

Committee: Transport & Highways
Date: 13 January 2005
Agenda Item No: 3
Title: Local Service Agreement for the Highways and
Transportation Service for Essex – Progress Report
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Summary

- 1 This report sets out the progress that is being made with the preparation of the Local Service Agreement. The report follows on from those made to the last three meetings of the Committee. The Area Highway Manager, Paul Hardy, will be attending this meeting to answer any questions that Members have, particularly in relation to the management and operation of the Road Safety Officer posts after 1 April 2005. Subject to the resolution of the outstanding cost issue detailed in this report, Members are asked to confirm that the emerging draft LSA document can continue to proceed to sign-up. The completion of the LSA is one of the actions contained in the Council's Quality of Life Corporate Plan (P.7.1).

Background

- 2 At the last meeting of the Committee, Essex County Council's Head of Highways and Transportation, Tony Ciaburro, confirmed that the Road Safety Officers would continue to be based in the District Council's Saffron Walden offices after 1 April 2005 in the short to medium terms, but as County Council employees. Mr Ciaburro was unable to give an indication of what would happen in the longer term, but it was likely that the West Area Office would stay in Great Dunmow as the Centre of Excellence for at least 3 years.
- 3 At the last meeting, Members resolved to request that the Road Safety Officers continue to be based in Saffron Walden, and asked that the request be made at the one-to-one Member level meeting with Councillor Bass that took place on 23 November 2005.

Progress

Road Safety Officers

- 4 At the one-to-one Member level meeting, Councillor Bass confirmed that there is no imperative to relocate the West Area Centre of Excellence away from Great Dunmow. The Mid Area COE is now operational in Chelmsford and the new one for the East Area in Colchester is next. The remaining two existing Area Offices in Rayleigh and Great Dunmow are satisfactory; but if either

were to be relocated Rayleigh would likely be next.

5 At the one-to-one meeting the District Council requested that the County Council pay all the costs associated with retaining the Road Safety Officers in Saffron Walden. The response from Councillor Bass was as follows:

- Accommodation costs (circa £4,000 inc telephone and IT): These would be paid by the County Council, even though there would be desk space for the RSOs at Great Dunmow. The County Council would also provide storage accommodation.
- Crucial Crew: The County Council will pay for the continued involvement of the RSOs in Crucial Crew work.
- Deficit (circa £2,400): Councillor Bass asked for more information on how the deficit had originated, querying whether it was because the agency fee paid by the County Council was insufficient.
- Management Charges (circa £3,600): Councillor Bass asked that the District Council absorb these charges as the RSOs would be retained in Saffron Walden at the District Council's request.

6 It was agreed at the one-to-one meeting that the County Council would arrange a meeting with the District Council to go over and resolve these issues relating to costs, but so far this has not been done. The view of your officers is that a *Quid Pro Quo* over these charges would be reasonable in the circumstances.

Legal liability under the LSA

7 Following a number of questions raised at the various District and Borough one-to-one Member level meetings, the following email advice was issued by officers of the County Council:

"The LSA document is not a legal contract. The County Council, as Highway Authority, will retain responsibility, accountability and liability for all works and decisions affecting the Highway. Therefore, local District and Borough Members need not be fearful of any legal consequences as a result of their directions to Highways staff regarding local roads because the appropriate delegation will remain with the County Council. So, in effect, local District and Borough Members can still point towards the County Council as being the Highway Authority if that is what they want to do. What is on offer as part of the LSA is genuine partnership working between District and Borough Members and the County Council through close liaison and dialogue with the Area Office as outlined in the document. What this means in practice is that local District and Borough Members can make decisions as described in the document without legal liability".

It was indicated by the County Council that the sentiment of these views would, after legal checks, be included as a preface to the LSA document.

8 The email was challenged at the officer liaison group meeting on 6 December by some of the Agency Districts and Boroughs. Their point of view was that, under the provisions of the Local Government Acts 1972 and 2000, there

could not be delegated decision-making without accountability by the Districts and Boroughs. If the LSA is an exercise in devolved decision-making, even within the parameters set by the County Council, then there must be insurance implications for Districts and Boroughs. If that accountability is to remain with the County Council, the LSA as drafted is merely a consultative exercise.

- 9 The County Council indicated that it would review the email advice in the light of the concerns that were being expressed and would respond to all Districts and Boroughs. Your officers have now received a reply to the effect that the Head of Highways and Transportation will delegate local road decision making to the Area Highway Managers, who will only act in agreement with the District and Borough Councils. This will avoid the need for delegation of Highway Authority powers to Districts and Boroughs, but would still be consistent with the concept of the LSA as a model or protocol for local decision-making.

RECOMMENDED that Members:

- 1) Note the progress that is being made with the preparation of the LSA.
- 2) Subject to a satisfactory resolution of the issue relating to the costs of the Road Safety Officers, confirm that the emerging draft LSA document can continue to proceed to sign-up.

Background Papers: Quality of Life Corporate Plan