



Community and Customer Engagement Overview and Scrutiny Committee

Date:	Thursday, 30 October 2008
Time:	6.00 pm
Venue:	Committee Room 4 - Wallasey Town Hall

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AGENDA

1. DECLARATIONS OF INTEREST/PARTY WHIP

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

Members are reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they are subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

2. PROJECTED BUDGET 2009-11 (Pages 1 - 20)

At Cabinet on 16th October a number of budget savings were proposed and the following resolution was agreed:

“(1) Cabinet recognises that these are difficult times financially for everyone and that it must do all it can to ensure that Wirral’s Council Tax Payers are not faced with the additional burden of high Council Tax increases. Cabinet understands the need to make urgent savings in order to close Wirral’s budget gap and therefore recommends the following.”

Cabinet asked that these items be referred to the relevant Overview & Scrutiny Committee for their consideration. There are two proposals which fall within the remit of this Overview & Scrutiny Committee.

These are:

- Increased income from Registrars - £47,000
- Student Awards no longer being processed in One Stop Shops - £50,000

Attached are two reports from the Director of Law, HR and Asset Management on the 'Registrars' item

Also attached a report from the Director of Finance with information on the 'Student Awards' item.

3. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

WIRRAL COUNCIL

CABINET – 16th October 2008

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

REVIEW OF MARRIAGE ROOM ARRANGEMENTS

1.0 EXECUTIVE SUMMARY

1.1 This report contains a proposal to decommission the marriage room at Birkenhead Town Hall, and introduce a new scale of fees for marriage and civil partnership ceremonies at Birkenhead Town Hall and the Round Room at Wallasey Town Hall.

2.0 BACKGROUND

2.1 Currently couples wishing to have a civil marriage ceremony or a civil partnership ceremony on the Wirral are offered marriages and civil partnerships at Wirral Register Office (Birkenhead Town Hall) and Wallasey Town Hall (Round Room). Couples may also choose to be married in a number of approved premises where a separate fee is charged (see paragraph 3.4 below).

2.2 The fees for marriage in Birkenhead and Wallasey Town Hall are £43.50 (£40.00 for the ceremony and £3.50 for the marriage certificate). The fees for marriage at the register office are statutory fees set by Parliament. By law, the Council is required to offer a room within the Register Office where marriages and civil partnerships can take place for the statutory fee of £43.40.

2.3 The fees for weddings and civil partnerships on a Saturday do not cover the costs of opening up the building, heating, lighting and 2 attendants. The costs of this are approximately £183.82 to open up Wallasey Town Hall on a Saturday and £248.50 for Birkenhead Town Hall (not including the Register Office staff).

3.0 PROPOSAL

3.1 It is proposed that Wirral Register Office marriage room will become the Superintendent Registrar's office at Birkenhead Town Hall. Small marriage parties of up to 6 people could use this room for the statutory fee of £43.50.

3.2 The current marriage room would be redesignated as an Approved Premise and as such the authority would be able to set a discretionary fee. This would allow a similar charge to be levied for The Round Room in Wallasey which is already an approved premise.

3.3 Other Merseyside authorities that have a Local Authority owned Approved Premise charge the following fees:

Liverpool City Council	£100	
Sefton MBC	£100 (Monday – Friday)	£120 Saturday

Halton Council	£77 (Friday afternoon)	£103 Saturday
Knowsley	£90 (Monday – Friday)	£120 Saturday

3.4 The fees would be on a 'sliding scale' depending on which day of the week the couple wish to marry, which is the system currently operated for outside venues. The charges for 2007/2008 for outside venues are

- Monday to Friday £263.50,
- Saturday £299.50,
- Sunday & Bank Holidays £357.50.

3.5 The fees for the ceremony rooms at Birkenhead and Wallasey would be:

- Monday to Thursday £70.00
- Friday £90.00
- Saturday (Mornings only) £114.00

These fees are felt to be comparable with other Merseyside authorities. Weddings only take place in the Round Room on Friday Afternoons and Saturday mornings so the same fees would apply.

