Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Regeneration And Sustainable Development Cabinet Board

14 January 2022

Report of the Head of Educational Development

Matter for Decision

Wards Affected: All

Report Title Western Bay Area Planning Board Governance Framework, and Financial Governance and Risk Sharing Agreement

Purpose of the Report:

The purpose of this report is to

1. endorse the Western Bay Area Planning Board's Governance framework and

2. seek approval to enter into a Financial Governance and Risk Sharing agreement with the responsible authorities to the Area Planning Board.

Executive Summary:

Responsible authorities in Wales and England have a statutory duty to formulate and implement a strategy for combatting the misuse of drugs, alcohol and other substances in the area. In 2010 the Welsh

Government established Area Planning Boards (APBs) to discharge the Crime and Disorder duties at a regional level. The aim of the Western Bay Area Planning Board is to bring together representatives of the Responsible Authorities, to fulfil these responsibilities across Neath Port Talbot and Swansea. The Western APB is required to have robust governance arrangements in place.

A governance framework for the Western Bay APB has been developed and approved by the APB. Each constituent responsible authority should endorse and approve the governance framework.

The APB is not a legal entity in its own right and so Neath Port Talbot County Borough Council acts as the banker for the Western Bay Area Planning Board. However NPTCBC is exposed to all the responsibilities and liabilities, if it enters into new or amends any contracts in respect of substance misuse services on behalf of the APB.

A financial governance and risk sharing agreement has been developed which will enable risk to be shared amongst partners. Once this is in place NPTCBC can take the lead on any new contracts or changes to existing contracts without bearing all of the risk. As such it will be necessary for each Responsible Authorities to seek approval to the financial governance and risk sharing agreements through their respective governance frameworks.

Background:

The Crime and Disorder Act 1998 places a duty on responsible authorities in Wales and England to formulate and implement a strategy for combatting the misuse of drugs, alcohol and other substances in the area. In 2010 the Welsh Government established area planning boards (APBs) to deliver the Welsh Government's Strategy, to plan treatment services and pool resources. The

composition of APBs allowed the responsible authorities to discharge the Crime and Disorder duties at a regional level.

The responsible authorities on the APB are

1. Swansea Bay University Health Board
2. City and County of Swansea Council
3. Neath Port Talbot County Borough Council
4. South Wales Police
5. National Probation Service
6. Mid and West Wales Fire and Rescue Service
7. Representative from Police & Crime Commissioner's office

The aim of the Western Bay Area Planning Board is to bring together representatives of the Responsible Authorities, and other organisations (invited members and advisors) to improve and strengthen the arrangements for the planning, commissioning and performance management of substance misuse services across Neath Port Talbot and Swansea.

The Western Bay Area Planning Board (APB) is required to have robust governance arrangements in place in order to meet its obligations under the National Core Standards for Substance Misuse.

A governance framework for the Western Bay APB has been developed and approved by the APB. This document provides clarity on the role of APB Board Members, and sets out a Code of Conduct and a Memorandum of Understanding that will ensure that decisions are clear, transparent and that there is clear accountability for the Board's work.

The APB is an unincorporated body it has no legal powers, and will operate as a collaboration of organisations and does not have executive or statutory powers to make decisions in its own right.

This memorandum of understanding does not change, replace, substitute or amend in any way the statutory duties or other responsibilities of the Responsible Authorities. The memorandum of understanding is not legally binding between the parties.

It is a mechanism which allows the responsible authorities to come together at a regional level to enable their statutory responsibilities as described above to be discharged.

As such, each constituent responsible authority should endorse and approve the governance framework.

As mentioned above the APB is not a legal entity in its own right and as such the APB itself is not able to commission work, procure goods/services, and incur costs or to enter into contracts etc. as it does not have the legal status to do so.

Where such activities are proposed to be undertaken, it will be necessary for either the nominated grant recipient body and / or other named statutory partners to carry forward the proposals approved by the responsible authorities.

Neath Port Talbot County Borough Council ("the Council") acts as the banker for the Western Bay Area Planning Board, in respect of Welsh Government Substance Misuse Action Fund money (SMAF) and partner contributions from Swansea and NPT Councils.

However in the absence of an appropriate agreement, NPTCBC is exposed to all the responsibilities and liabilities as regards the receipt of the SMAF monies and in entering into contracts in respect of substance misuse services.

