

CABINET

16 JANUARY 2013

ESTABLISHMENT OF SUNDERLAND EVENTS MANAGEMENT COMPANY

REPORT OF THE DIRECTOR OF CORPORATE AFFAIRS AND COMMUNICATIONS AND THE EXECUTIVE DIRECTOR OF COMMERCIAL AND CORPORATE SERVICES

1.0 Purpose of the Report

1.1 This report

- (i) Updates Cabinet on changes to the proposed approach to development of the Sunderland Events Management Company (referred to hereafter as 'the Company'); and
- (ii) Sets out a series of next steps for action in order to establish the Company as a local authority owned company at the earliest opportunity and requests Cabinet approval to proceed with these.

2.0 Description of Decision (Recommendations)

2.1 Cabinet is requested to:-

- (i) approve the establishment of the Company as a local authority owned company and on the terms set out in this report;
- (ii) authorise the Chief Executive and the Executive Director of Commercial and Corporate Services to take all necessary steps and to execute all relevant documents as may be required in order to secure the establishment of the Company;
- (iii) authorise the Chief Executive to nominate a member or officer of the Council to exercise the shareholder rights in respect of the Company on behalf of the Council;
- (iv) recommend that Full Council appoints 3 directors to the Board of the Company;
- (v) approve the award of a contract and funding arrangements between the Council and the Company for the delivery of events as approved by the City Council on terms to be determined by the Executive Director of Commercial and Corporate Services and the Director of Corporate Affairs and Communications in consultation with the Leader and the Portfolio Holder;
- (vi) authorise the Executive Director of Commercial and Corporate Services to agree appropriate pension arrangements with Tyne and Wear Pension Fund in respect of the transferring Council employees;

3.0 Background and Rationale

- 3.1 In July 2012 Cabinet received a report which described the background and rationale for a new approach to the way that the Council could deliver its events programme. This report recommended the establishment of an events company to be responsible for the delivery of a range of events within the city as agreed by the City Council.
- 3.2 The proposals reflect the potential contribution that a range of successful, well-delivered events could make to Sunderland's reputation and local economy. If successful, the Company would also have the potential to secure a range of supporting benefits including:
- Additional revenue generated through sponsorship agreements, hospitality and more effective destination management;
 - Full and timely delivery of appropriate contributions to the Council's efficiency targets;
 - Effective reinvestment of any operating surpluses into additional events activity;
 - Increased customer satisfaction with events;
 - Enhanced use of local indoor and outdoor venues and Sunderland's natural assets.
- 3.3 The proposed operating arrangement for events would help to free-up the new Company to explore a wider range of options for leveraging additional resources from a variety of potential sources including commercial sponsorship. These are likely to include future partnering with other organisations with relevant commercial expertise in order to strengthen the Company's capacity in key areas such as event delivery logistics, the attraction of higher levels of commercial sponsorship and a more commercial approach to destination management around the events themselves.

4.0 Current Position and Proposed Next Steps

- 4.1 In the report to July's Cabinet it was originally proposed to procure a Strategic Partner in order to create a jointly owned events company between the Council and the Strategic Partner for the development and delivery of events in the City.
- 4.2 In order to maximise chances of attracting appropriate interest from the market, it is necessary to focus as an initial priority upon confirming certain specific and focused partnership arrangements in key areas such as logistics and sponsorship and at the same time develop the form and structure of the arms length delivery vehicle.
- 4.3 In view of the above, it is therefore proposed to
- (i) complete a detailed business plan for the Company by early February 2013;

- (ii) progress the establishment of the Company at the earliest opportunity as a local authority owned company for the delivery of a range of events within the city as agreed by the City Council. The target is to establish the company for the beginning of April 2013.

4.4 Detailed proposals for the creation of the Company are summarised in Section 5 below. These proposals will create and develop a 'platform' for the new alternative delivery vehicle for events in the city. They will also enable the further development of the Council's 'offer' in order to maximise the chances of attracting future commercial partners who will be required to deliver events priorities in the future.

