

To agree new arrangements for the calibration of weights, measures and test equipment used by Essex County Council Trading Standards.

Forward Plan reference number: (if applicable)

Report title: To agree new arrangements for the calibration of weights, measures and test equipment used by Essex County Council Trading Standards.	
Report to: Cllr Susan Barker – Cabinet Member for Customer, Communities, Culture and Corporate	
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Date: 17/02/20	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 This report asks the Cabinet Member to approve Essex County Council Trading Standards entering into an agreement with Norfolk County Council Calibration Services, under section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities). The agreement will enable Norfolk Calibration Services to provide statutory calibration services for equipment owned and used by Essex Trading Standards.

2. Recommendations

- 2.1 To approve entering into a Local Government Act 1972 S101 agreement with Norfolk Calibration Services in relation to the re-calibration of Essex Trading Standards Working Standards weights, measures and test equipment.

3. Summary of issue

- 3.1 ECC Trading Standards is tasked to deliver the most diverse work portfolio of any ECC service. It is currently delivering only its substantial statutory duties plus income generation and has been continually reviewing all activities to ensure the best use of limited financial and staff resources. Part of this review has focussed on the long-term viability of the calibration laboratory located in the County Hall basement.
- 3.2 ECC compares extremely favourably with its statistical neighbours in terms of cost benchmarking. Essex Trading Standards costs 64p per capita whilst Norfolk costs £3.02 and Suffolk £4.67.

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- 3.3 The Trading Standards laboratory is equipped with a range of weighing and measuring equipment including mass comparators, balances, standard weights and measures and other test equipment. This equipment is required to be routinely tested to ensure it remains accurate to use for both internal calibration of our own Working Standards (weights and measuring equipment used in the field to test the accuracy of equipment in use for trade such as liquid fuel dispensers and weighing machines) and external, commercial calibration work. This periodic testing is undertaken by Trading Standards Officers and is very resource intensive taking a lot of time to complete. Our Working Standards are required by law to be routinely recalibrated, something that has been resourced in-house using the laboratory equipment referenced above. If this activity were to be outsourced to an alternative Local Authority laboratory the cost would be in the region of £2,500 per year. In the last full year, the officer time taken to calibrate our own Working Standard weights, measures and test equipment was £5,285 at our published hourly rate of £81.
- 3.4 The laboratory has always been a costly facility to run, generating relatively low levels of income while requiring significant resource and expertise to keep equipment serviceable and available for use. The last full year of commercial lab-based calibration generated £5,043 of income but cost £7,432 in officer time to run at the published consultancy rate of £81 per hour – a loss of almost £2,400.
- 3.5 Resource constraints have resulted in it becoming increasingly difficult to run the laboratory efficiently and effectively. Attempts to increase the customer base and resulting income have not been successful with the location of the laboratory (reducing the range of services that could be provided) and the difficulties customers had with gaining access to deliver and collect equipment severely limiting its viability.
- 3.6 In July 2019 the Trading Standards management team took the decision to focus its limited metrological (weights and measures testing) resources where it can deliver the best value for money for the lowest possible resource. Analysis of existing calibration workloads confirmed that the most financially viable work being undertaken was the low volume, off-site testing of weighing and measuring equipment at the submitter's own premises. Income from these activities can range from hundreds to several thousands of pounds per calibration versus the smaller lab-based jobs generating much lower levels of revenue. The last full year of external commercial calibration generated £5,660 of income and cost £4,050 in officer time at the published consultancy rate of £81 per hour – a surplus of £1,600.
- 3.7 Existing laboratory customers who had used our laboratory-based services within the previous 12 months were written to and advised that this service would no longer be available from 1 July and provided with the details of alternative local authority laboratories in Norfolk, Hertfordshire and Kent.
- 3.8 There are only two Local Authority run laboratories remaining in the East of England Trading Standards Authorities regional grouping (EETSA) – one

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operated by Norfolk County Council and one by Hertfordshire. Norfolk Calibration Services is a very successful laboratory already servicing calibration demands across much of the East of England region and has arrangements in place (via LGA S101 agreements) with other EETSA Local Authorities to undertake Working Standard calibration work on their behalf. Suffolk, Peterborough and Cambridgeshire, and Bedfordshire Trading Standards are already in arrangements with Norfolk Calibration Services to fulfil their own internal calibration demands.

- 3.9 The Weights and Measures Act 1985 (sections 4) require Local Weights and Measures Authorities to maintain Local Standards of weights and measures however Section 101 of the Local Government Act 1972 permits Local Authorities to make arrangements for the discharge of any of their functions. It is proposed that Essex County Council Trading Standards would no longer maintain Local Standards under this agreement and would need to give formal written notification to the Secretary of State for Business, Energy and Industrial Strategy (via the National Measurement and Regulation Organisation) to that effect.
- 3.10 The agreement referred to in 2.1 above would be signed by Norfolk and Essex, run for a period of 10 years and be self financed by transferring the ownership and possession of redundant laboratory-based equipment (with an estimated value of between £25-£30K) to Norfolk Calibration Services. All legal recalibration periods and other requirements (such as collection and delivery of equipment for testing, calibration/adjustment and provision of calibration certificates) would be fulfilled on our behalf by Norfolk Calibration Services enabling the freeing up of resource for other TS enforcement priorities and consultancy services. Additional resources already freed up by taking a more efficient approach to commercial calibration has contributed to an increase in income from other forms of Trading Standards consultancy of over 25% this year. This approach will also avoid a costly exercise of arranging for the sale/disposal of very specialist redundant laboratory equipment with no guaranteed return.
- 3.11 Essex County Council's Internal Audit Team, Procurement Team, Monitoring Officer and the Director for Wellbeing and Public Health have been briefed on these proposals and agree with the recommended course of action as being the most pragmatic and cost-effective solution to the on-going internal calibration needs of Essex TS.
- 3.12 This proposal will limit on-going equipment calibration costs and drive growth in revenue by freeing up staff resources to focus on other priority areas including Trading Standards consultancy services.