4.0 IMPLEMENTATION

4.1 It is recognised that many couples have already given notice of their intention to hold their ceremony at Wallasey or Birkenhead and therefore it is proposed to implement the new scheme for couples who register their intention to hold their ceremony at Birkenhead Town Hall or Wallasey after 1st April 2009. Couples who have already given notice will be charged the current fee, whenever their ceremony will be held.

4.2 In addition, the General Register Office would need to be informed and the marriage room at Birkenhead would have to be licensed by the authority as an approved premise.

5.0 CORPORATE OBJECTIVES

5.1 This proposal links to the Council's Strategic Objective of 'creating an excellent Council' and the Council's aim for 2008-2013 to 'create a sustainable and stable budget providing value for money'.

6.0 FINANCIAL AND STAFFING IMPLICATIONS

6.1 It is anticipated that an additional £14,000 of income would be generated by the decommissioning of the marriage room at Birkenhead Town Hall.

7.0 EQUAL OPPORTUNITIES IMPLICATIONS

7.1 There are none arising from this report. Couples would still be able to have their ceremony conducted at the Register Office in Birkenhead for the statutory fee.

8.0 PLANNING IMPLICATIONS

8.1 There are none arising from this report.

9.0 COMMUNITY SAFETY IMPLICATIONS

9.1 There are none arising from this report.

10.0 HUMAN RIGHTS IMPLICATIONS

10.1 There are no human rights implications from this report.

11.0 LOCAL AGENDA 21 IMPLICATIONS

11.1 There are none arising from this report.

12.0 ACCESS TO INFORMATION ACT

12.1 There are none arising from this report.

13.0 LOCAL MEMBER SUPPORT IMPLICATIONS

13.1 There are none arising from this report.

14.0 RECOMMENDATIONS

That

(1) the marriage room at Birkenhead Town Hall be decommissioned as set out in the report; and

(2) the revised scale of fees, as set out in paragraph 3.5, be implemented for those couples giving notice of their intention to marry, or have a civil partnership ceremony at Wallasey or Birkenhead from 1st April 2009.

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PRIORITY SERVICE FOR ISSUING CERTIFICATES AT THE REGISTER OFFICE

1.0 EXECUTIVE SUMMARY

1.1 This report contains a proposal to introduce a 'priority service' for customers who wish to pay for certificates from the Registrar of Births, Deaths and Marriages in order to receive their certificates within an hour. Customers who did not wish to pay for the service would return for their certificates the following day or could choose to have the certificate posted to them.

2.0 BACKGROUND

2.1 Wirral currently offers a same day "while you wait" service for all current birth, death and marriage certificates and for family history certificates researched on-line through the Cheshire Family History Society Website and containing a register reference number. Any other certificates including those with a GRO reference number are held to be researched as time allows. The same prioritisation system is applied to postal applications received. Counter applications are afforded a higher priority than postal applications.

2.2 The system is prioritised in this way as many people require current certificates for entry to school, for passports, job applications, to cash benefit cheques, driving licences, etc. Family history is not need urgently and often requires significant research. An example of this is a marriage where the applicant has the year and quarter of the entry, the names of the couple but no further information. To issue the certificate could require the search of over 200 church indexes.

2.3 In order to allow a choice of service, and to avoid customers waiting for long periods at the Register Office, it is proposed to introduce an option for customers to pay for a 'priority service'.

3.0 PROPOSAL

3.1 It is proposed that customers are offered a choice of two services:

For the standard fee of £7 the customer can return to the Register Office the following day or choose to have their certificate posted to them.

For an additional fee of £18 the certificate would be issued to them within an hour.

3.2 This service would be offered to all customers, except requests for family history certificates where a reference was not included due to the research time involved.

4.0 COMPARISON WITH OTHER LOCAL AUTHORITIES

4.1 Research has been carried out amongst other local authorities and the results are set out below

4.1.1 Sefton, St Helens and Knowsley Register Offices do not offer a priority service.

4.1.2 Liverpool

Liverpool Register Offers an express service for current certificates for family history certificates with references with collection within 1 hour at a charge of £25. Family history certificates without references are held for research

4.1.3 Stockport

Stockport Register Office offers an express service for current certificates and for family history certificates with references at a charge of £25 for collection on the same day. Family history certificates without references are held for research

4.1.4 Denbighshire

Denbighshire Register Office offers an express service for current certificates only with a same day collection for a total charge of £24. Family history certificate requests with or without references are held for research.

