



WEST OXFORDSHIRE  
DISTRICT COUNCIL

## WEST OXFORDSHIRE DISTRICT COUNCIL

Name and Date of Committee	<b>OVERVIEW AND SCRUTINY – 17 JULY 2024</b> <b>EXECUTIVE – 22 JULY 2024</b>
Subject	<b>PUBLICA TRANSITION PLAN</b>
Wards Affected	All
Accountable Member	Councillor Andy Graham – Leader of the Council. <a href="mailto:andy.graham@westoxon.gov.uk">andy.graham@westoxon.gov.uk</a>
Accountable Officer	Giles Hughes – Chief Executive. <a href="mailto:giles.hughes@westoxon.gov.uk">giles.hughes@westoxon.gov.uk</a>
Report Author	Andrew Pollard – Interim Programme Director <a href="mailto:andrew.pollard@westoxon.gov.uk">andrew.pollard@westoxon.gov.uk</a>
Summary	To consider the Detailed Transition Plan, to note its contents and to approve the recommendations therein.
Annexes	Annex A – Detailed Transition Plan Annex B – Equalities and Rurality Impact Assessment
Recommendations	That Executive resolves to Recommend to Full Council to: <ol style="list-style-type: none"><li>1. Approve the implementation of Phase I of the Publica Transition on the basis of the Detailed Transition Plan;</li><li>2. Delegate to the Chief Executive in consultation with the Leader of the Council the decision to deal with any final detail matters arising from the Detailed Transition Plan;</li><li>3. Delegate authority to the Director of Governance in liaison with the Leader to update the constitution by making any consequential changes required as a result of Phase I of the Publica Transition.</li><li>4. Carry out a budget re-basing for the 2026/7 financial year so that the funding provided to Publica is proportionate to the services received.</li></ol>
Corporate Priorities	<ul style="list-style-type: none"><li>• Putting Residents First</li><li>• A Good Quality of Life for All</li><li>• Working Together for West Oxfordshire</li></ul>
Key Decision	YES
Exempt	NO
Consultation	Chief Executive, Director of Finance, Director of Governance, Leader, Deputy Leader, Executive Members, Publica Review Programme Director,

	Publica Interim Managing Director and through a facilitated workshop with Local Partnerships, Publica Assistant Directors.
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## I. BACKGROUND

- I.1 Council services are currently delivered through Publica, a joint vehicle owned by the Council together with Cotswold District Council, Cheltenham Borough Council and Forest of Dean District Council. An options appraisal review of Council services and the way in which they are delivered was undertaken in 2023 by external advisors Human Engine. Their final report recommended that the majority of services should move from Publica and return to being under greater control of the Councils. In November, the Council's Executive resolved to support in principle the direction recommended in the Human Engine report to return a range of services back to the Council and reshape Publica (Minute no 112 refers). This work has been developed following the appointment of an Interim Programme Director in January 2024, leading to the Detailed Transition Plan having been prepared.
- I.2 Local Partnerships, supported by the Local Government Association (LGA), South West Region transformation funding, subsequently delivered a report in February 2024, endorsing the Human Engine Report findings, providing additional supporting detail and setting out two phases under which the majority of services should be repatriated: phase 1 comprising a significant number of services expected to be in/around October 2024 and phase 2 expected to be in/around March 2025.
- I.3 To support the Chief Executives of the Shareholders Councils and elected members in implementing the transition of services, an Interim Programme Director was appointed at the end of January 2024 to lead the Publica Transition Programme. The scope of this Programme referenced the Human Engine Report delivered in Autumn 2023 which recommended retaining selected services within Publica, meaning that the majority of services would move to direct control, be shared, via Publica or some other model on a case-by-case basis.
- I.4 In March 2024, the Council received the Local Partnerships report which built on the recommendations set out in the Human Engine report, and which was subsequently considered by the Overview and Scrutiny Committee and by Executive. The Council's Executive noted the findings and recommendations in the report and instructed the Interim Programme Director to prepare a Detailed Transition Plan (Minute no 161 refers).
- I.5 To facilitate this, the Interim Programme Director established a small, focused Programme Management Office, comprised of an HR expert / lead and a Business Partner Accountant. The programme team engaged with Council and Publica key staff (including the Section 151's and Monitoring Officers) via the creation of a number of workstreams (Finance, Legal, HR, ICT and Communications, initially) as the 'spokes' to the Programme Management Office (PMO) 'hub'. This flexible model has provided engagement that is both broad and technically defined. In addition, a workshop jointly facilitated with Local Partnerships took place with senior Publica executives and retained officers from the Councils to understand more about the views of the wider stakeholder group regarding the transition. This information was then used

to develop an outline framework for the transition of services to enable the PMO to take the Programme forward.

