

**CABINET MEETING: 19 JANUARY 2017**

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**WITS (WALES INTERPRETATION AND TRANSLATION SERVICE):  
TRANSFER OF HOSTING RESPONSIBILITIES FROM GWENT POLICE TO CITY OF CARDIFF COUNCIL**

**REPORT OF DIRECTOR OF COMMUNITIES, HOUSING AND CUSTOMER SERVICES**

**AGENDA ITEM: 3**

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**PORTFOLIO: CORPORATE SERVICES & PERFORMANCE (COUNCILLOR GRAHAM HINCHEY)**

**Reason for this Report**

1. To seek agreement for the Wales Interpretation and Translation Service hosting responsibilities, to transfer from Gwent Police to City of Cardiff Council.
2. To agree for delegated authority in relation to the procurement process for the provision of the translators.

**Background**

3. In 2009 the Welsh Government supported the development of a national Interpretation and Translation service (WITS) The service was designed for use by all public services in Wales and aimed to replace the profusion of separate translation arrangements with a “one-stop-shop” that would improve service quality and reliability.
4. There are currently 37 partners signed up to the service consisting of Local Authorities, Health Boards, Police Authorities and the Probation Service. (see **Appendix 1**)
5. The service is governed by a board made up of representatives from the partnership, which includes local authorities, police authorities, health boards and the probation service. Reports on performance of the service are received by all partners who attend the board on a quarterly basis.
6. The service has an annual turnover of approximately £1.7 million. Organisations that are signatories to the service pay on the basis of a charge per service utilised which includes the cost of the interpreter, and a

small pro rata management and administration fee. There are approximately 1,300 translators who supply a service through WITS covering 125 languages which includes British Sign Language.

7. The service offers interpreters who have a DPSI (Diploma in Public Services) as well as interpreters who have been locally trained. The service has set up a framework to grade interpreters from 1-5 in terms of assessment quality of interpreter following an assessment or a grade 10 interpreter who has passed a DPSI (Diploma in Public Service Interpreting) or DPI (Diploma in Police Interpreting) qualification.
8. The service adheres to the principals of NRPSI (National Register of Public Service Interpreters) who maintain a national register of professional, qualified and accountable interpreters.
9. The 24/7 support and booking service currently comprises 13 call centre staff, based at Maindee Police Station in Newport. When the service was established it was agreed that Cardiff Council would source the staff required through Cardiff Works. It was anticipated that if the service proved its sustainability and value then permanent posts would be established.

## **Issues**

10. Gwent Police approached the City of Cardiff Council in 2015 to ask if the Council would consider taking over hosting responsibilities for the service. The key reason for the request was that the police service, whilst absolutely appropriate as a service host for public sector provision, is not able to operate as a trading entity. The success of the service had led to requests for provision from organisations outside of the public sector and it was felt that an opportunity was being missed to develop the service for wider use.
11. In addition in October 2015 Wales Audit Office conducted an audit review of the service. The audit recommended a number of actions required to improve aspects of the service governance and performance framework and confirmed that a transfer to a local authority host would be of assistance in achieving the required improvement actions.

## **Proposal**

12. Board decided on March 10<sup>th</sup>, 2016 that Cardiff Council be formally requested to take on the host role for the WITS service.
13. As host the Council will not Chair the board. Gwent Police who currently host the service have confirmed that they would be willing to Chair the Board for the next year. The board will be overseeing all aspects of the WITS provision.
14. The service would be located within the Communities, Housing and CS Directorate and based at Willcox House which is operated on a 24/7 basis.

## **Medium to long term**

15. Cardiff Council could look to develop the service to a wider range of public and private sector customers. Initial market sounding and building on initial enquiries from those not able to currently access the service indicate that there is potential to expand.
16. If this proposal is accepted and following the transfer of the service, a detailed business case will be developed to commercialise. It is anticipated that this may involve the creation of a company, special purpose vehicle and would be subject to a future Cabinet Report.

## **Procurement Process – Provision of Translators**

17. Recommendations leading from WAO report was a requirement to provide a compliant procurement route for the sourcing of interpreters / translators apart from the WITS vetting procedure that provides open and transparent access and their approved list.
18. The current cost of the translation service is c£1.7 million per year and the Council would need to undertake a compliant procurement process, which may require cabinet approval.

## **Reason for Recommendations**

19. To ensure the long term sustainability of an 'in demand' service within the public sector, allowing further development of the service whilst gaining additional partners across Wales and maintaining a 'value for money' service.

## **Financial Implications**

20. The proposal would result in the Council taking on the responsibility of hosting the translation service from Gwent Police. This will require the consideration of creation of permanent posts and a staffing structure that would facilitate the delivery of services to customers and consideration of TUPE implications in relevant cases.
21. The customers of the facility currently have a service level agreement agreed annually. This process will need to continue, together with a process to ensure that a robust business plan, customer retention plan and full Council cost and overhead recovery is in place to ensure that there are no adverse financial implications for the Council. Any such cost recovery should ensure a separate financial reserve is maintained to mitigate against any short adverse financial variances and also any long term liabilities that may fall on the Council as a result creating posts and incurring costs for the delivery of this service. The Council will need to put in place adequate support to undertake financial accounting, reporting and operational management of the service, which will need to be funded from income generated.

