)	(221,830)	(310,707)

*Includes £40,000 redundancy costs which may not apply. This is to be confirmed.

52. It is important to note that this does not include the cost of borrowing for the costs associated with the CCTV and Market Place works.

Capital

53. The ten properties listed represent a potential capital receipt of £775,000 that cannot be realised by Wiltshire Council if the transfer is approved.

54. Three properties do not have a value as they are heritage monuments. 84 Fisherton Street has a de-minimus value and there is also no value for the Market Place.

55. The estimated market value for the remaining five assets is approximately £775,000.

56. Significant investment of £5.4m capital funding has already been spent in the recent works to Salisbury Market Place.

57. Contingent on the City Council agreeing the transfer, a capital sum (up to £500,000) will also be used to fund the new CCTV equipment within Salisbury.

Section 106 monies

58. Around £166,000 of Off Site Contribution capital section 106 monies would transfer to Salisbury City Council. (Monies for the proposed Salisbury Athletics track (£50,000) upgrade have been deducted.

59. Around £258,000 of commuted sum/maintenance money would also transfer to Salisbury City Council.

Legal Implications

- 60 Section 123 of the Local Government Act 1972 gives Wiltshire Council the ability to transfer land at less than market value where that transfer helps secure the promotion of the economic, social, or environmental wellbeing of the area.
- 61 A reasonable time period for completing a straightforward transfer (where both parties have legal representation) would be approximately 8 weeks. During this 8 week period both parties would have the opportunity to consider the property deeds, raise enquires about matters contained in the property deeds and agree the form of transfer. In the case of a community asset transfer the Council has a model form of transfer and would not expect to negotiate the terms other than in exceptional circumstances.
- 62 Legal Services has provided Salisbury City Council with a summary of the deeds of each Building. The Title Reports have been provided on the basis that they are for Wiltshire Council use only and cannot be relied on formally by Salisbury City Council.
- 63 Section 101 of the Local Government Act 1972 and supporting legislation (the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012) allows the Council to decide to delegate certain functions relating to services to town and parish councils, including Salisbury City Council.
- 64 There are two levels of service delegation proposed under this report depending on the function involved:
- a) Delegation of service delivery. This type of delegation applies for the Grounds Maintenance and Streetscene service and may be discharged by way of an Agency Arrangement. The function is a statutory function which remains the responsibility of Wiltshire Council, however the delivery of the service may be transferred to Salisbury City Council who will become responsible for the delivery contracted out services. This arrangement must be by way of a written agreement which clearly defines the services being transferred and any conditions to which the transfer is subject eg. Novation of current contracts.
 - b) Delegation of service responsibility. The service (and any land, buildings or assets that are required to run the service locally) will transfer to Salisbury City Council. This type of delegation can only apply where Wiltshire Council has a high degree of discretion about the provision of the service. Here, it will apply to maintenance of public conveniences, the Shop Mobility service and CCTV services. Wiltshire Council will cease to be responsible and accountable for the delivery of these services.
- 65 It is confirmed that Wiltshire Council has the power to delegate the proposed services by virtue of s.101 of the Local Government Act 1972. There is the power for Salisbury City Council to deliver the service however it is for Salisbury City Council to determine its own ability to deliver the service and to consider this at a formal meeting of the Council before deciding to accept the service delegation
- 66 Officers will instruct Legal Services to draft the required Agency Agreement, so that terms relating to all functions to be delegated can be negotiated with Salisbury City Council.
- 67 Officers have confirmed with The Landscape Group that there will be no contractual “exit payment” due upon novation of the Grounds Maintenance and Street Scene services contract.

- 68 In respect of the Section 106 monies a process will need to be defined to ensure that there is a clear understanding of what it can be used for and the date by which it has to be spent with the parties entering into legal documentation to set out the arrangements.
- 69 Paragraph 20.4 of this report refers to Paragraph 2.2 of the Constitution which sets out the issues that must be properly considered and completed when exercising delegated powers, including:
- a) The views of the relevant Cabinet Member, Committee Chairman and Area Boards following the application of the consultation criteria set out in the Constitution;
 - b) The implication of any Council policy initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant Cabinet Members(s) or Committee Chairman from any affected portfolio and local members, where the issue relates to a specific area, should take place;
 - c) The range of available options;
 - d) The staffing, financial and legal implications;
 - e) The assessment of any associated risks in accordance with the Council's risk management strategy

The above list is not exhaustive. Please refer to Part 3 Section D Scheme of Delegation to Officers of the Constitution for a complete list of the issues that must be taken into consideration.