5.0 Proposals

5.1 In summary, the proposals for the Events Management Company delivery vehicle involve the following:-

- (a) The establishment by the Council of a new local authority owned company which will be limited by shares;
- (b) The Company will be owned and controlled by the Council as the sole shareholder;
- (c) It is proposed that the Board of Directors of the Company will consist of a maximum of three Members/ officers who will be appointed by Full Council. It is recommended that the Directors are not members of the Cabinet to avoid any potential conflicts of interest arising due to the separate performance monitoring role to be carried out by Cabinet under the proposed contract/funding arrangements referred to below;
- (d) A delegation scheme from the Board of Directors to the relevant employees for day to day operations of the Company will be developed and implemented. However, as with other local authority companies, it is proposed that certain key decisions will be reserved for shareholder approval (e.g. major contracts/procurement above a certain value). Any such shareholder decisions would be considered by Cabinet.
- (e) The Company will be responsible for the delivery of a range of events within the city for and on behalf of the Council. It is proposed that the Council will award a contract/ enter into a funding agreement with the Company to deliver an annual events programme in the City. It is currently proposed that this contract will be reviewed on an annual basis. The key terms of the contract will include:-
 - (i) Scope of events and services to be delivered by the Company;
 - (ii) Key performance indicators in relation to the delivery of these events/services;
 - (iii) The total events funding to be provided by the Council to the Company and the mechanism for this payment;
 - (iv) The contract period.

It is proposed that the detailed terms of the contract will be developed by the Executive Director of Commercial and Corporate Services and the Director of Corporate Affairs and Communications prior to establishment of the Company.

- (f) The final detailed business plan will be completed prior to establishment of the company. The Board and the company's officers will then be responsible for the delivery of the business plan.
- (g) There will be a transfer of Council events employees to the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") on incorporation of the Company. As the Company will be owned by the Council, there is no longer any need for an initial temporary secondment arrangement whilst the Company develops. Initial consultations with the affected employees and union representatives have commenced. In addition, any relevant assets (eg operational contracts that are required for the delivery of events) will need to be novated from the Council to the Company;
- (h) Arrangements will be progressed with the Tyne and Wear Pension Fund to ensure that the Company will be able to continue to offer Local Government Pension Scheme membership to the transferring Council employees. However the financial implications still need to be determined.
- (i) The Company will then carry out its own procurement activity in relation to the appointment of future strategic/commercial partners at the appropriate time. The Company will be subject to the public procurement rules as set out in the Public Contracts Regulations 2006.

5.2 The proposals for the establishment of the Company are in accordance with the Council's general power of competency under Section 1 of the Localism Act 2011 to do anything that individuals may generally do. In addition, the Company will facilitate and sustain the continued delivery of the Council's city wide events programme. Further the direct award of the contract to the Company for the delivery of placed based marketing and events is permitted in procurement law terms because the new Company will satisfy the "control" and "activities" tests under the Teckal exemption as a wholly owned Council company whose principal activities will be to undertake events in the city pursuant to the contract or funding agreement with the Council.

5.3 The financial implications of establishing the Company are envisaged to be consistent with those previously considered by Cabinet at its meeting of 18 July 2012. The value of the service contract funding from the Council to the Company will be consistent with the current approved levels of funding within the Council's revenue budget and capital programme for events activity that will in the future be delivered by the Company. As set out above, a detailed business plan is being developed which will further inform the position.

6.0 Reasons for the Decision

6.1 The key reasons for the proposed establishment of the Events Management Company remain the same as previously described in the Cabinet report of July 2012. Approval of the proposals contained within this report would enable:

- Sunderland to build upon its emerging national reputation for events which is being developed through a new approach to partnership working and delivery of a strategic Place marketing campaign.

- The Council to continue with its ambition to build upon opportunities to grow the local economy by developing and attracting visitors to an increased number of targeted events within the city.
- Where traditional structures to support the development of events no longer exist, the proposals will allow the Council to devise innovative solutions to capitalise on potential commercial opportunities for the greater benefit of the city's businesses and residents.

To strengthen the promotion of key policies within the Sunderland Economic Masterplan which has recognised the potential for further development of Sunderland as a visitor destination and as an economic driver for job creation, entrepreneurship and existing business growth.

7.0 Alternative Options

- 7.1 The option to continue with the current approach to managing events has been considered as part of the ongoing review process. Such an option is considered unsustainable in the current economic climate.

8.0 Impact Analysis

- 8.1 An Equality Analysis has been undertaken which has identified that there will be Positive Impact due to an increased number of events available to all residents and visitors.

The Company will need to comply with the Equality Act which provides an obligation to avoid discrimination, victimisation and harassment in relation to the 'protected characteristics'. The Public Sector Equality Duty aspects apply to public sector bodies and the services they provide, therefore the local authority will retain responsibility for this irrespective of the 'vehicle' by which services are provided. In order to ensure compliance, the commissioning arrangements will require the Company to undertake an Equality Analysis in relation to policy change.

9.0 Other Relevant Considerations / Consultations

Sustainability

The proposals seek to improve economic sustainability which will support delivery of the Economic Master Plan.

Employee Implications

Based on a series of discussions and consideration of the City Council's business operating model, existing events employees have been identified and will be transferred under TUPE to the Company at the earliest opportunity upon establishment of the Company.

10.0 Background Papers

There were no background papers relied upon to complete this report.

