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Cabinet Member for Culture, Leisure, Sports and Parks

12 November 2015

**Name of Cabinet Member:**

Cabinet Member for Culture, Leisure, Sports and Parks – Councillor A Khan

**Director Approving Submission of the report:**

Executive Director for Place

**Ward(s) affected:**

All

**Title:**

Progress report on Primary Authority Partnerships

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**Is this a key decision?**

No

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**Executive Summary:**

On 2<sup>nd</sup> October 2014, a report was submitted to the Cabinet Member for Policing and Equalities entitled "Primary Authority Partnerships - a revised model for delivering regulatory advice to businesses". The report was accepted with one of the outcomes being:

The Cabinet Member requested a further report be presented by officers in 12 months' time detailing the initial outcomes of implementing the Primary Authority Partnership scheme.

This report details the actions taken to consult with Home Authority and Lead Authority companies and the subsequent implementation of Primary Authority Partnerships.

**Recommendations**

The Cabinet Member is recommended to:

1. Note the good progress made in signing up Coventry's first business to a Primary Authority Partnership agreement, with further businesses wanting to join.
2. Note the results of the consultation to transfer businesses from previous business advice arrangements to a Primary Authority Partnership.
3. Request officers continue to promote Primary Authority Partnerships with Coventry based businesses in support of the growth agenda.

**List of Appendices included:**

N/A.

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

## 1. Context (or background)

1.1 The Regulatory Enforcement and Sanctions Act 2008 introduced the concept of 'Primary Authority Partnerships'. A Primary Authority Partnership (PAP) is effectively a written agreement setting out the terms on which a company that operates across two or more local authorities can seek detailed advice. However the scope of a PAP has been widened to include trade associations and is under further review to apply to any businesses. The advantage to companies is that the advice may be regarded as 'assured advice' (meaning it has to be taken into account by any other regulator). The advantage to the local authority is that it can better manage its resources and it can charge for its services in delivering a PAP scheme.

1.2 On 2<sup>nd</sup> October 2014 the Cabinet Member for Policing and Equalities approved the introduction of PAP schemes along with a charging policy. The report referenced that once the scheme had been introduced in Coventry, officers would consult with companies under the existing 'Home Authority' and 'Lead Authority' arrangements and offer a transition to Primary Authority if they still wish to receive services covered by the scheme. The transition process will be managed over a period of time, e.g. 12 months.

1.3 On 5<sup>th</sup> February 2015 delegated authority was given to officers to undertake all steps necessary to arrange, negotiate and complete a PAP application.

1.4 Regulatory Services offered 'voluntary' partnerships to local businesses under existing schemes, such as 'Home Authority' and the HSE's former 'Lead Authority' scheme. The Trading Standards team had 47 'Home Authority' companies. The Health & Safety/Food team had one 'Lead Authority' agreement. These schemes continued for existing companies until transition to a PAP is offered.

1.5 On 14<sup>th</sup> April 2015 all Home Authority and Lead Authority companies were sent a letter seeking their views on the impact that the introduction of a PAP may have on them. The letter contained a form that could be returned in a stamped addressed envelope requesting information on;

- their current level of interaction with Regulatory Services,
- whether they would welcome receiving 'Assured Advice',
- whether they would sign up to a PAP,
- what impact did they foresee with the introduction of a PAP, and
- whether they wished to make any other comments.

The results of the consultation is detailed in Section 3.

1.6. As the transitional period is now over, those Home Authority and Lead Authority companies that have not requested to join a PAP will be written to advising them that their existing agreement will be now be ended.

## 2 Options considered and recommended proposal

Cabinet Member is recommended to:

- 1 Note the good progress made in signing up Coventry's first business to a Primary Authority Partnership agreement, with further businesses wanting to join.
- 2 Note the results of the consultation to transfer businesses from previous business advice arrangements to a Primary Authority Partnership.
- 3 Request officers continue to promote Primary Authority Partnerships with Coventry based businesses in support of the growth agenda.

