

CABINET
29 MARCH 2018**CHILDREN'S SOCIAL CARE SERVICES ALTERNATIVE
DELIVERY MODEL – BUSINESS CASE APPROVAL**

Relevant Cabinet Member

Mr A C Roberts

Relevant Officer

Director of Children, Families and Communities

Recommendation

1. The Cabinet Member with Responsibility for Children and Families recommends that Cabinet:

- (a) notes the outcome of the Full Business Case (FBC) on an Alternative Delivery Model (ADM) for the Council's Children's Social Care Services;**
- (b) approves the development of a Wholly Owned Council Company (Company) as the ADM to deliver children's social care, subject to agreement and funding support from the Department for Education (DfE);**
- (c) agrees the proposed scope of services for transfer to the Company as set out at paragraphs 13-14, including the likely support services model set out, as suitable for formalising into a detailed implementation and consultation plan and as the basis for establishing the Company;**
- (d) delegates the development and implementation of the detailed programme and consultation plan to establish the Company to the Chief Executive in consultation with the Leader of the Council and Cabinet Member with Responsibility for Children and Families and Cabinet Member with Responsibility for Transformation and Commissioning; and**
- (e) agrees to receive a further programme update report in October 2018 to include recommendations relating to the draft contract, any modifications in scope and confirmation of VAT implications in order to help inform Council budget planning for 2019/20 and to determine the model for transfer of staff within scope.**

Background and Policy Context

2. The Government's vision for achieving excellent children's social care is set out in the White Paper *Putting Children First* (2016)¹. The White Paper introduces the use of a range of Alternative Delivery Models in Children's Services – both in areas with a history of underperformance, and in areas where Children's Services are performing well. The Government's ambition is that by 2020 over a third of all current local authorities will be either delivering their Children's Services through a new model, or actively working towards a different model.

3. As described in the White Paper, the inadequate Ofsted inspection judgement (published on 24 January 2017), placed Worcestershire in the category of persistent and systemic failure. The DfE subsequently appointed a Children's Commissioner for Worcestershire to lead a further review of services. The review was completed in June 2017, but due to the snap general election the Commissioner's report wasn't published until 19 September 2017. The report concluded there was currently insufficient evidence to demonstrate fully that continuing to provide services in-house will deliver and sustain the necessary improvements. This led to a further Statutory Direction which anticipates that the Council will move those services which are under direction into an Alternative Delivery Model (ADM), and required the Council to carry out an options analysis with an outline recommended model by the end of December 2017 followed by the completion of a Full Business Case by 31 March 2018.

4. At its meeting on 14 December 2017 Cabinet decided that two options were to be taken through to Full Business Case stage: the **Wholly Owned Council Company**, and the **Strategic Partnership with another Local Authority**.

5. Building upon the information gathered within the Options Analysis, the development of the Full Business Case has been conducted from 18 December 2017 to 7 March 2018. This process was managed by the Council's ADM Programme Team with support from Mutual Ventures, Cipfa C.Co and Bevan Brittan. Governance has been through a formal Programme Board, chaired by Worcestershire's Children's Commissioner (as appointed by the DfE), supported by an operational Steering Group, Partnership Reference Group and wider stakeholder engagement including staff and children and young people.

Strategic Partnership with another Local Authority

6. The Strategic Partnership model is one where the Council's Children's Social Care Services would be managed and delivered by another local authority's children's services, via a Strategic Partnership arrangement. In order to develop this model in detail within the Full Business Case, a named partner was required as well as an agreed set of terms upon which a partnership would be developed.

7. During December 2017 and January 2018, the Council approached potential (including neighbouring) local authority partners to assess the viability of this option. There was a willingness from other 'good'-rated councils to develop partnership arrangements with Worcestershire, but these proposals did not satisfy the DfE's requirements for operational independence of the ADM. This means a viable partner

¹ Department for Education (July 2016). *Putting Children First: Delivering our vision for excellent children's social care*. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/554573/Putting_children_first_delivering_vision_excellent_childrens_social_care.pdf

was not found and this model, therefore, was not developed in detail within the Full Business Case and cannot be recommended as an option for Cabinet.

Development of the Full Business Case

8. The Full Business Case (see Appendix 1) has been created using the 'Five Case Model': an approach contained within HM Treasury's guidance and standard methodology, which is both scalable and proportionate and familiar to the DfE. The approach has been tailored to the timescale and resource available in the Council.