- 1.6** A governance structure was developed to provide oversight, support and decision making by way of an Officer Transition Board (comprised of each Council CEO, the Interim Managing Director of Publica and the Interim Programme Director), with a Councils' Programme Board providing the bridge link back to the Councils.
- 1.7** In developing the Detailed Transition Plan, the PMO carefully considered the Councils' objectives expressed through their corporate plan objectives, the design led principles outlined at high level by Local Partnerships in their report and the aims of the Transition in relation to services and service delivery to:
- Deliver more defined local priorities
  - Better reflect Member priorities and Corporate Plans
  - Be more agile
  - Be more sustainable
  - Ensure better control over service
  - Define services more to locality, with residents at the heart.
- 1.8** In addition to the initial workshop, and project governance meetings, the PMO has undertaken fact finding meetings with a number of officers at the Councils and Publica to help inform the Transition Plan. This helped to develop the rationale for the transition of services back to the Councils.
- 1.9** Significant work has been undertaken to model the costs associated with the transition of services back to the council, involving the CEO's and S151 officers at each Council. Costings were modelled, beginning with ensuring an assured baseline onwards, together with a consideration of risk, opportunity and risk mitigation, with each element informing the overall project brief. Opportunities for sharing of certain services and roles were considered and refined following a CEO workshop. Taken together, this has enabled a Programme GANTT chart (a bar chart showing the project schedule) to be refined over time which provides the backbone to the programme. Through the process, it became clear that Phase I needed to take effect on 1 November to allow sufficient time for workforce consultation. The focus of the Detailed Transition Plan has therefore been on Phase I and the relevant steps for this are set out in the GANTT chart. A full programme of Communications has been developed in support, together with documents developed by HR in support of the transition. There are no ICT systems implications and ICT are engaged in developing a series of Council employee portals to support Councils from the 1 November "go live" date onwards.

## **2. THE DETAILED TRANSITION PLAN**

- 2.1** The Detailed Transition Plan attached in Appendix A sets out the services proposed to transfer, the process including phasing, consideration of risks and opportunities, cost implications, practicalities and timelines. It makes recommendations for a number of elements to be noted and for the phasing for the Transition to be approved.

**2.2** The service areas transferred in Phase I will include:

- Democratic Services and Elections
- Forward Planning
- Development Management (but not ‘planning validation and planning support’)
- Ecology
- Conservation, Heritage & Design
- Building Control
- Economic Development
- Tourism
- Communities and wellbeing
- Climate change
- Strategic Finance (to include all finance roles apart from transactional finance (AP / AR), procurement, insurance and Treasury Management)
- Communications
- Strategic Housing
- Corporate Planning, policy and partnerships
- Executive Assistants and Support.

**2.3** In addition a HR Business Partner is to be seconded, to the Council, ahead of transfer, meaning that there will be a dedicated in-house Council resource at an early stage to support the Council directly pre- and post-transfer.

**2.4** The Detailed Transition Plan has an accompanying employee communications and engagement plan to ensure that all the key information is passed to employees, they are engaged in the process and they are consulted with as part of the transition process. The plan follows best practice HR and communications and will follow a clear and prescribed process to ensure the right information is communicated at the right time to ensure employment law is correctly followed and Publica employees are treated fairly. It also focusses to supporting employees through the process and explaining what the future will look like post transfer via the correct channels.

### **3. THE COUNCIL PLAN**

**3.1** The Council adopted an ambitious Council Plan in January 2023. This outlines the following vision for West Oxfordshire:

*“Shaping West Oxfordshire as a District which offers a fulfilling and meaningful quality of life for our residents with opportunities for all to flourish. A thriving and prosperous place for entrepreneurs and businesses, where local people and visitors can enjoy the beauty and heritage of our landscape, built, farmed and natural environment.”*

**3.2** To achieve the Council Plan there are five priorities, of equal importance, which will guide the work we do:

- *Putting Residents First*
- *Enabling a Good Quality of Life for All*
- *Creating a Better Environment for People and Wildlife*
- *Responding to the Climate and Ecological Emergency*
- *Working Together for West Oxfordshire*

#### **4. BUSINESS CASE**

**4.1** The Publica Review provides an opportunity to restructure the Council and invest to deliver the vision and priorities set by the Council Plan.

