

## CABINET MEETING – 20 APRIL 2016

### EXECUTIVE SUMMARY SHEET – PART I

**Title of Report:**

Proposal to establish a new company/trust to deliver Children’s Services functions on behalf of the City Council

**Author(s):**

Director of People Services

**Purpose of Report:**

The purpose of the report is to set out the outline proposals to establish a new company/trust to deliver Children’s Services functions. The report also details the engagement of consultants with relevant specialist expertise to support the development of the detailed proposals through to subsequent implementation and operation.

**Description of Decision:**

Cabinet is recommended to:

- 1) Approve in principle the establishment of a new company/trust to deliver Children’s Services functions;
- 2) Endorse and approve the engagement of all necessary consultants with relevant specialist expertise to support the detailed development of the proposals;
- 3) Authorise, subject to the principles set out in this report, the Director of People Services and Director of Children’s Services, in consultation with the Portfolio Holder and Interim Director of Corporate Services, to take all necessary steps to give effect to the matters set out in the report; and
- 4) Agree to receive a further report in June regarding the proposed scope of services to be undertaken by the new company/trust, the governance model and the terms of a Memorandum of Understanding (MOU) between the City Council and Department for Education (DfE) in respect of the proposals, and to receive further regular reports as appropriate regarding the further development of the proposals.

**Is the decision consistent with the Budget/Policy Framework?**      **\*Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:** The setting up of a company/trust to deliver Children’s Services functions in Sunderland will enable the City Council to improve services for children and families in a way which is in keeping with already agreed direction of travel and to respond to the DfE Direction in relation to Children’s Social Care. The proposed model will be designed to deliver a holistic service as opposed to an isolated safeguarding function.

**Alternative options to be considered and recommended to be rejected:**

The following option has been considered:

- 1) To retain the services in-house, however this is not an option for those services subject to the DfE Direction which requires the transfer of services for safeguarding and looked after children to be managed outside of the Council.

**Impacts analysed;**

Equality  Y Privacy  N/A Sustainability  Y Crime and Disorder  N/A

**Is the Decision consistent with the Council's co-operative values? Yes**

**Is this a "Key Decision" as defined in the Constitution? Yes**

**Is it included in the 28 day Notice of Decisions? Yes**

**PROPOSAL TO ESTABLISH A NEW COMPANY/TRUST TO DELIVER CHILDREN'S SERVICES FUNCTIONS**

**REPORT OF DIRECTOR OF PEOPLE SERVICES**

**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of the report is to set out the outline proposals to establish a new company/trust to deliver Children's Services functions. The report also details the engagement of consultants with relevant specialist expertise to support the detailed development of the detailed proposals through to subsequent implementation and operation.

**2. DESCRIPTION OF DECISION**

- 2.1 Cabinet is recommended to:

1. Approve in principle the establishment of a new company/trust to deliver Children's Services functions;
2. Endorse and approve the engagement of all necessary consultants with relevant specialist expertise to support the detailed development of the proposals ;
3. Authorise, subject to the principles set out in this report, the Director of People Services and Director of Children's Services, in consultation with the Portfolio Holder and Interim Director of Corporate Services, to take all necessary steps to give effect to the matters set out in this report; and
4. Agree to receive a further report in June regarding the proposed scope of services, the governance model and the terms of a Memorandum of Understanding (MOU) between the City Council and Department for Education (DfE) in respect of the proposal, and to receive further regular reports on progress as appropriate regarding the further development of the proposals.

**3. BACKGROUND**

- 3.1 As part of planning for the future delivery of services, the Council has committed to being open to the establishment of alternative delivery models (ASDM) in order to improve outcomes for the Council and the City. In the case of Children's Services, this includes exploring further opportunities for joint working with Total Help for Children and partners, to support the sustainability of a new ASDM.

- 3.2 Members are aware of the outcome of the Ofsted inspection in June 2015 and of the resulting appointment of a Commissioner to work with the Council. The role of the Commissioner is to consider the appropriateness of arrangements for the transfer of services for safeguarding and looked after children to be managed outside of the Council.
- 3.3 The Council and the Commissioner have worked closely to determine how the intentions of the Council could be jointly considered to produce a solution which offers better outcomes for children and families in Sunderland and meets DfE requirements.
- 3.4 To support discussions a draft outline prospectus has been prepared and an officer working group established.
- 3.5 Opportunities to engage elected members and wider partners, specifically those members of the Sunderland Safeguarding Children Board (SSCB), have been put in place to ensure input into services, governance arrangements and contractual arrangements.
- 3.6 A proposed company/trust name has been registered at Companies' House, "Total Help for Children – Sunderland", although the exact legal form and structure for the new company/trust are still to be determined. This preliminary step has been undertaken simply to protect the provisional name of the new entity.
- 3.7 In recognition of the statutory responsibilities of the Council and partners and the high profile, with risk impact of the services under consideration, it is considered that additional specialist expertise is required to support the development and implementation of the proposed new arrangements. It is anticipated that support, including financial support, will also be forthcoming from DfE and these discussions are taking place with the Commissioner representing the Sunderland position. Members should note that Mutual Ventures have been appointed to provide this support on the recommendation of the Commissioner as they have a track record of success in this area. Any other specialist consultants that may be required for the delivery of the detailed proposals (e.g. legal, tax) will be procured at the appropriate time.
- 3.8 Subject to Members approving the proposed recommendations, the next steps in the development and delivery of the detailed proposals include the identification of the scope of the services to be transferred to the new company/trust, the design of the detailed structure and governance of the new company/trust, the development of the service contract, the financial implications (see further below) and detailed due diligence regarding the proposed transfer of staff, contracts and assets. Further reports will be submitted to Cabinet in due course regarding the detailed terms of the proposal once this has been developed.