4.2 From the research undertaken, the introduction of this service has received positive feedback from customers.

5.0 IMPLEMENTATION

5.1 If agreed, it is proposed to introduce this service from 1st December 2008 and would be publicised in advance.

6.0 CORPORATE OBJECTIVES

6.1 This proposal links to the Council's Strategic Objective of 'creating an excellent Council' and the Council's aim for 2008-2013 to 'create a sustainable and stable budget providing value for money'.

7.0 FINANCIAL AND STAFFING IMPLICATIONS

7.1 Wirral Register Office currently issues approximately 15,000 certificates per annum. Of these, approximately 50% are requested in person at the office. If 25% of this number chose to pay the priority fee then this would generate an extra £33,750.00 per year in income. However, it is uncertain at this stage how many customers would opt for the priority service.

7.2 There would be a need to withdraw the service if staffing shortages due to illness prevented the service being offered.

8.0 EQUAL OPPORTUNITIES IMPLICATIONS

8.1 Customers are able to receive their certificates the following day for no additional charge.

9.0 PLANNING IMPLICATIONS

9.1 There are none arising from this report.

10.0 COMMUNITY SAFETY IMPLICATIONS

10.1 There are none arising from this report.

11.0 HUMAN RIGHTS IMPLICATIONS

11.1 There are no human rights implications from this report.

12.0 LOCAL AGENDA 21 IMPLICATIONS

12.1 There are none arising from this report.

13.0 ACCESS TO INFORMATION ACT

13.1 There are none arising from this report.

14.0 LOCAL MEMBER SUPPORT IMPLICATIONS

14.1 There are none arising from this report.

15.0 RECOMMENDATIONS

15.1 That the proposal to introduce a 'priority service' for the issuing of current and family history certificate (with references) be approved.

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WIRRAL COUNCIL

COMMUNITY AND CUSTOMER ENGAGEMENT OVERVIEW AND SCRUTINY COMMITTEE

30 OCTOBER 2008

REPORT OF THE DIRECTOR OF FINANCE

PROJECTED BUDGET 2009/2011 – REFERRED BUDGET SAVINGS STUDENT AWARDS

1. EXECUTIVE SUMMARY

- 1.1 At the meeting of the Cabinet on 16 October 2008 (minute 217) a number of budget savings were proposed and Cabinet recommended that items relevant to each Overview and Scrutiny Committee be referred for urgent consideration. This report details one of these savings and explains the background.

2. BACKGROUND

- 2.1 The Student Support Services Team administers applications for Student Loans on behalf of the Government. Wirral has approximately 6,200 students registered. The Team also administers the Learner Support Funds provided to the Authority by the Learning and Skills Council.
- 2.2 The Government announced the transfer of the scheme from local authorities to the Student Loans Company, a Non Departmental Public Body based in Darlington, in July 2006. This issue was reported to Cabinet on 28 March 2007 and 13 March 2008. These reports are appended.
- 2.3 The agreed transition plan manages the reducing workload, ensuring service standards are maintained whilst planning for staff reductions. These reductions will need to take place with effect from December 2008 as the Authority will deal with approximately 3800 students' applications in 2009/2010 with further reductions running through to April 2011.

3. FINANCIAL IMPLICATIONS

- 3.1 The proposed saving is £50,000 for 2009/10.

4 STAFFING IMPLICATIONS

- 4.1 There are none arising from this report.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 There are none arising from this report.