9. The Five Case Model comprises the following key components:

- The **strategic case** - this sets out the case for change, together with the supporting investment objectives for the arrangement
- The **economic case** - this demonstrates that the organisation has selected the most economically advantageous offer, which best meets the existing and future needs of the service and optimises value for money
- The **commercial case** - this sets out the content of the proposed 'deal', i.e. that the ADM is commercially feasible for the Council to implement
- The **financial case** – this describes the required budget, key considerations for the affordability of the ADM and the effect on the medium term financial plan for the Council, and
- The **management case** – this specifies the plans for the successful delivery of the programme of work to cost, time and quality.

Strategic Case

10. This section of the Full Business Case tests whether the option is supported by a compelling case for change that fits well with other parts of the Council and the wider public sector. This case includes details on:-

- The local context surrounding the DfE's intervention
- The Essex Improvement Partnership, improvement priorities and current Children and Young People's Plan (CYPP)
- Wider Council strategy alignment
- The Vision, Mission, Values, Behaviours and Objectives of the ADM
- Potential scope
- Overview of the Wholly Owned Council Company (WOCC) model
- Proposed governance and accountability arrangements and considerations
- Key risks and constraints.

11. In summary, this case recognises that the driver for the ADM has been formalised in a Statutory Direction issued by the DfE. It also references that the ADM has been recognised by the Council as a positive opportunity to further progress and sustain the ongoing improvement activity across Children's Social Care. The ADM's sole purpose will be improving services and outcomes for children and young people in Worcestershire, which includes enabling staff to perform to the best of their ability.

12. The case specifically highlights the service improvement priorities and the positive progress that is being made including referencing the feedback from Essex

County Council, Worcestershire's Improvement Partner. It is crucial that the development of the ADM adds value to, and does not distract from, the ongoing improvement work taking place across Children's Social Care. As the aim, at the point of transferring services into the Company, is that the Service will be performing well and the Company will have a positive platform in which to sustain the improvement as well as further improve outcomes for children and young people.

13. Cabinet is asked to take specific note of the proposed front-line services included within the scope of the ADM. All of the Council's Children's Services (whether commissioned or directly provided) have been categorised into the three areas outlined below. It is proposed to only include those services in category 1 as in-scope of the ADM and therefore subject to transfer to, and under the operational control of, the ADM. Those services categorised as 2 or 3 would be retained by the Council (or in their current form) and would need to develop a close working relationship with the ADM so services are delivered in a joined-up and efficient way.

- Category 1 = under the statutory direction and/or in scope due to improvement work or day to day business
- Category 2 = under the statutory direction but different delivery model in place and/or essential to improvement
- Category 3 = Other services that will add value to those in (1) and (2) by contributing towards the wider improvement of outcomes for children and young people.

14. The table below provides a list of those services/functions that are in category 1 and proposed to be in scope of the transfer to the Company. The full categorisation of services can be found in Appendix 2. At the time of finalising the Full Business Case (7 March 2018), there was a total of 629 full time equivalent staff within these services. *Please note that these figures increase from 2018/2019 onwards.*

Independent Review and Quality Assurance	Supported Living – Children with disabilities (CWD)
Children with Disabilities	Equipment for CWD
Principal Social Worker	Domiciliary Care for CWD
Locality Teams	Targeted Family Support
Specialist Services (incl. Child Sexual Exploitation, Homeless Intervention Team, Emergency Duty Team)	In House Residential & Short Breaks - Non CWD
Contact & Referral	Fostering & Kinship
Community Function	Outreach Service
Safeguarding Teams & Group Manager	Health & Well-being
Worcestershire Safeguarding Children Board	Contact Service
Workforce development (training delivery budget)	External Placements & Placements Team
Supported Living - Non CWD	Care Leavers
In House Residential & Short Breaks - CWD	Section 17 & Section 20 Support
Special Guardianship, Direct Financial Support & Residence Orders	Adoption Services (not included in Adoption Central England)

15. There are two notable omissions from this list of services, Adoption Services and Young Adults Team (which is the team that supports young people to transition to adult social care services). Throughout the development of the Full Business Case, the ADM Programme Board agreed with the principle to take these services out of scope so work can continue on developing a regional adoption service (Adoption Central England) and the Young Adults Team can remain integrated with Adult Social Care. The Commissioner and DfE have indicated that they are content with this approach and with only the above services transferring to the Company.