#### **4. FINANCIAL RELATED ISSUES**

- 4.1 As part of the overall consideration of the potential services in scope, financial analysis will be undertaken to understand the required financial envelope and potential impact of tax and VAT, or other costs arising as a result of moving to a company/trust operating arrangement.
- 4.2 Discussions are on-going with the DfE to determine the level of support the Council will receive towards the set up costs of implementing the new arrangements, including contribution towards the engagement of specialist consultants.
- 4.3 Consideration will also be given to ensuring the arrangements provide sufficient flexibility to respond to the changing financial landscape, including the implications of proposed changes to school funding and the Education White paper
- 4.4 Financial updates will be included in all future reports.

#### **5. RISK ANALYSIS**

- 5.1 A detailed risk register and risk analysis will be undertaken as part of the development of the detailed proposals. This risk analysis will be reported to Cabinet in due course. Risk management issues include:
- The commercial risk such as failure of the new company/trust resulting in a financial loss.
  - Risk of reputational damage to the Council if the company/trust does not perform well, including through Ofsted inspection.

#### **6. PROPOSED WAY FORWARD**

- 6.1 A Project Management approach has been put in place with appropriate governance arrangements, including Elected Member involvement. Ten workstreams have been identified with a lead assigned to each. The Project Sponsor is the Director of People Services. There will be regular updates for each of the workstreams and reporting back to Cabinet of both progress and for agreement of key areas eg scope of service and governance.

#### **7. LEGAL IMPLICATIONS**

- 7.1 As explained above, the detailed legal terms of the proposals will be developed over the coming months and reported to Cabinet for consideration at a future date. The key considerations to be included in the design and development of the structure will include:

- (a) The new proposals must provide the necessary arrangements for ensuring the effective discharge of the Council's statutory functions in respect of children's services. As part of these considerations it will be necessary to be explicit in terms of the future nature of the employment relationship for those employees who would transfer into the future arrangements;
- (b) The Council's statutory powers under Section 1 of the Localism Act 2011 (the general power to do anything that individuals may generally do) and under Section 111 of the Local Government Act 1972 (the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions as the local authority);
- (c) Public procurement law under The Public Contracts Regulations 2015;
- (d) Corporate governance within the new company/trust;
- (e) Service performance and Council protections; and
- (f) Risk allocation between the Council and the new company/trust.

## **8. REASON(S) FOR DECISION**

- 8.1 The setting up of a company/trust to deliver Children's Services functions in Sunderland will enable the City Council to improve services for children and families in a way which is in keeping with already agreed direction of travel and to respond to the DfE directive in relation to Children's Social Care. The proposed model will be designed to deliver a holistic service as opposed to an isolated safeguarding function

## **9. ALTERNATIVE OPTIONS**

- 9.1 The following options have been considered:

To retain the services in-house, however this is not an option for those serviced subject to DfE Direction which requires the transfer of services for safeguarding and looked after children to be managed outside of the Council.

## **10. RELEVANT CONSIDERATIONS/CONSULTATION**

- 10.1 Sunderland City Council is a co-operative council and in being so will act ethically in all its actions while adhering to and actively promoting its co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity. These values will underpin its decision making and actions. The proposal to establish a company/trust would require that similar values and the encouragement of families to self-help and take responsibility for making the changes required to improve their circumstances would be anticipated.

10.2 As part of the consultation process the Trade Unions will be consulted about the proposal at the earliest possible point. They have been kept up to date on the direction of travel but they will be consulted formally on the detail once this has been finalised and any comments will be reported to Cabinet.

## 11. **SUSTAINABILITY**

11.1 Sustainability considerations will be taken into account as part of development of the detailed proposals for the company/trust and will be reported to Cabinet at a future date.

### 11.2 **Health and Safety Implications**

N/A

### 11.3 **Risk Analysis**

Information regarding the approach to risk analysis is included in the main body of this report.

### 11.4 **Policy Implications**

The proposals reflect the approach set out in the Council's Corporate Plan.

### 11.5 **Equality Impact Assessment**

Sunderland City Council, in accordance with its Statutory obligations, considered the impact of equalities arising from its proposals.

It has been recognised that as the services highlighted in this report move towards alternative service delivery mechanisms a future Equality Impact Assessment (EIA) will be required as part of the development of the detailed proposals in order to mitigate any potential risk of inequality arising under the proposed new arrangements. The findings of the EIA will be reported to a future Cabinet meeting as part of the detailed proposals.

### 11.6 **Background papers**

N/A