6. COMMUNITY SAFETY IMPLICATIONS

6.1 There are none arising from this report.

7. LOCAL AGENDA 21 IMPLICATIONS

7.1 There are none arising from this report.

8. PLANNING IMPLICATIONS

8.1 There are none arising from this report.

9. ANTI-POVERTY IMPLICATIONS

9.1 There are none arising from this report.

10 SOCIAL INCLUSION IMPLICATIONS

10.1 There are none arising from this report.

11. LOCAL MEMBER SUPPORT IMPLICATIONS

11.1 There are none arising from this report.

12. BACKGROUND PAPERS

12.1 None were used in compilation of this report.

13. RECOMMENDATION

13.1. That members approve the proposed budget saving of £50,000 in respect of the ongoing reduction in the processing of Student Awards from 2009/2010.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/240/08

WIRRAL COUNCIL**CABINET****28 MARCH 2007****REPORT OF THE DIRECTOR OF FINANCE****STUDENT SUPPORT SERVICES TRANSITION PLAN FOR SERVICE TRANSFER TO STUDENT LOANS COMPANY BY 2011****1. EXECUTIVE SUMMARY**

- 1.1 This report details the Transition Plan for the transfer of the Student Support Services work to the Student Loans Company in an incremental transfer completing in 2011. The Department for Education & Skills has requested a Member approved plan to be submitted by 6 April 2007. The initial transfer of the service will begin in 2009/2010. The transition plan is attached for approval.

2. BACKGROUND

- 2.1 Student Support Services administer the application for Student Loans on behalf of the Government. Wirral has approximately 6,200 students registered in various years of each course. The team also administers the Learner Support Funds provided to the Authority by the Learning and Skills Council.
- 2.2. The Government announced the transfer of the scheme to the Student Loans Company in July 2006. The Department for Education and Skills will take over the administration through the Student Loans Company (which is a Non Departmental Public Body). They will at the same time further encourage completion of on line application forms by students.
- 2.3. There are twelve full time posts based in the Finance Department since the service was transferred over from the Children and Young People Department in April 2006. The plan shown as Appendix 1 shows how the Authority can cope with the reducing workload, ensuring service standards are maintained whilst planning for staff reductions.
- 2.4. I have shown at Appendix 2 how the transformation will occur between 2008 and 2012 with the Student Loans Company incrementally taking over new student applications.

3. FINANCIAL IMPLICATIONS

- 3.1 The current service has a budget of £361,600. The Government has indicated that the reduction in funding will commence in the last quarter of 2008/2009 of 18%, this being followed by phased reductions of 40% for 2009/2010, 19% for 2010/11 with the remaining 23% at the start of 2011/12.
- 3.2. With regard staffing costs if TUPE Regulations were to be considered relevant there would be no associated costs within the process whereas costs will be incurred if EVR is used. These issues will be addressed within the reports to the Employment and Appointments Committee.

4. STAFFING IMPLICATIONS

- 4.1 The key aspect of this transfer is the staffing situation as shown in Section 3 of the attached Transition Plan. Primarily I must deliver ongoing service continuity whilst ensuring that the Authority achieves the necessary staffing reductions.
- 4.2 This will involve establishing whether at the appropriate time TUPE Regulations may apply, otherwise it will be achieved by a combination of Early Voluntary Retirement and movement of staff to other posts. This will involve redeployment with staff being retained in post until the specified time to ensure ongoing service provision. Separate reports will be made to the Employment and Appointments Committee with detailed staffing proposals.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 There are no specific implications arising from this report.

6. PLANNING IMPLICATIONS

- 6.1 There are no specific implications arising from this report.

7. COMMUNITY SAFETY IMPLICATIONS

- 7.1 There are no specific implications arising from this report.

8. HUMAN RIGHTS IMPLICATIONS

- 8.1 There are no specific implications arising directly from this report.

9. LOCAL AGENDA 21 IMPLICATIONS

- 9.1 There are no specific implications arising from this report.

10. ACCESS TO INFORMATION ACT

- 10.1 Background papers used in the preparation of this report were;
Department for Education & Skills Advice & Guidance Document - LA
Transition Planning - January 2007
Service Working Group for Education & Childrens Services Paper (07) 05

11. LOCAL MEMBER SUPPORT IMPLICATIONS

- 11.1 There are no implications under this heading.

12. RECOMMENDATION

- 12.1 That the Transition Plan shown at Appendix 1 be approved and submitted to the Department for Education and Skills to show how Wirral will continue service delivery up to the transfer of the service to the Student Loans Company.