**4.2** The rationale for the additional costs of Phase I is:

- A more focused and defined approach to driving the delivery of the Council's priorities as set through the Council Plan.
- Much better definition between Policy and high-level strategy on the one hand and delivery on the other. More defined control for the Council.
- Greater clarity over roles, responsibilities and accountabilities – and where direction is set from.
- Greater clarity and focus for those functions remaining with Publica – such as Revenues and Benefits, and ICT.
- Enabling performance and value for money be more clearly defined and measured by the Council.
- Simplification of processes and in determining whether and how resources can be deployed and redeployed as priorities shift.
- Greater responsiveness and agility, so as to be able to deliver Member priorities and adapt to changing circumstances.
- Greater focus on locality and local services.
- Employing people locally, using this in support of economic growth (e.g. apprenticeships), being more accessible and visible and foster the spirit of the West Oxfordshire community.
- Opportunity to group services to accelerate efficiencies, by identifying synergies between certain services before moving and re-defining services.
- Being responsive and business like – adopting a commercial mindset when considering engagement with businesses, residents and key stakeholders, ensuring a cost recovery approach is used where appropriate to maximise service efficiencies, whilst balancing with community benefit.
- Better focus and ability to drive the sustainability agenda of the Council.

**4.3** It is assumed within the Detailed Transition Plan that with the significant changes to Publica, there would also be a budget re-basing for the 2026/7 financial year. This is timed to follow the implementation of Phase I of the Publica Review and will sit alongside the consideration of Phase 2. It will ensure that the funding provided to Publica is proportionate to the services received.

## **5. FINANCIAL IMPLICATIONS**

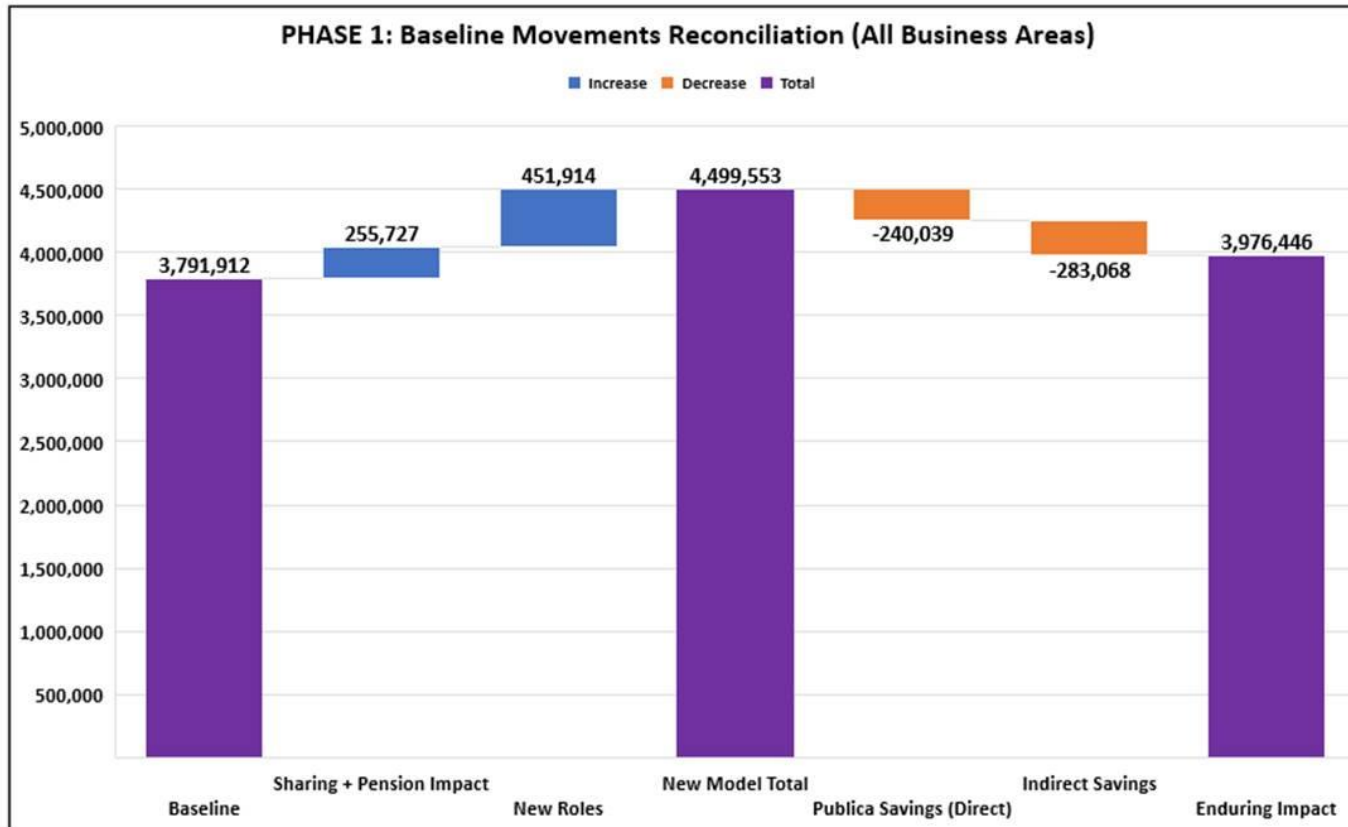
**5.1** The financial implications of the Publica Review have been the subject of extensive due diligence since programme inception in February 2024. The resulting financial modelling output reflects robust programme assumptions and a detailed audit trail of movements between baseline costing, of delivery via the current Publica model, to the new WODC structure post transition, as proposed in the Detailed Transition Plan. The key financial implications of the Detailed Transition Plan are:

- Indicative enduring annual increase to West Oxfordshire District Council revenue budget of £185k per annum (pro rata for 2024/25 would be £77k) with one-off costs of restructuring between £207k to £301k, being the “most likely” and “maximum” scenario respectively.

**5.2** The ‘Waterfall’ chart below highlights the core movements in cost from the Publica baseline costing to the WODC new structure post transition. The key assumptions which underpin the Phase I cost movements are:

- The Council model assumes all Phase I roles are opted-in to Local Government Pension Scheme (LGPS) at the point of transfer (November 2024) with no subsequent opt out.
- Newly created roles are in accordance with service delivery requirements under the Council model post Phase I. Proposed organisational structures have been developed, to facilitate this cost modelling, and these will be refined and finalised after consultation with staff involved in Phase I.
- “Direct savings” result from roles not transferring to an equivalent role within the Council operating structure.
- “Indirect savings” result from a Senior Management restructure within Publica. These savings are offered in entirety underneath the scope of Phase I, therefore no further executive management savings are anticipated for future Phases.
- For modelling purposes, both the one-off costs of transition and the savings (direct & indirect) have been split equally across Councils (one third each).
- This paper does not consider any impact of the Council restructure on Retained Officers’ remuneration.
- As mentioned, Local Partnerships envisaged a phased approach to this transition and Phase 2 will be the subject of a future report.

## WODC PHASE 1: Variance Analysis / Commentary (Baseline → Phase 1 → New Council Model)



All Business Areas	
TOTAL	
	£
Baseline	3,791,912
Sharing + Pension Impact	255,727
New Roles	451,914
New Model Total	4,499,553
Publica Savings (Direct)	-240,039
Indirect Savings	-283,068
<b>Enduring Impact</b>	<b>3,976,446</b>

**Indicative Annual Increase / (Decrease)** 184,534

One-Off Costs	
Phase 1: Roles at Risk	18
Minimum	14,824
<b>Most Likely</b>	<b>207,027</b>
Maximum	300,717

Most likely estimate represents WODC share of any redundancy costs. Outline agreement reached with Partner Councils to share the cost of redundancy 33% each.

Savings (Direct & Indirect) follow the same basis of apportionment to Phase 1 one-off costs (33%).



### 5.3 In terms of the budget implications:

- The 2024/25 budget, approved in February 2024, included £200k for Publica Review one off costs (primarily project office related) and £75k for ongoing pensions costs.
- Section 2.19 of the 2024/25 Report of the Chief Financial Officer stated:

*Initially one-off costs will be funded from earmarked reserves and ongoing costs will be included in the 2025/26 base budget when there is more certainty with regards to the transition plan*

- The Medium Term Financial Strategy (MTFS) identified the Publica Review as a risk area, alongside Local Government Funding, Statutory Override for Financial Instruments and Investment Property, and earmarked reserves were set aside to mitigate these risks. In the 2024/25 budget cycle £500k was set aside for the Publica Review one off costs.
- The full year impact of the Publica Transition on 2025/26 budget (£185k per annum) and MTFS will be considered in the autumn as part of the budget setting process.

## 6. LEGAL IMPLICATIONS

6.1 The Councils established a Legal Workstream with a membership composed of the Monitoring Officers for all four partner councils to Publica, the Interim Head of Legal Services, Business Manager for Business Continuity, Governance and Risk and the Interim Programme Director. This has met regularly to identify legal issues yielded by the proposed transition.