4. Options

- 4.1 Option 1 – enter into a 10-year agreement with Norfolk Calibration Services for equipment calibration services at no cost to Essex County Council (fully funded

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by transferring ownership of redundant laboratory equipment). This is the recommended option.

4.1.1 Risks – early termination of the agreement could leave Essex County Council financially disadvantaged however careful wording of the contract would manage the risk. Essex County Council would need to formally notify the Secretary of State that it was entering into this arrangement and no longer maintaining its own Local Standards.

4.1.2 Opportunities – 10-year security over future working standard weights, measures and test equipment calibration at no further cost (financial or officer resource) to Essex County Council. Freeing up of qualified and experienced staff to focus on other priority areas including consultancy services that generate income for the service.

4.2 Option 2 – do nothing. Keep the calibration of Essex County Councils working standard weights, measures and test equipment in-house using Essex officer resource to keep equipment in calibration and ready to use.

4.2.1 Risks – Trading Standards staff spend significant time calibrating and maintaining mass comparators and working standard weights/measures. Staff time required to ensure laboratory competencies are maintained (just to keep own equipment serviceable) that could be better used on other priority areas and consultancy services. On-going costs associated with the 5 year recalibration of Essex's Local Standards by the National Measurement and Regulation Office.

4.2.2 Opportunities – Essex County Council maintains ownership of equipment and Local Standards. No formal notification to the Secretary of State required.

4.3 Option 3 – Trading Standards enters into an arrangement with an alternative Local Authority laboratory to calibrate its Working Standard weights, measures and test equipment.

4.3.1 Risks – on going calibration costs of circa £2,500 per year to maintain the legal calibration status of metrology equipment. Redundant laboratory equipment is either left unused or significant resources would be required to research the best way to dispose of highly specialised equipment without a guaranteed return. Essex County Council would need to formally notify the Secretary of State that it was entering into this arrangement and no longer maintaining its own Local Standards.

4.3.2 Opportunities – Essex County Council maintains ownership of laboratory equipment and Local Standards.

5. Next steps

Not applicable

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6. Issues for consideration

6.1 Financial implications

6.1.1 In 2017/18 a Trading Standards restructure resulted in a reduction in resources and a reduced capacity to run the laboratory.

The Laboratory runs at a total cost of £6,000 per annum, with income of £10,700 being generated which is less than the total cost of the officer time taken to service customers and maintain the equipment. The annual cost includes the cost of annual calibration equipment maintenance which is currently completed by ECC Trading Standards staff at a total cost of £5,285 per annum.

The approved MTRS for Trading Standards includes the full cost of the laboratory continuing to operate under conditions laid out in Option 2 above. This is the most expensive option and assumes a worst-case scenario in that the service continues to perform on the same basis and the opportunity to increase other revenue streams is forgone. The approved MTRS for the service can be seen in the table below;

	Draft MTRS £000	
	2020/21	2021/22
Trading Standards Expenditure	1,321	1,346
Income	(271)	(279)
TS MTRS Draft Budget	1,050	1,067

6.1.2 The cash flows associated with all options have been evaluated over the 10-year proposed contract period and the results can be seen in the table below;

Discounted Cashflow: Trading Standards Options

	Best Case Cashflow	Worse Case Cashflow
Option 1 S101 Agreement	£ 824	-£ 9,176
Option 2 Inhouse	-£ 52,291	-£ 52,291
Option 3 Contract	-£ 21,520	-£ 30,127

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The recommended option of transferring the Trading Standards' calibration equipment to Norfolk County Council (option 1) is the most financially viable option in all of the scenarios that were modelled. This option would also allow staff time to be focused on priority service areas with the aim of growing income streams which are estimated to be worth £3,000 per annum.

Option 2 which includes keeping the equipment and continuing with the maintenance inhouse is the most expensive of the three options. Whilst it would see the equipment remain operational, due to the low level of staffing resource, the opportunity for the service to increase income for the Authority would be forgone.

Option 3 which would require finding an external contractor to maintain the equipment that would stand redundant is the second-best option. Whilst income streams are forgone the cost of maintenance if delivered by a third party is cheaper than it continuing to be completed inhouse, if the price could be secured at current market rate.

6.2 Legal implications

6.2.1 ECC can arrange for discharge of its functions by another Local Authority under s101 of the Local Government Act 1972

6.2.2 Appropriate arrangements will need to be put in place between ECC and Norfolk to document the performance of the function.

7. Equality and Diversity implications

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. List of appendices

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8.1 Equalities impact assessment

9. List of Background papers

Not applicable

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Susan Barker, Cabinet Member for Customer, Communities, Culture and Corporate	18.02.20

In consultation with:

Role	Date
Executive Director for Corporate and Customer Services (S151 Officer)	17/02/20
Margaret Lee	
Director, Legal and Assurance (Monitoring Officer)	11/02/20
Paul Turner	