A financial governance and risk sharing agreement has been developed by NPTCBC legal services in consultation with partner organisations (responsible authorities). This agreement will enable risk to be shared amongst partners, and once this is in place NPT

CBC can take the lead on any new contracts or changes to existing contracts without bearing all of the risk.

This document must be agreed and signed by the responsible authorities to the APB and will govern the financial arrangements between the Parties and provide a framework for risk sharing pursuant to the Welsh Government Guidance.

As such it will be necessary for each Responsible Authorities to seek approval to the financial governance and risk sharing agreements through their respective governance frameworks.

Financial Impacts
No implications

Integrated Impact Assessment:
A full impact assessment is not required as this is an internal administration process only

Valleys Communities Impacts:
No implications

Workforce Impacts:
No implications

Legal Impacts:
The Risk Sharing Agreement addresses the need to document that the Council is the grant recipient of the SMAF funding on behalf of the responsible authorities and will be the party to contracts commissioned with the funding. There is also the need to cover the financial management and risk arrangements/allocation as in the absence of the Agreement the Council carries the legal risk in relation

to the receipt of the funding and the contracts it enters into. The Risk Sharing Agreement sets out that the Council will act as the SMAF recipient and will administer it in accordance with its internal rules and procedures and will comply with the grant terms and conditions. It also requires all responsible bodies to cooperate to ensure compliance with the grant conditions. The risk associated with the Council acting as grant recipient and contracting authority is fairly spread between the responsible authorities. The Council and each of the responsible authorities will be responsible for liabilities resulting for each of their own acts or omissions. The Risk Sharing Agreement will be legally enforceable between the parties.

Risk Management Impacts:

The agreement sets out the financial arrangements between the Parties and provide a framework for risk sharing pursuant to the Welsh Government Guidance. This agreement once signed by all parties will reduce the risk to NPTC

Consultation:

There is no requirement for external consultation on this item.

Recommendations:

It is recommended that

1. The Western Bay Area Planning Board's Governance framework is endorsed, and

2. That approval is given to enter into a Financial Governance and Risk Sharing agreement with the responsible authorities to the Area Planning Board.

Reasons for Proposed Decision:
To enable NPTCBC in its role as Banker to commission, decommission, or recommission services on behalf of the APB, and to do so within an arrangement that shares the risk across all the responsible authorities. To enable NPTCBC to regularise existing inherited service arrangements in the form of legally binding contracts.

Implementation of Decision:

The decision is proposed for implementation after the three day call in period

Appendices:
Governance Framework
Financial Governance and Risk Sharing Agreement

List of Background Papers:
None

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Appendix 1

Private Reports

The default position is that all reports will be considered in public but there will be occasions when reports contain confidential information and will need to be written for consideration in private.

When a report is deemed private the following should be included at the top of the report (above **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**) depending on whether the report is for an Executive Meeting or a Non-Executive/Regulatory Meeting. The relevant paragraph numbering should be used from the list below (paras 12-18) depending on the information contained within the report:

- **Executive Meeting**

Not for publication pursuant to Regulation 5(2) & (5) of Statutory Instrument 2001 No. 2290 and Paragraph(s) XX of Part 4 of Schedule 12A to the Local Government Act 1972.

Pursuant also to Paragraph 21 of the Schedule, and in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

- **Non-Executive/Regulatory Meeting**

Not for publication pursuant to Section 100B (2) & (5) of the Local Government Act 1972 and the undermentioned Exempt Paragraph(s) XX of Part 4 of Schedule 12A to the above Act. Pursuant also to Paragraph 21 of the Schedule, and in all the circumstances of the case, the public interest in maintaining the exemption, is considered to outweigh the public interest in disclosing the information.

The reasons why a report may be private are because it contains one of the following paragraphs:

Paragraph **12** - Information relating to a particular individual

Paragraph **13** - Information which is likely to reveal the identity of an individual

Paragraph **14** - Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Paragraph **15** - Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority

Paragraph **16** - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

Paragraph **17** - Information which reveals that the authority proposes

3. To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

4. To make an order or direction under any enactment

Paragraph **18** - Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

It will be the responsibility of the report author to ensure the correct reason(s) is included within the report and should seek clarity from Craig Griffiths Head of Legal Services.

In order that it is clear why the report should be considered in private it is necessary to provide an explanation at the front of the report (following Purpose of Report) as to why the report is being taken in private and why there would be a prejudice if the information contained in the report were disclosed.