6.2 The Legal Implications of transferring services back to the Council fall into three principal areas:

- Contractual Obligations (internal and external)
- Governance
- Employment law

### Internal Contractual arrangements

The contractual relationship between the Council and Publica Group Ltd is the subject of various legal agreements including:

- A members' agreement dated 25 May 2017 between FoDDC, CDC (Cotswold District Council) and WODC (West Oxford District Council)
- Admission Agreements in relation to the Gloucestershire County Council Local Government Pension Scheme dated 14 November 2017 and in relation to Oxfordshire County Council scheme dated 30 November 2017
- A Services Agreement dated 31 October 2017, with a commencement date of 1 November 2017.

The Services Agreement sets out the contract periods for general services, support services and for commissioning services, which come to an end on 31 October in 2024, 2026 and 2027 respectively. For now, the Council has agreed with Publica via a series of side letters

that the contract will continue in respect of all these services until the Council has made a decision whether or not to transfer services back in-house, whereupon it will vary the contract or give notice.

#### External Contractual Arrangements

Existing contracts with external parties would require novation if the current party were Publica instead of the Council. This was identified as a potential risk in early meetings of the legal workstream, but it has not materialised. The contracts register appears to show that contracts have been completed in the name of the Council.

#### Shared Working

Phase One of the transition for the most part proposes services coming back in-house on a “sovereign council” basis. If there are any proposals to deliver via a shared service, this will have to be established by a legal agreement. Both the existing Counter Fraud and Enforcement Unit and Legal Service partnerships offer examples of different legal models for shared services delivered by retained officers.

Any standalone shared posts (not within a shared service) will need to be secured by way of a suitable legal agreement whereby the employing council agrees that its employee is available to carry out duties for the partner council. This is particularly important for posts which discharge statutory functions within the Council’s Scheme of Delegation.

#### Governance

The Council will need to evaluate its existing non-executive scheme of delegation and satisfy itself that it either employs or has available to it (for example through shared services) the officers empowered to discharge delegated powers. The Council will also need to remove references to Publica in its Constitution where these are no longer applicable. It is proposed that the Monitoring Officer be given the power to make all consequential amendments to the Constitution that result from members’ decision.

#### Best Value Consultation

External legal advice has been sought and obtained on whether or not the Council is obliged to carry out a public consultation under Section 3 Local Government Act 1999 on its proposals. Based on that advice, the Interim Head of Legal Services and Monitoring Officers are satisfied that no duty to consult arises.

#### Employment Law

Clearly, the proposal has at its core a change in the employment relations of all staff it impacts. Whilst this has principally been within the remit of the HR Workstream, The Legal Workstream has interrogated aspects of applicable employment law. There has been extensive discussion with external lawyers over the extent to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) applies to the insourcing of services. The conclusions of this are set out in section 4.0 of the Detailed Transition Plan.

Where TUPE does apply, the employment of any employees assigned to an organised grouping will transfer automatically to the Council unless they object to the transfer. They would be employed on the same terms and conditions, save for gaining an entitlement to join the Local Government Pension Scheme.

- 6.3** Where a role is fragmented (shared) and will no longer remain shared post transfer, TUPE will not apply. In these instances, formal consultation will be undertaken with the impacted employees in line with the Publica Redundancy Policy and Procedure following ACAS best

practice. Consideration will be given to alternative measures to minimise or avoid redundancies including, but limited to, suitable alternative suitable employment within Publica, or through employment opportunities with the Shareholder Councils.

## **7. RISK ASSESSMENT**

**7.1** The Workstreams, the Officer Transition Board and the Council's Programme Board regularly review the Programme Risk Register and the Programme is reviewed periodically through Publica's own risk management framework. This approach of risk management will continue through the Programme.

## **8. EQUALITIES IMPACT**

**8.1** Under equality legislation, the Council has a legal duty to pay 'due regard' to the need to eliminate discrimination and promote equality in relation to:

- Race
- Disability
- Gender, including gender reassignment
- Age
- Sexual Orientation
- Pregnancy and maternity
- Religion or belief

When considering this recommendation, no barriers or impact on any of the above groups has been identified.

An Equality Impact Assessment has been prepared and is attached.

Trade Union recognition is being considered for the Council. Publica currently has Trade Union recognition agreements. Council and Publica Officers are currently in contact with relevant Trade Unions on this.

## **9. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS**

**9.1** This recommendation has no direct climate change implications.

## **10. BACKGROUND PAPERS**

- Annex A - Detailed Transition Plan