IAN COLEMAN
DIRECTOR OF FINANCE

WIRRAL COUNCIL TRANSITION PLAN

APPENDIX 1

1. STUDENT FINANCE LA TRANSITION PLAN	
SIGNED FOR AND ON BEHALF OF THE LOCAL AUTHORITY	
Name of Local Authority: Wirral	
Name: IAN COLEMAN	Position: DIRECTOR OF FINANCE
Signature:	Date:

2. BASELINE INFORMATION
<ul style="list-style-type: none"> • Wirral has 6204 students registered on the Protocol system, made up of 6086 full time students and 118 part time students. It is estimated that some 670 students fall in to the vulnerable group. Approximately 39% of students are first time applications in any given year. It is therefore expected that approximately 2442 Wirral students will be processed by the SLC in 2009/10. Approximately 30% of students are first time renewing students in any given year. It is therefore estimated that 4334 Wirral students will be processed by the SLC in 2010/11, with all remaining students transferring to the SLC in 2011/12. • The Student Support Section is part of the Revenues, Benefits and Customer Services Division of the Finance Department. There are twelve full time equivalent posts within the section dealing with all aspects of student support. The Section also administers Learner Support Funds provided to the Authority by the Learning and Skills Council.

3. MAINTAINING SERVICE LEVELS																					
<p>Since the original decision over the transfer of the student support function senior staff working within the function have been considering and preparing transitional arrangements. At this point in time discussions and consultations with senior management, trade unions and the Human Resources department are on going to secure an efficient operational plan. The plan as described below will maintain consistent performance meeting the standards required by The Service Level Agreement.</p> <p>The targets set in the Service Level Agreement can only be achieved and maintained through an acceptable standard of IT system performance and availability. If for instance the performance of the IT system falls markedly at the point of student online applications the LA cannot be held responsible for circumstances outside their control.</p>																					
<table> <thead> <tr> <th>Transfer Responsibilities</th> <th>LA</th> <th>SLC</th> </tr> </thead> <tbody> <tr> <td>2006/07</td> <td>6204</td> <td>NIL</td> </tr> <tr> <td>2007/08</td> <td>6204</td> <td>NIL</td> </tr> <tr> <td>2008/09</td> <td>6204</td> <td>NIL</td> </tr> <tr> <td>2009/10</td> <td>3762</td> <td>2442</td> </tr> <tr> <td>2010/11</td> <td>1870</td> <td>4334</td> </tr> <tr> <td>2011/12</td> <td>NIL</td> <td>6204</td> </tr> </tbody> </table>	Transfer Responsibilities	LA	SLC	2006/07	6204	NIL	2007/08	6204	NIL	2008/09	6204	NIL	2009/10	3762	2442	2010/11	1870	4334	2011/12	NIL	6204
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2010/11	1870	4334																			
2011/12	NIL	6204																			

Staffing Levels	Management Supervisors	Assessment Team	Total
2006/07	3	9	12
2007/08	3	9	12
2008/09	3	9	12
2009/10	2	6	8
2010/11	1	3	4
2011/12	0	0	0

The reducing staffing levels are indicative of the reduced levels of work each year.

4. MIGRATION OF STUDENT FINANCE ASSESSMENT FUNCTIONS TO SLC

All records are held for seven years. Files will be available upon request for SLC collection at any time from April 2009.

There are no formal appeal arrangements in place. Officers completing assessments of eligibility are applying Statutory Instruments, the vast majority of which are not open to interpretation or appeal. Where any discretion is applied within the regulations, students are able to seek a review where they disagree with any rejection or limited application of the discretion.

It is the LA's view that once all applications, assessments and records are passed to the SLC the LA will no longer have any statutory responsibility to consider any retrospective claims or challenges.

The Eligibility and Entitlement Assessments under the Higher Education Student Support Arrangements Certificate will be authorised by the Chief Finance Officer and returned each year of the transitional period. The student Support Section will also be available to undergo an external audit should Wirral be selected under the current provisions.

This LA no longer has access to its historic computer system. The only previous study records that Wirral has access to are held on the Protocol system and available to the SLC.

Student Support Officers of the LA have always been willing to respond positively to approaches from the SLC drawing on their knowledge and experience.

5. IAG AND EFFECTIVE COMMUNICATIONS

Student Support officers will continue their previous practice of visiting schools and colleges within the area during the 2007/08 and 2008/09 years to offer advice and guidance to prospective students and their parents where appropriate.

