



ESPO MANAGEMENT COMMITTEE – 27 JUNE 2013

CONSORTIUM AGREEMENT – PROGRESS REPORT

REPORT OF THE CONSORTIUM SECRETARY

Purpose of Report

1. To advise the Committee of progress in completing the Consortium Agreement.

Background

2. At its meeting on 7 March 2013, the ESPO Management Committee resolved that the Agreement and its schedules be approved and recommended to the individual Consortium Authorities for their agreement and that the Consortium Secretary be authorised to:-
 - (i) make any necessary final amendments to the Agreement arising from the meeting;
 - (ii) liaise with individual Consortium Authorities in order that the Agreement be considered for approval by their appropriate Executive body;
 - (iii) subject to (ii) above, arrange for the timely execution of the Partnership Agreement.

Six of the seven Consortium Authorities indicated their agreement to the proposed Constitutional documents. Leicester City Council stated their position as being that they could not agree to the proposed agreement at that stage.

Amendment to Draft Agreement

3. At the meeting on 7 March 2013, a point was made during the course of discussion that references to 'equal liability' of member authorities should be amended to 'joint and several liability'. This has led to further discussions between the legal representatives of the member authorities. From the perspective of an external body, all member authorities in ESPO may have joint and several liability (in other words a third party could sue all or any of the authorities). However, the purpose of the Agreement is to regulate the relations between the authorities so that liability will be shared equally between them. Accordingly, a form of words to reflect this intention has been drafted by lawyers from Warwickshire County Council and Leicestershire

County Council, circulated to all of the authorities and agreed by all of the member authorities with the exception of Leicester City Council.

Current Position

4. Three authorities, Norfolk, Warwickshire and Leicestershire County Councils have obtained agreement through their respective political processes for the Consortium Agreement to be completed. In three authorities, Cambridgeshire County Council, Lincolnshire County Council and Peterborough City Council, action is underway to complete those processes.
5. It is understood that Leicester City Council are minded to withdraw from the Consortium. However, no formal notice to that effect has been received. If Leicester City Council do wish to leave the Consortium, discussions will have to take place as to the exit arrangements and any consequential issues relating to the financial position including costs and liabilities. It may be appropriate for such discussions to take place through the Chief Officer Group prior to further consideration, if necessary, at Management Committee. The Chief Officer Group would also be the appropriate place for any discussion to take place on the effect of the departure of Leicester City Council on the future operation of ESPO.

Resource Implications

6. Implementation of the Change Programme, of which preparation of the Consortium Agreement formed a part, was mainly provided through a combination of existing resources, both financial and staff, of ESPO and Member Authorities.
7. A specific budget of £400,000 was set aside by the Management Committee on 24 June 2011 to support its implementation. In terms of the Consortium Agreement, only a small proportion of this budget was required through the use of specialist resources (a locum to support the development of legal documentation). The overall cost of the Programme, inclusive of the locum was £57,350.

Recommendation

8. The Management Committee is requested to note the position.

Equal Opportunities Implications

9. An Equality Impact Assessment (EIA) was undertaken as part of the ESPO wider Change Programme during the implementation phase (which included both service design performance and employment) to help identify any equality issues.

Background Papers

Report to ESPO Management Committee – 7 March 2013 – Consortium Agreement

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