

Report for:	<b>BUCKINGHAMSHIRE SHADOW EXECUTIVE</b>
Meeting Date:	<b>23rd July 2019</b>

<b>Title of Report:</b>	<b>Devolution of Highways Services</b>
Responsible Officer or Relevant Member:	Gill Harding / Mark Jaggard
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<b>Recommendations:</b>	<b>To extend funding for devolution of highways services for a further two years on the current terms to expire on 31.03.2022.</b>
Corporate Implications:	Advice has been provided by HB Law which confirms that there is no legal issue with extending the funding for the existing legal agreements. HB Law have also advised that a deed of novation will not be required for the existing agreements; however local councils would need to be informed in writing of the change from Buckinghamshire County Council to Buckinghamshire Council.
Options: (If any)	The options considered would be to offer an extension of the current agreements for a maximum of two years. This would allow for the benefits already achieved through the current localism agenda to be maintained while allowing for the new devolution offer to be developed.
Reason: (Executive only)	<p>It is the officer recommendation to offer an extension for the maximum of two years. The timing for this item is to enable town and parish councils to plan for the next financial year. A wider devolution offer is being developed via the localism workstream. It is anticipated that this will go forward to the Shadow Executive in the autumn 2019 to inform the financial planning for town and parish councils for implementation in the subsequent year – 2021/22.</p> <p>It is also important to note that the existing devolution agreements contain a break clause. This allows for the agreements to be terminated by either party with six months' notice and provides flexibility.</p>

## 1. Purpose of Report

1. Devolution has been a key aspiration of Buckinghamshire County Council, and we have explored how we can further this aspiration through the devolution of some highways services. The agreements to devolve some highways services (following a one year extension agreed last year) are due to expire on 31.03.2020.

## 2. Executive Summary

2. Prior to 2014, there had been a number of devolution arrangements that had been developed over a number of years. A robust pilot took place during 2014 and following that a significant piece of work was undertaken to identify lessons learned and create a system that worked well for local councils

and for the County Council. In 2015 this new devolution offer was presented to all Town and Parish Councils. This offer consisted of a formalised agreement with standardised funding arrangements.

3. For those local councils that took up the offer in 2015 there was an enhanced funding arrangement. As well as some local councils receiving pump prime funding, local councils who signed up in Tranche 1 (2015 - 44 councils) were given the equivalent budget to deliver six grass cuts for year one of the agreements. From year two (2016) onwards, local councils received a 53% lower grass cutting budget (in line with MTFP). As a result, local councils starting as part of Tranche 2 (2016 - 45 councils) did not receive an initial year of higher budget. From 2016 onwards, the funding arrangements have remained the same. Both contract periods were due to expire on 31.03.2019.
4. In total, 87 out of 168 town and parish councils (local councils) are now engaged in delivering devolved highways services. One of the key services devolved is urban grass cutting, and 65% of urban grass across Buckinghamshire is now cut under a devolved arrangement.
5. In light of the unitary decision in 2018 and in order to allow for development of a new localism offer, a decision was made to extend the existing budget for a further year to 31.03.2020. The localism work stream is currently engaged with local councils to develop this new devolution framework. In order to provide sufficient time for this framework to be fully developed and recognising the budget setting timetable for local councils, it is necessary to review the current highways devolution agreements as they are due to expire in less than 8 months.
6. In addition to the standardised agreements, some local councils have been keen to explore what additional services could be delivered through devolved agreements. Five local councils recently undertook a pilot agreement to deliver minor road repairs on minor roads. This pilot ended on 30.06.2019 with a total budget of £46.2k, and results of the pilot are to be reviewed.
7. It is important to clarify that this report is not to discuss any future or enhanced devolution opportunities. The purpose is to provide continuity for Local Councils with existing devolution agreements while a future devolution offer is considered and developed. Any future or further devolution will be picked up in line with the devolution framework being developed by the Localism work stream.

### **3. Content of Report**

#### Background

8. Devolution of Highways Services to local councils has been an ongoing process since 2006. BCC on 31.03.2020. currently has agreements with 87 local councils who deliver a package of highways services which are due to expire
9. The services provided by Local Councils as a result of these agreements include:
  - A. urban grass cutting,
  - B. hedging,
  - C. siding out
  - D. Rights of Way clearance
  - E. Weed killing – specific itemised weeds on footways
  - F. Maintenance – e.g. checking for obstructions, minor street furniture repairs & cleaning, removal of fly posters, approval of charity event advertising
10. In addition to the above, five local councils have also been taking part in a pilot scheme to fill minor potholes on minor roads. These local councils are: Buckingham Town Council, Gerrards Cross Town Council, Mentmore Parish Council, Stone with Bishopstone and Hartwell Parish Council, and Waddesdon Parish Council. This pilot ended on 30.06.2019 and had a total budget of £46.2k, and results of the pilot are to be reviewed.

11. The devolution model and associated agreements that were brought in from 2015 have resulted in a number of benefits. Local councils have reported that this has enabled them to deliver a more bespoke service offering to residents using local knowledge to make local decisions. From a County Council perspective, this has reduced the number of service delivery queries received as these are now handled by the local councils. This has supported a reduction in overheads. As well as keeping costs contained for a known period, it: allows for the funding of local highway environmental works to be prioritised based on local preferences rather than being restricted to a county wide delivery programme; has social and community benefits such as encouraging self-help, social enterprise employment and creation of new jobs; and is an opportunity to trigger a broad community appetite for self-delivery and community action (e.g. community buses, libraries). An additional benefit is that it enables local council's to enhance the funding available and increase the level of service if supported locally.
12. The purpose of this paper is to seek agreement on extending the current arrangements for a further period of time while the new Council's wider devolution offer is developed and finalised. Any new devolution offer would supersede the existing highways devolution arrangements and could potentially provide the opportunity for further devolution in the highways service area.

