

WIRRAL COUNCIL

CABINET – 16 AUGUST 2007

REPORT OF THE DIRECTOR OF FINANCE

WIRRAL AND NORTH WALES PURCHASING ORGANISATION

1. Executive Summary

This report is to advise members of the decision of the Wirral and North Wales Purchasing Organisation on 16 July 2007 that the Organisation be formally wound up in the light of the agreement now reached in relation to a settlement of the disputed sums. Members are asked to authorise the Director of Finance to pay Wirral's share.

2. Background

- 2.1 The Wirral and North Wales Purchasing Organisation (WNWPO) was formed prior to Local Government Reorganisation by Clwyd County Council and Wirral Council. Following reorganisation, the four unitary authorities that succeeded Clwyd County Council continued the joint arrangements with Wirral Council, although Wrexham County Borough Council withdrew from the arrangement on 1 April 2001. Flintshire County Council was the lead authority until early 2003, when Wirral took over following difficulties that had come to light in relation to accounting practices.
- 2.2 A dispute arose in early 2003 in relation to deficits which had occurred for a number of reasons. Consequently, the three other authorities gave notice to Flintshire of intention to withdraw from the Organisation which eventually led to a proposal to sell it. Following negotiations with interested parties, there was a transfer of the undertaking to a private sector company, and the staff either transferred to that company, were made redundant, or were redeployed by Flintshire and Wirral.
- 2.3 The constituent authorities had been able to agree for the most part that the winding up costs should be borne equally as provided for in the Constitution. However, there were a number of areas where costs were in dispute, and all four Authorities, following long negotiations during 2003, came to a provisional agreement that those costs should be apportioned in a different way, with Flintshire County Council bearing 48% of the cost and the remaining costs being shared equally between the other three Authorities. The total amount of the disputed costs to which this exceptional calculation would relate was £1,218,911.00, the deficit as at 31 March 2002. In addition there were costs of associated dilapidations and interest on working capital during the relevant period.
- 2.4 A number of reports have been commissioned into the matter over the years, including those from RSM Robson Rhodes dated 14 June 2002, and Deloitte & Touche of February 2003. Both were critical of practices, including accounting practices, adopted by the Organisation over the years. As a result, the view was taken that Flintshire C.C. should bear 48% of the disputed costs.

Following discussions with Flintshire County Council's External Auditor, it was suggested that before any such agreement was put into effect, the reasonableness and value for money should be tested. In making this comment, the External Auditor was reflecting the original agreement with the other Authorities that any loss would be shared on an equitable basis and that he was not aware that the initial agreement commented on the potential for an additional penalty to Flintshire if a loss was incurred as a result of its management of the WNWPO. The four other Authorities jointly sought Counsel's opinion, and he suggested that either a further report be obtained or that the matter be referred to the National Assembly in Wales. The Constitution provides that in cases of dispute then either the Secretary of State or the Welsh Assembly Government should arbitrate.

- 2.5 After further discussions between the four Authorities, it was decided to invite the Welsh Assembly Government to arbitrate on the matter. Unfortunately, they were not prepared to do so. The Authorities felt that it was inappropriate either to commission another report or to involve Counsel in a mediation exercise. Under the circumstances, it was agreed that the dispute should go to independent arbitration. However, when the formal reference was produced for the signature representatives, not all of the Authorities were happy with the process and a request was made that the matter be further considered by Flintshire County Council's External Auditors to see if it was possible to resolve the matter on the basis of the information already available.
- 2.6 Further discussions were held with Flintshire's External Auditors as a result of which they indicated that it was their belief that Flintshire C.C. had taken reasonable steps to settle the dispute. Whilst indicating that they were not seeking to challenge a settlement whereby the Council accepted responsibility of 48% of the share of the loss, they believed that there was a strong argument for very clear financial arrangements to be agreed in relation to any partnerships in the future including what happens when things go wrong.
- 2.7 As a result of this, Flintshire C.C. formally agreed to accept 48% of the disputed accumulated deficit up to 31 March 2002 of £1,218,911 and the associated dilapidations charges, with the other three Authorities being responsible for the payment of the remaining 52%. The deficit incurred after this date, together with interest on working capital would be split equally between the four authorities.
- 2.8 As a result of this, the WNWPO at its meeting on 16 July, agreed that the Organisation be formally wound up in the light of the agreement now reached in relation to the settlement of the disputed sums.

3. **Financial Implications**

The effect of this is that this Council must bear the following costs:

	£
Share of deficit as at 31 March 2002	211,277
Share of deficit incurred from 1 April 2002	271,867
Share of dilapidation costs	25,133
Share of interest on working capital	80,930
	589,207

As reported to this Committee on 14 December 2006 "Balance Sheet Management" a financial reserve exists to pay for this liability. The Authority has now received an invoice for settlement of the sum, and there is an obligation to pay.

4. **Equal Opportunity Implications**

There are none arising from this report.

5. **Human Right Implications**

There are none arising from this report.

6. **Local Agenda 21 Implications**

There are none arising from this report.

7. **Community Safety Implications**

There are none arising from this report.

8. **Planning Implications**

There are none arising from this report.

9. **Local Member Support Implications**

There are none arising from this report.

10. **Recommendations**

That the report be noted and the Director of Finance be authorised to pay the invoice for the Council's share of the deficit in the sum of £589,207.

MER/AA
1 August 2007