The public access through visits to the Department will be maintained for the whole of the transitional period alongside the high level of telephone advice and guidance.

6. MANAGEMENT OF HR STRATEGY

Within the Authorities current HR strategy arrangements are identified for sections that are reducing staffing levels. Copies of the Authority's EVR and redeployment scheme can be made available.

7. RISK MANAGEMENT/CONTINGENCY PLANNING

The LA intends to maintain its service in accordance with the standards in the Service Level Agreement. There is no intention to contract out these functions to other organisations or to merge functions with neighbouring Authorities.

The ability to maintain this role is largely dependent on a successful Human Resources strategy that retains the required numbers of experienced staff in a planned way at the same time as securing individuals long term employment future.

The Local Authority is also committed via a range of methods utilising similar sections etc ensuring contingent planning is in place.

8. MONITORING AND MANAGEMENT

The Authority will have a transitional change board consisting of representatives of the Director of Finance and the Director of the Children and Young People's Department and the senior officer from the Student Support Section.

9. OTHER ISSUES

Managing the Transitional Plan effectively is largely dependent on two principles;

- The IT system must be released and operationally efficient in accordance with the planned timetable over the whole of the transitional period
- The need to retain competent, knowledgeable and experienced staff is critical to the successful operation of the Transitional Plan.

Responsibility for Processing Applications over Transitional Period				
Transitional Responsibility				
Academic Year	New Students (Year 1)	Continuing Students		
		Year 2	Year 3	Year 4+
2007/08	LA	LA	LA	LA
2008/09	LA	LA	LA	LA
2009/10	SFS	LA	LA	LA
2010/11	SFS	SFS	LA	LA
2011/12	SFS	SFS	SFS	SFS
2012/13	SFS	SFS	SFS	SFS
2013/14	SFS	SFS	SFS	SFS

LA = Local Authority
SFS = Student Finance Service (National)

WIRRAL COUNCIL**CABINET****13 MARCH 2008****REPORT OF THE DIRECTOR OF FINANCE****STUDENT SUPPORT SERVICE TRANSFER TO THE STUDENT LOANS COMPANY****1. EXECUTIVE SUMMARY**

- 1.1. This report outlines the current position with the Student Support Service and recommends a way forward in relation to the application of TUPE, as the service transfers to the Student Loans Company based in Darlington, commencing in late 2008 and being fully transferred by March 2011.

2. BACKGROUND

- 2.1 The Student Support Service administers the application for Student Loans on behalf of the Government. Wirral has approximately 6,200 students registered in various years of each course. The team also administers the Learner Support Funds provided to the Authority by the Learning and Skills Council.
- 2.5. The Government announced the transfer of the scheme from local authorities to the Student Loans Company in July 2006. The Department for Innovation, Universities and Skills (DIUS) will take over the administration through the Student Loans Company (SLC) (which is a Non Departmental Public Body). The SLC will at the same time further encourage completion of on line application forms by students and will fully run the system from April 2011.
- 2.6. There are twelve full time posts based in the Finance Department. A transition plan was approved by Cabinet on 28 March 2007, which outlined how the Authority is to manage the reducing workloads, ensuring service standards are maintained whilst planning for staff reductions. These reductions will need to take place with effect from December 2008, with final reductions by April 2011.

3. CURRENT POSITION

- 3.1 The Student Loans Company has said that it considers that TUPE does not apply. The argument that there is no TUPE transfer because there will be an administrative reorganisation of public administrative authorities is probably the strongest deployed by the Company, thus making a transfer to Darlington unenforceable. Officers have consulted with other Local Authorities and most Authorities have either accepted TUPE does not apply or that if it does then they will not impose it.
- 3.2 Both the Head of Human Resources and the Head of Legal and Member Services will continue to review any Employment decisions which could impact on the situation.

- 3.3. The Customer Service Development Team has reviewed the potential to merge with the benefits processing unit as the Student Support service winds down. It is clear that due its reliance on a national IT system (PROTOCOL) it is not an easy merger and would take time to agree given the system training and procedural requirements.