### **3. Results of consultation undertaken**

- 3.1 All of the 48 Home Authority / Lead Authority companies in Coventry were written to on 14<sup>th</sup> April 2015 advising them of the decision to enter into PAPs and consulting with them as to the impact that it may have on them.
- 3.2 The level of response was limited so the businesses that had interacted most with Regulatory Services were sent a follow up letter / e-mail. 5 of the businesses had ceased trading or moved out of Coventry and of the 43 remaining, 8 responded. This resulted in an overall response rate of 18.6 %.
- 3.3 5 businesses wanted to enter into a PAP, 3 did not.  
The feedback from the businesses that wanted to join can be summarised as:
  - welcome the ability to rely on 'assured advice',
  - want to maintain / support the existing relationship and in some cases increase it,
  - they see the charge as a cost to business but reasonable,
  - currently have had to use other agencies for advice so as to be sustainable,
  - welcome the relationship being more accessible.

The feedback from the businesses that did not wanted to join can be summarised as:

- Do not want to join at present,
  - Do not use our services at present,
  - Some confusion as to how it applies to them and that they have to use the service a lot.
  - Already operate in a heavily regulated environment.
- 3.4 Of the 5 businesses that wanted to enter into a PAP, one has already been approved by the Secretary of State and 2 applications are in process. The other 2 are in the negotiation stage, 1 of which relates to a trade association.

### **4. Timetable for implementing this decision**

- 4.1 Recommendations 1 and 2 for noting, and recommendation 3 with immediate effect.

### **5. Comments from Executive Director of Resources**

#### **5.1 Financial implications**

No additional resource will be required to implement the scheme. Any additional income generated by entering into agreements with companies is difficult to estimate, but is not expected to be significant. Any extra increase in income will contribute towards Council resources.

#### **5.2 Legal implications**

Primary Authority Partnerships were introduced by part 2 of the Regulatory Enforcement and Sanctions Act 2008, as amended by the Enterprise and Regulatory Reform Act 2013. This creates a statutory basis for the introduction of such schemes, and for the ability to

charge for the advice given (section 31). Section 33 (3) of the Act requires a local authority to have regard to any guidance given, the most recent Statutory guidance is dated September 2013. Officers have taken this guidance into account when setting up potential arrangements for a PAP scheme and drafting this report.

Companies who have entered into Primary Authority Partnerships are still subject to regulation in the usual way. The fact a Partnership exists does not preclude any authority from taking enforcement action against a company, but the scheme requires a notice period to be given to the Primary Authority, and section 28 of the Act allows a Primary Authority to direct that such enforcement action should not be taken. The Primary Authority may, therefore, effectively veto proposed action which another Authority might wish to take.

## **6. Other implications**

None identified.

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

The introduction of Primary Authority Partnerships will give businesses the support they look for in terms of 'assured advice', which must be recognised by other regulators across the UK. This in turn helps provide them with consistency in their decision making and so generally contributes towards the growth agenda.

### **6.2 How is risk being managed?**

The key risk relates to having sufficient capacity to meet any demand from businesses wishing to sign up to Primary Authority Partnerships. However, the statutory scheme enables fees to be charged (at a cost recovery rate) and so if demand proves greater than expected, further resource may be provided using some of the additional income. There is no obligation to create a Primary Authority Scheme and if the authority was unable to meet the need, the scheme could be terminated, subject to a notice period and consultation.

Any advice provided by officers will be covered by the Council's insurers. Due to the low income levels anticipated and the low volume of cases likely to require more specialised input, the overall risk is considered to be low.

Any contracts entered into between the Council and companies for the provision of any services will be subject to approval by legal services, in accordance with Part 2M (section 5, sub-point 18) of the constitution.

It is possible, although unlikely, that enforcement action might need to be considered at some point against a partner company where compliance on an important matter is not achieved. Whilst the fact a Partnership exists does not preclude any enforcement, it would be likely to cause a breakdown in the relationship and the termination of the Partnership Agreement. This risk is considered to be at a low level.

### **6.3 What is the impact on the organisation?**

None

#### **6.4 Equalities / EIA**

Consideration has been given to the public sector duty under the Equality Act 2010 to reduce inequalities when making decisions of a strategic nature. However, as this is a progress report there is no additional impact from that considered in the Cabinet Member for Policing and Equalities report entitled "Primary Authority Partnerships - a revised model for delivering regulatory advice to businesses".

#### **6.5 Implications for (or impact on) the environment**

None

#### **6.6 Implications for partner organisations?**

None

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