Options Considered

70 None

Conclusions

71 The council can move towards achieving its Business Plan object to transfer packages of assets and services to parish and town councils with this transfer.

Proposal

It is recommended that Cabinet:

- a. Consider and approve the final list of assets and services listed that will be transferred to Salisbury City Council
- b. Note the net revenue impact to the council.
- c. Approve the service transfer budget principle of "tapering" to zero cost over 4 years.
- d. Delegate the implementation of the transfer of properties and the service delegation to a Corporate Director.
- e. Use the work and model established for Salisbury for further transfers. An indicative phasing and time line is shown below for further consultation with Town and Parish Councils.

Phase 1 (2016-17)

- i) Devizes
- ii) Amesbury
- iii) Calne
- iv) Corsham
- v) Pewsey

Phase 2 (2017-18)

- i) Chippenham
- ii) Trowbridge
- iii) Westbury
- iv) Warminster
- v) Wootton Bassett
- vi) Wilton

Phase 3 (2018-19)

- i) Bradford-on-Avon
- ii) Cricklade
- iii) Malmesbury
- iv) Marlborough
- v) Melksham
- vi) Tidworth

Phase 4 (2019-20)

- i) All other parishes

Dr Carlton Brand
Corporate Director

Report Author: Susanna Read Programme Office

Susanna.read@wiltshire.gov.uk 01225 718513

17th March 2016

Background Papers

The following documents have been relied on in the preparation of this report: None

Appendices

Financial detailed workings

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Appendix

Asset	Asset Value/ Investment	S106 Capital	S106 Revenue to drip feed into revenue
10 Properties ⁹	775,000		
4 Public Conveniences ⁸			
Market Place	5,450,000		
CCTV	500,000		
Interest on capital			
Shop Mobility			
Street Scene and Grounds Maintenance activity ⁵ BASED ON NOVATION			(258,000)
Grounds Maintenance at sheltered housing - recharge			
S106 Capital		(166,000)	
Park and Ride			
Setup costs			
HR			
Legal			
Condition Survey			
Summary Position (Novation)	6,725,000	(166,000)	(258,000)

Wiltshire Council Revenue					
Asset	Net Impact 2016/2017	Net Impact 2017/2018	Net Impact 2018/2019	Net Impact 2019/2020	Net Impact 2020/2021
10 Properties ⁹	33,600	44,800	44,800	44,800	44,800
4 Public Conveniences ⁸	60,899	-	-	-	-
Market Place	-	-	-	-	-
CCTV	-	-	-	-	-
Interest on capital	50,000	50,000	50,000	50,000	50,000
Shop Mobility	-	(12,475)	(24,950)	(37,425)	(49,900)
Street Scene and Grounds Maintenance activity ⁵ BASED ON NOVATION	-	(76,402)	(152,804)	(229,205)	(305,607)
Grounds Maintenance at sheltered housing	-	-	-	-	-
S106 Capital	-	-	-	-	-
Park and Ride	-	-	-	-	-
Setup costs					
HR					
Legal					
Condition Survey					
Summary Position (Novation)	144,499	5,923	(82,954)	(171,830)	(260,707)

Asset	Salisbury City Council Revenue							
	Income July 2016/2017	Payment from WC July 2016/2017	Expenditure July 2016/2017	Net Impact July 2016/2017	Net Impact 2017/2018	Net Impact 2018/2019	Net Impact 2019/2020	Net Impact 2019/2020
10 Properties ⁹	(38,634)		5,045	(33,589)	(44,786)	(44,786)	(44,786)	(44,786)
4 Public Conveniences ⁸	(22,640)		137,579	104,939	99,918	99,918	99,918	99,918
Market Place			£??	-	-	-	-	-
CCTV			£??	-	-	-	-	-
Interest on capital								
Shop Mobility	(17,652)	(37,425)	67,168	12,091	28,596	41,071	53,546	66,021
Street Scene and Grounds Maintenance activity ⁵	(9,000)	(229,205)	238,205	-	76,402	152,804	229,205	305,607
Grounds Maintenance at sheltered housing - recharge	(23,250)		23,250	-	-	-	-	-
S106 Capital				-	-	-	-	-
Park and Ride			918	918	1,224	1,224	1,224	1,224
Set up costs								
HR			£TBC	-	-	-	-	-
Legal			£TBC	-	-	-	-	-
Condition Survey				-	-	-	-	-
Summary Position (Novation)	(111,176)	(266,630)	472,165	94,359	161,355	250,232	339,108	427,985

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