

FUTURE BUSINESS MODEL FOR SCHOOL IMPROVEMENT AND INCLUSION SERVICES (Learning and Development Partnership)

Report of the Executive Director of Children and Young People's Services

Please note that the following recommendation is subject to approval by the Cabinet and confirmation under the provisions of the Council's Constitution before taking effect.

Recommendations: that the Cabinet

- (i) approve the procurement of a partner to create a joint venture company for the delivery of school improvement and inclusion services as set out in 5.1
- (ii) note that this will include the transfer of staff under TUPE regulations
- (iii) note the principles set out in 5.2 and 5.3 to protect the interests of the authority, its staff, and other stakeholders
- (iv) note the views of staffside representatives as set out in 5.4

1.0 SUMMARY

- 1.1 The paper gives an overview of a rigorous options appraisal of potential business models. There was extensive involvement of educational, corporate and external stakeholders, supported by independent expert analysis.
- 1.2 The preferred option was to transfer staff and functions to a joint venture for-profit company with a private sector partner, with the council as minority partner. This found overwhelming support as an exciting and innovative step to securing sustainable services for the authority and its schools in a tightening financial climate.
- 1.3 The target date for completion is 1 April 2011. This will require further reports to Cabinet for key decisions and approvals.

2.0 CONTEXT

- 2.1 Project StratCom (Strategic Commissioning), set up with DCSF support, aimed to deliver a sustainable model for Devon's school improvement and inclusion services. The range and viability of specialist services are at risk from the increasing constraints on central commissioning budgets, coupled with the increasing delegation of funding to schools who look to procure best value services in a competitive market.
- 2.2 The project has implemented a strategic commissioning framework for centrally-funded school improvement and inclusion services; brought together the eleven specialist teams delivering those services into a single integrated business unit, the LDP; and carried out an appraisal of options for the future governance and business model of the LDP.
- 2.3 By the end of its first year of operations in March 2010, the LDP will have delivered services to the value of £21 million under the centrally-funded commissioning

framework (of which £9.3 million is dedicated grant funding) and a further £7 million of work traded with Devon schools, national agencies and government departments.

3.0 BUSINESS CASE FOR CHANGE

- 3.1 The pressure on central commissioning budgets and increased delegation of funding to schools will continue whatever the outcome of the next general election. Unless the LDP can innovate, control costs and reach out to meet the needs of a wider group of commissioners, there is a risk that some services will become unviable and that others will stand still or decline due to lack of investment. DCC and Devon schools and settings could lose access to valuable specialist skills that are essential for improving outcomes for children and young people.
- 3.2 An independent analysis of the financial impact of these trends on the LDP forecasts a mounting annual deficit for the LDP, unless the organisation is able to change. By 2013-14, the LDP in its current configuration risks an accumulated deficit of up to £23.8 million, with an annual operating deficit of £8.9 million.
- 3.3 The bulk of the LDP's costs lie in the salaries of the professional staff who deliver the specialist expertise in school improvement and inclusion. Achieving a balanced budget in the current configuration could entail the loss of 100-150 posts or up to 25% of the current staff complement. Reducing the range of professional expertise reduces the organisation's value to stakeholders - including above all the authority and Devon schools - leading to a cycle of decline.
- 3.4 The pressures affecting the LDP are widely recognised across the country. A market analysis commissioned by the project board notes that the White Paper on 21st Century Schools has given substantial impetus to further changes in the relationships between local authorities, schools and service providers from the public, private and third sectors. The analysis concludes that while the LDP has a range of strengths, the authority needs to act decisively to pre-empt the changes and position the LDP in an increasingly fluid market.

4.0 OPTIONS APPRAISAL

- 4.1 The StratCom project board, in consultation with stakeholders, defined a set of critical objectives that any future model for the LDP should have the potential to deliver. The objectives addressed three areas of the LDP's capability:
 - to improve outcomes for children and young people;
 - to be efficient;
 - to be sustainable.
- 4.2 A steering group of stakeholders identified seven options for the LDP: the current arrangement ("do minimum"); three forms of local authority controlled company; and three forms of joint venture.
- 4.3 Detailed specifications for each option were developed, drawing on expert advice on legal, financial and HR issues. Technical reports were commissioned from independent experts on:
 - 4.3.1 the regional and national market for the LDP's services and the potential for the LDP to develop new business with a wider group of commissioners;
 - 4.3.2 the financial outlook for the LDP in its current configuration;
 - 4.3.3 the legal and financial issues associated with each of the options.
- 4.4 LDP staff were consulted twice during the preparation of the option specifications and their detailed feedback was recorded.

4.5 The detailed assessment of options was carried out by a stakeholder panel including representatives of schools (headteachers and governors), DCC officers from CYPS and Corporate Resources, staffside, and the LDP leadership team. The detailed information available to the assessment panel is listed at Appendix A.