4. TUPE IMPLICATIONS

- 4.1 There are three options that the Authority needs to consider, as the law is not clear as to whether or not TUPE applies.

- a) Inform the staff and the company that there will be a TUPE transfer, and that staff will have to decide whether or not to object to the transfer (in which case their employment with the Council will automatically come to an end) or accept employment with the Student Loan Company in Darlington.

Regulation 4(9) of TUPE 2006 does enable an employee to resign and claim unfair dismissal if the relevant transfer would involve a substantial change in working conditions to the material detriment of the employee who would be transferred. A move from Wirral to Darlington would be a substantial change in working conditions, and so even if TUPE does apply, the Council as employer could potentially be sued for constructive dismissal if it told its staff they had no choice but to transfer under TUPE to the Student Loan Company in Darlington.

- b) The Council could decide that although TUPE may apply it would not be reasonable to expect its staff to transfer to Darlington, and therefore it would pragmatically concede there was no TUPE transfer. Staff would therefore be redeployed, made redundant or offered early retirement, if eligible in line with the Authority policy.
- c) The Council could decide that TUPE does not apply and apply the options as above.

5. FINANCIAL IMPLICATIONS

- 5.1. Option A is the least expensive to the Council, as staff effectively transfer to the new administrating body but it could be more expensive if the staff were able to argue successfully before an Employment Tribunal that there was no TUPE transfer and therefore the Council unfairly dismissed them when the Council informed them that on a date in the future the Student Loan Company assumed control of the administration of loans in Wirral and therefore the transfer took effect.
- 5.2. Option A would also expose the Council to the risk of claims of constructive dismissal if staff were to resign before the transfer were to take effect as explained in 4.1 (a) above.
- 5.3. Options B and C are more favourable to the staff but more expensive to the Council as payments to some or all staff may be made. Option B is felt by the Head of Legal and Member Services to be the preferred legal option.
- 5.4. There is nothing in law to prevent an employer and employee agreeing that there will be no TUPE transfer because the employment relationship with the original employer will continue. The financial implications are dependent on

which route staff are offered redeployment, redundancy or early voluntary retirement.

6. STAFFING IMPLICATIONS

- 6.1. The staffing implications are dependent on the option taken by the Council, but as a minimum staff will have to be redeployed. Once a decision has been reached the increasing concerns of the staff will to some extent be alleviated as there is at present uncertainty about their future employment status.
- 6.2. A decision over whether TUPE applies and whether the Council will enforce it will also help maintain stability during this transition period which will ensure ongoing service delivery standards are maintained.
- 6.3. Given the financial implications there will be an initial focus on redeployment opportunities in line with Authority guidance on Management of Workforce Change. An early decision will then allow maximum time to agree a timetable for staff change.
- 6.4. Early Voluntary Retirement and Redundancy would then be a secondary method of handling this change and would be limited given their costs
- 6.5. A review has been undertaken to identify if the administration could be handled in the interim period by, or with the help of, Benefits which has a relatively similar financial assessment process. While this could be of support in the later stages of transfer, due to the amount of training and system requirements at a time of change in Benefits it is not a practical alternative at this time. Thus it is important to clarify the staffing situation for current staff as soon as possible.

7. EQUAL OPPORTUNITIES IMPLICATIONS

- 7.1. There are none arising from this report.

8. HUMAN RIGHTS IMPLICATIONS

- 8.1. There are none arising from this report.

9. LOCAL AGENDA 21 IMPLICATIONS

- 9.1. There are none arising from this report.

10. COMMUNITY SAFETY IMPLICATIONS

- 10.1. There are none arising from this report.

11. PLANNING IMPLICATIONS

- 11.1. There are none arising from this report.

12. LOCAL MEMBER SUPPORT IMPLICATIONS

12.1. There are none arising from this report.

13. BACKGROUND PAPERS

13.1. Student Support Transition Plan submitted to the Government in March 2007 and subsequent Transition Plan update in October 2007.

14. RECOMMENDATION

14.1 That Cabinet on consideration of the three options agree that although TUPE may apply it would not be reasonable to expect staff to transfer to Darlington, and therefore pragmatically concedes that there is no TUPE transfer in this case.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/40/08