22. Prior to any transfer due diligence should be undertaken on the accounts from Gwent police for this facility, including projections of 2016/17 net expenditure and any earmarked reserve balance to be transferred. Any such transfers should be undertaken as part of a legal agreement to be entered into with Gwent Police. Any legal transfer should ensure that any liabilities arising from actions undertaken by Gwent Police or staff employed by them prior to transfer are not transferring as the responsibility of Cardiff Council.
23. Where any procurement is undertaken, this should be in accordance with the Council's procurement rules and consideration will need to be given to ensuring all relevant insurances are in place in relation to any risks to the Council in providing this hosting service.

### **Legal Implications**

24. It is intended that the WITS Services ("the Service") will be provided on a collaborative basis for the collective benefit of all Members. To facilitate the arrangement a collaboration agreement is proposed, which will set out the terms upon which;
  - (a) the Service will transfer from Gwent Police to the Council;
  - (b) the Council will host the Service and
  - (c) the obligations of the Members.
25. A draft collaboration agreement has been prepared, which is currently with the Member public bodies for comment.
26. The draft collaboration agreement is lengthy and therefore it is not practicable to set out all its provisions in this report, however the following should be noted:-
  - the anticipated start date is 1<sup>st</sup> April 2017.
  - The hosting and running of the Service will result in the Council taking on liabilities and incurring costs. It is important that appropriate due diligence checks are undertaken so that the full extent of the liabilities and costs is appreciated and are acceptable to the Council.
  - Legal Services are instructed to draft the collaboration agreement such that an 'on costs' is charged to Members, in respect of each order placed for translation services. The on cost is designed to enable the Council to recover the costs of operating the Service (but not to make a profit). Relevant to this point is that Members are not obliged to use the Service, accordingly there is a risk that if insufficient orders are placed the Council will not recover its full costs of operating the Service. Legal Services are instructed that the Client is confident this will not be the case given the past history of usage and there is a reserve fund which has been accumulated previously for the benefit of the Members, which may be called upon to meet under recovered expenses incurred. All public body

Members will need to agree to this and this should be captured in the collaboration agreement

- Members are able to withdraw from the collaboration after one year, and membership is in effect on a year by year basis. It is proposed that the reserve fund will be structured so as to cover costs that Cardiff Council may incur if Members do not renew their membership (for example redundancy costs)
  - As Host Cardiff Council will be responsible for procuring services to facilitate the WITS Services and it is important that this is done in a manner that accords with procurement law. Legal advice should be sought on the procurements.
26. It is important to note the Wales Audit Office Report raised various points and made recommendations as to the way forward in respect of the WITS Service. Should the transfer of WITS from Gwent Police to the Council be approved it will create a legitimate expectation that the transfer and ancillary actions taken by Cardiff Council will address the issues raised in the WAO report.
27. It is advisable the procurement arrangements for the Translators are in place so that they can be operational from the date the Council commences to hosts the Service.
28. Please see the HR implications as regards the employment law matters raised.
29. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010. Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a). Age,( b ) Gender reassignment( c ) Sex (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f) Pregnancy and maternity, (g) Marriage and civil partnership, (h)Sexual orientation (i)Religion or belief – including lack of belief.
30. The report identifies that an Equality Impact Assessment has been carried out and is appended at **Appendix 2**. The purpose of the Equality Impact Assessment is to ensure that the Council has understood the potential impacts of the proposal in terms of equality so that it can ensure that it is making proportionate and rational decisions having due regard to its public sector equality duty. The decision maker must have due regard to the Equality Impact Assessment in making its decision.

### **Trade Union Consultation**

31. The trade unions have been informed of the proposals, in additional relevant posts have been job evaluated.

## **HR Implications**

32. The recommendations in this report have the impact of creating a number of permanent roles within the Authority for which the temporary employees currently employed through Cardiff Works will be able to apply. This will provide a more stable workforce for WITS and greater security for those employees.
33. Discussions have taken place with Gwent Police regarding the possibility of a small number of employees (one or two) transferring under the TUPE regulations, and if this does become the case then the Council will abide by the requirements of TUPE as well as the Code of Practice on Workforce Matters.
34. With regards to the interpreters, a number of options have been considered and the option identified in the report is the option which will ensure compliance with legislation for the Council and a smooth transition of the interpreters.
35. There has been trade union and employee consultation throughout the process to date and this will continue should the recommendations be agreed.

## **Equality Implications**

36. An equality impact assessment has been undertaken and is included as **Appendix 2**.

## **RECOMMENDATIONS**

The Cabinet is recommended to

1. Agree that The Wales Interpretation and Translation Service hosting responsibilities are transferred from Gwent Police to City of Cardiff Council.
2. Delegate authority to the Director of Communities, Housing and Customer Services in consultation with the portfolio Member for Corporate Services and Performance.
  - i. To approve the detail of the collaboration agreement between the WITS Members and to conclude the collaboration agreement; and
  - ii. To deal with all aspects associated with the hosting and running of the WITS Service, including the carrying out of any procurements required
3. Note that, should the transfer be approved, a future cabinet report is received on the potential expansion of the service.

**Sarah McGill**  
**Director**  
**13 January 2017**

*The following appendices are attached:*

Appendix 1: List of WITS Partners

Appendix 2: Equality Impact Assessment