5.0 CHARACTERISTICS OF THE PREFERRED OPTION

5.1 The panel concluded overwhelmingly that the preferred option for the future of the LDP is for DCC to create a joint venture for-profit company with a private sector partner, with the Council as minority partner. The panel concluded that if the authority were a major stakeholder there would not be sufficient scope for change; and that taking a minority share in the joint venture would give the greatest access to investment by the majority partner for service and market development.

5.2 The panel recommended that in seeking a joint venture partner, DCC should focus on:

5.2.1 the Council's critical objectives for the venture;

5.2.2 the capability and characteristics of the ideal partner, and

5.2.3 the governance arrangements necessary to protect the interests of the authority and to guarantee a voice for Devon stakeholders.

5.3 The panel recommended that DCC should remain open to partnership with a third sector organisation or local authority company that was able to meet the procurement specification.

5.4 The panel also noted that a joint venture with a private sector partner is perceived to be a sensitive issue for LDP staff. The criteria for selection of a partner must be designed to attract a partner who can be demonstrably aligned with the agreed core values and purpose of the Council in providing these services. Staffside representatives who participated in the assessment panel abstained from supporting the preferred option but endorsed a set of characteristics that the Council should look for in any prospective partner, including a commitment to continuity of union recognition and staff representation.

5.5 Creating a joint venture will involve the transfer of LDP staff from DCC to a joint venture company under TUPE regulations. If the joint venture company wishes to apply to the Devon Local Government Pension Scheme for "Admitted Body" status, it will need to supply an indemnity bond. The value of the bond needed for the LDP's current complement of 571 staff was estimated by scheme actuaries at around £7.38 million. However a significant number of LDP staff will transfer to the establishments of the new Short Stay Schools in April 2010, reducing the number transferring to a joint venture.

5.6 The current and future value of any DCC assets transferred or licensed to the joint venture company could be recognised in various ways by the majority partner including, for example, paying a consideration to DCC. Such a payment would tend to confirm the partner's commitment to the success of the joint venture in order to recoup their initial outlay.

6.0 CONSULTATIONS

6.1 In addition to the stakeholder participation in the appraisal process, the conclusions of the assessment panel have been presented for comment to the following groups:

6.1.1 Teacher's Consultative Committee (27 January) - the committee accepted the conclusions of the panel.

6.1.2 CYPS Joint Consultative Committee (23 February) - feedback awaited.

6.1.3 Headteacher Liaison Group (1 February) - the Group agreed with the conclusions of the panel. Panel participants had learned a good deal about the LDP and recognise the budget realities. Schools have favoured change for some time and back the preferred option.

6.1.4 Schools Commissioning Board of Devon Education Forum (5 February) - the Board agreed with the conclusions of the panel and noted the rigour of the appraisal process.

7.0 SUSTAINABILITY CONSIDERATIONS

7.1 Of the fifteen critical objectives used to assess the options for the LDP's future, six were directly concerned with sustainability. The Assessment Panel concluded that the preferred option showed good potential.

8.0 EQUALITY CONSIDERATIONS

8.1 Two Equality Impact and Needs Assessments have been carried out during the course of the project; a further assessment will be carried out before the joint venture arrangements are finalised.

9.0 LEGAL CONSIDERATIONS

9.1 An initial report on the legal issues affecting the formation of joint ventures has been carried out by external lawyers and submitted to the project board. The report identifies the steps that will need to be taken following confirmation of the preferred option.

10.0 RISK MANAGEMENT CONSIDERATIONS

10.1 The principal risks associated with each option were identified in the option specifications, with recommendations for mitigation (StratCom was included on the CYPs Risk Register) and the risk that pension arrangements make it difficult to secure a partner are being addressed in discussion with the relevant experts.

Anne Whiteley
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ELECTORAL DIVISION: ALL

Local Government Act 1972.

Background Papers:

CY/07/58 (Executive)

CY/08/11 (Executive)

CY/08/65 (Executive)

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Appendix A: Information considered by the Options Assessment Panel

i. Briefing

Purpose of the panel, guide to the documentation, explanation of the assessment process and critical objectives, strategic context

ii. Option Specifications

Detailed description of all seven options including legal, financial and HR characteristics, with reference to the critical objectives

iii. Financial report (by independent consultant Steve Bulmer)

Analysis of the financial outlook for the LDP in its current configuration, assessment of the financial issues affecting each option

iv. Additional information

- Market study (by consultants MorreyFisher)
- LDP staff feedback on the options (following two rounds of consultation in November and December)
- LDP management team feedback on the options
- Statement of Service Requirements 2010-11 (high level statement setting out the expectations of the commissioner to guide the design of services for the next period)

v. Scoring

Guidance on the recommended scoring system for assessing the options