

Report to the Cabinet

Meeting to be held on Thursday, 16 May 2019

Report of the Head of Service - Libraries, Museums, Culture and Registration Services

Part I

Electoral Division affected:
Preston City;

Delegation of Library Function to Preston City Council at the Harris Museum, Art Gallery and Library

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Executive Summary

The Re-Imagining the Harris project is a partnership between Lancashire County Council and Preston City Council which started in 2015 with the aim of repositioning the Harris Museum, Art Gallery and Library. Since the project's inception one of the main priorities has been to develop a shared service in the building to ensure customers receive highest quality and joined up services, delivered in the most efficient manner. To achieve this shared service, this report recommends that the library function at the Harris building is delegated to Preston City Council under a section 101 Local Government Act 1972, delegation of function agreement.

Recommendation

Cabinet is asked to:

- (i) Approve the delegation of the library function at the Harris building under a section 101 agreement;
- (ii) As a consequence of the delegation, approve the transfer of the Lancashire County Council library team of the Harris Museum, Art Gallery and Library to Preston City Council, following the principles of the Transfer of Undertakings (Protection of Employment) (TUPE) regulations.

Background and Advice

The Harris is a Grade 1 listed building owned by Preston City Council ("Preston"). Preston run the museum and art gallery within the Harris building.

Lancashire County Council ("Lancashire") occupies approximately 40% of the building to house the largest library in the Lancashire library service.

The current relationship between the two authorities is governed by an agreement (signed in 1997) "for the use and occupation of the Harris building" ("Use and Occupation Agreement"). This Use and Occupation Agreement obliges Lancashire to pay 40% of the building costs and front of house costs, and provide Preston six months' notice if it wishes to vacate the Harris building.

Preston and Lancashire established the 'Re-Imagining the Harris' project in 2015, sharing the costs of a project leader post and securing support from Arts Council England (ACE). One of the project's four priorities was to "prepare a business case to support a new joint staffing structure" within the Harris building.

Cabinet have previously agreed to officers from Lancashire and Preston investigating taking forward a delegation agreement so that a 'single' team within the Harris building can be achieved. As a result a delegation agreement under section 101 of the Local Government Act 1972 has been drafted (listed under background papers below). The agreement is for the discharge by Preston of Lancashire's library function for the key library service point for the city of Preston and delivered from the Harris building.

The agreement will be for an initial period of twenty-five years from the commencement date and may be extended for further periods up to a maximum of ten years. Either party may dissolve the agreement by giving a minimum of twelve months' written notice to the other party.

In addition to the above, the delegation includes a number of clauses covering such areas such as arrangements for the discharge of the function including the provision of a shared service board; the detail of how the budget provision will be made by Lancashire to Preston; other considerations such as how any savings or redundancies would be dealt with; how the dissolution of the agreement would be dealt with and the consequences of that if that was to come to fruition; the area of data management and the roles and responsibilities of each party in terms Data Protection legislation and other standard clauses applicable in a section 101 delegation agreement.

The delegation agreement also includes several schedules which cover areas such as the detail of the library function that is being delegated (including all the core functions and the expectations against those core functions and how they will be monitored) and how Lancashire staff based at the Harris building will transfer to Preston.

The essence of the delegation is that day to day management control is relinquished, as the library service function would be delegated to (and delivered by) Preston within a framework to ensure consistency with the remainder of the library service county-wide. However Preston would have autonomy with regards to delivering services, with the Shared Service Board (made up of Lancashire and Preston officers) in place to monitor performance.

The completion of the section 101 agreement will take place when both Lancashire and Preston have the authority to do so, but the delegation will be deferred until the ICT systems necessary for the delegated functions have been prepared in the coming months.

If the decision is made to agree the delegation, the Lancashire staff in the employment of the library team based within the Harris building will transfer to Preston in a TUPE like manner when the delegation takes place following the implementation of the replacement ICT arrangements.

The public would see no change in terms of the quality of provision if the delegation is agreed. The library at the Harris would be consistent with all other libraries in Lancashire and service delivery would be linked into the Lancashire Library Service and any Lancashire wide initiatives the service was delivering or taking forward.

The Re-imagining Project has been successful in a round one bid to the National Lottery Heritage Fund and has now been given permission to start up the development phase. At the end of the development phase a round two bid will be made and if successful capital funding would result in significant improvements to the Harris building.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Financial

Under the proposed agreement Lancashire will pay an annual sum to Preston to provide a library service which will be inflated in line with the pay award each year. Lancashire will also continue to pay for 40% of building related costs which includes front of house staff and premises running costs. The estimated annual revenue costs are circa £265,000 for Preston to provide a library service and circa £335,000 for Lancashire's contribution to building related costs (at 2019/20 prices), a total annual revenue cost of circa £600,000. Income currently earned from library services at the Harris building will continue to be retained by Lancashire.

Any savings arising from any future restructures to create a single team (across the front of house team and library service team) will be shared 60:40, Preston: Lancashire and any redundancy costs incurred will also be shared in the same proportion.

The revenue costs of the proposal will initially remain unchanged from those incurred by Lancashire under the current arrangements. Under the current arrangements Lancashire employ and therefore cover the cost of library staff and pay Preston 40% of building related costs.

However, it is anticipated that the creation of a single team will both improve the visitor experience and result in efficiencies and therefore recurring revenue savings. Lancashire does not currently contribute towards the cost of museum/curatorial staff and under the proposed agreement will not do so in the future.

Human Resources

The delegation of the service requires the transfer of library service employees from Lancashire to Preston pursuant to the Cabinet Office, Staff Transfers in the Public Sector, Statement of Practice January 2000 (Revised December 2013). The statement of practice sets out a framework for Public Sector Staff Transfers, which is founded on the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (TUPE). The transfer will therefore be managed as a TUPE transfer in conjunction with Lancashire and Preston's obligations in line with the TUPE regulations.

Risk Management

If external funding for the capital aspect of the re-imagined project is received, it is likely that those funders will expect the delegation to be agreed and would continue so that the single team operation is maintained. If after receiving funding the delegation agreement was to cease there would be the question of whether 'claw back' would apply but this would only be a risk if the two authorities ceased working together and the Harris building stopped working in the innovative and effective way envisaged by the concept of a single team providing a 'blended' offer. 'Claw back' is standard to any external funding grant of the nature that is being applied for and the risk of it being taken forward is unlikely.

Legal

Preston are taking a similar decision regarding the library function delegation to their June Cabinet and the delegation being signed with a deferred delegation date, is therefore subject to both Cabinets agreeing to the delegation. Lancashire has considered various options on how to implement the shared service and concluded that a delegation of function under section 101 is the most appropriate route.

Property

Lancashire's occupation of the building is covered by an agreement which commenced in 1997 between Lancashire and Preston (the then Preston Borough Council). The agreement was a right to use and occupy ("Use and Occupation Agreement") prescribed parts of the building for library use, subject to a 40% contribution to the buildings costs and front of house staff, which equated to circa £325,000 per annum. As the proposal is to upgrade and use the building in a much more flexible and integrated way with the combined services, the Use and Occupation Agreement would require amending to reflect and protect Lancashire's rights going forward. Lancashire's 40% contribution to current costs have been accepted as a commitment by the library service to fund its share of the overall proposal and joint funding bid promoted by the two authorities.

List of Background Papers

Paper	Date	Contact/Tel
Section101 agreement for the discharge by Preston City Council of Lancashire County Council's library function for the key library service point for the city of Preston and delivered from the Harris Building	24 April 2019	Steve Lloyd 07876 452678

Reason for inclusion in Part II, if appropriate

N/A