### Timeline

**2006 – 2012** – 23 'bespoke' agreements with local councils were initiated.

**2014** – Following a pilot, a package of defined devolved functions was agreed with interested local councils.

**2015** – All previous agreements were terminated and 44 local councils signed up to the new devolution agreement for a 4 year period (Tranche 1).

**2016** – An additional 45 local councils accepted the devolution offer making a total of 86 in Buckinghamshire delivering devolved services (Tranche 2). The remaining local councils continued to have services delivered by Transport for Buckinghamshire.

**2018** – A pilot scheme commenced allowing 5 local councils to deliver minor road repairs on minor roads. The MoU was originally due to expire on 31.03.2019 however a variation was issued extending this to 30.06.2019. The total budget for this pilot is £46.2k.

**2019** – A 1 year budget extension, which commenced 01.04.2019, was offered to local councils who already had an existing devolution agreement. 87 local councils took up the offer, declined the offer of an extension.

### Benefits Achieved

13. Following the pilot in 2014, a significant piece of work was undertaken to identify lessons learned and create a system that works well for local councils and for the County Council. As a result of this, a robust framework was created for Tranche 1 (2015) and Tranche 2 (2016) which set out the expectations that Buckinghamshire County Council had of local councils and which local councils could expect of the County Council. The new agreements for Tranche 1 and 2 have formalised agreements with standardised funding arrangements.
14. Devolution enhances local decision making. Local councils have the option to prioritise and enhance the service they provide using their precept. Services that would not usually be prioritised under the Transport for Buckinghamshire contract (for example sign cleaning) can be delivered under the devolution agreement.
15. Devolution creates jobs in local communities. No jobs have been lost from the Transport for Buckinghamshire contract as a result of the agreements; however jobs have been created to carry out the functions that have been devolved.

16. The customer interface regarding the devolved functions is now managed by the relevant local council. Between 2014/15 and 2015/6 – in line with the introduction of the first standardised devolution agreements – the County Council contact centre received 50% fewer complaints relating to grass cutting.
17. On 2<sup>nd</sup> November 2018, it was agreed to extend the existing devolution agreements by a further year to expire on 31.03.2020. This decision was made linked to align with the broader localism agenda incorporated in the unitary process. The new localism agenda is still being developed, and there was concern that current arrangements would cease ahead of the new local agenda/arrangements being confirmed. Local councils undertake budget setting in the autumn, and so extending the arrangement allowed local councils to be in an informed position ahead of setting their budgets. When offered the opportunity to extend the arrangement, all but two local councils agreed to continue. This shows that from the local council perspective this has been a success.

### **Principles**

18. Localism is a key strand in the new unitary model.
19. The Localism work-stream (as part of the Community Board) is undertaking a piece of work to design a new devolution offer to Local Councils. This report and decision is not regarding this new offer, and any future or further devolution should be considered in line with the new devolution framework.
20. Any decisions taken as a result of this paper would need to fit in with current discussions with regards to MTFP.

### **Legal implications**

21. Funding for existing devolution agreements is due to expire on 31.03.2020 (unless either party exercises their right to activate the 6 month break clause ahead of 30.09.2019). These agreements have been prepared by BCC legal team in 2015/2016. Deeds of variation were prepared by HB Law in 2018. It is important to note that the agreements themselves do not have an end date, it is the funding period which is due to expire.
22. Advice has been provided by HB Law which confirms that there is no legal issue with extending the funding for the existing legal agreements. HB Law have also advised that a deed of novation will not be required for the existing agreements; however local councils would need to be informed in writing of the change from Buckinghamshire County Council to Buckinghamshire Council.
23. It is important to note that legally it is the function of the Council that is devolved, not the statutory responsibilities to deliver the functions. Local Councils are obliged to follow '*Safety at Street Works and Road Works: A Code of Practice*' as issued by the DfT.

### **Options**

24. The options considered would be to offer an extension of the current agreements for a maximum of two years. This would allow for the benefits already achieved through the current localism agenda to be maintained while allowing for the new devolution offer to be developed.
25. It is the officer recommendation to offer an extension for the maximum of two years. The timing for this item is to enable town and parish councils to plan for the next financial year. A wider devolution offer is being developed via the localism workstream. It is anticipated that this will go forward to the Shadow Executive in the autumn 2019 to inform the financial planning for town and parish councils for implementation in the subsequent year – 2021/22.
26. It is also important to note that the existing devolution agreements contain a break clause. This allows for the agreements to be terminated by either party with six months' notice and provides flexibility

should a new Localism offer be ready earlier than currently anticipated or should there be any other reason to end the agreement.

27. In line with the decision on extending the highways devolution agreements, it may be appropriate to also extend the pilot pothole filling arrangements.

### **Recommendations**

28. Having considered a number of options, the recommendation is to endorse to Members extending funding for devolution of highways services for a further **two** years on the current terms to expire on 31.03.2022.

This provides consistency for local councils and requires ultimately less resource than undertaking two one year extensions.

29. CIG has discussed and agreed this recommendation.

### **4. Consultation**

30. Not applicable.

### **5. Next Steps**

31. Should the recommendation be accepted, resource would need to be identified to deliver the extension of the funding for the devolution services. A key task would be to engage and communicate with the local councils and to engage with legal to prepare an agreement variation.

<b>Background Papers</b>	None.
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