16. The precise scope of services to be transferred to the ADM will be finalised throughout the implementation phase ahead of a formal TUPE consultation period (best practice is 90 days). In accordance with the TUPE Regulations staff within scope would transfer to the proposed new Company on their current terms and conditions, including access to their current pension.

17. The Strategic Case also outlines the proposed governance and accountability arrangements, including composition of the Company's Board and relationship with the Council's democratic governance. It is envisaged that the existing Council and Cabinet frameworks would be utilised regarding decision-making for the Company (e.g. Reserved Matters) as well as Cabinet and Scrutiny receiving regular reports on the operational performance of the Company.

18. This section concludes that the case for change for Children's Social Care Services is supported by several key drivers:

- The requirement to continue to improve as outlined in the improvement plan
- The local context regarding the statutory direction / DfE intervention, and
- The emerging supportive evidence nationally of several local authorities (both 'inadequate' and 'good') transferring services to a children's services ADM. However, as noted in the case of Slough, progress can be inhibited depending on the design and delivery of the ADM.

19. The Vision, Mission, Values, Behaviours and Objectives of the ADM have been clearly demonstrated in this section. Furthermore, significant consideration has already been given to the scope of services and the potential design of the ADM, particularly regarding how it is governed and these have been discussed with a wide range of stakeholders. Consequently, the Strategic Case provides a sound basis to proceed with the Full Business Case.

Economic Case

20. This section of the Full Business Case tests whether the chosen model is an economically advantageous offer, which best meets service needs and optimises value for money. The content will cover a re-cap of the options analysis as well as outlining the potential financial and qualitative benefits and dis-benefits of the chosen model.

21. The financial appraisal concluded that there are limited quantifiable financial benefits associated with the ADM at this stage, as it does not have an intention in the short-term to generate further income outside of the contract with the Council. However, a number of key opportunities and system-wide benefits have been identified which may be realised in the future based on the aspirations of the ADM at a later stage.

22. The financial appraisal also concludes that the implementation and running of the ADM will incur significant further cost. However, it is likely that the transition costs and VAT liability may be mitigated through DfE funding. This will need to be discussed and agreed throughout April 2018 and beyond.

23. The qualitative appraisal concludes by stating that there are a large number of benefits that may be realised through the design of the Company. The model itself does not improve outcomes, but the design of the Company's framework and processes provide potential opportunity to achieve the benefits identified above. In particular, the flexibility and freedoms the Company can provide regarding new ways of working and workforce development / recruitment have been identified as attractive benefits.

24. However, there are a number of risks associated with the Company model. Similarly, the mitigation of these risks is dependent on the design of the Company, and involving key stakeholders throughout each stage of the process.

Commercial Case

25. This section of the Full Business Case tested whether the proposed option is attractive to the market place, can be procured and is commercially viable. It also includes an analysis of existing contracts and suppliers of services and proposed future working arrangements between the ADM and the range of corporate support services. The details within this section of the Full Business Case are working proposals, and similar to scope, will be refined and formalised during the implementation phase.

26. A number of key principles have driven these positions, including:

- It is imperative that staff retain their current terms and conditions, including pensions
- The ADM shall seek a corporate support model that allows it to meet its long-term objectives and priorities of service improvement, however great consideration must be given to the Council's remaining services and impact on costs.

27. The three main potential service arrangements being considered for the future relationship with support services which are outlined below are a) to buy-back services from the Council, b) to transfer services to the Company, c) the Company buys the service from an external provider where the Company requires additional skill sets or sector experience that the Council cannot provide.

28. Whilst only working proposals at this stage, this section concluded that the majority of corporate support services would be bought back from the Council, whilst approximately **19** full time equivalent staff from finance, HR and performance teams would transfer. The Company would only buy external services where these do not currently exist e.g. auditing the Company's accounts. The table below summaries the working proposals.

Service	Proposed options
Property: Service (e.g. facilities management.) and locations	Buy back / Lease
HR	Part transfer, part buy back
Finance	Part transfer, part buy back, part procure externally
HR and Finance Transactional Services	Buy back

Legal	Buy back, part procure externally
ICT	Buy back
Commercial, procurement and market research	Buy back
Performance	Transfer core service, buy back corporate support
Communications	Buy back

Financial Case

29. This chapter presents the projected financial impact of establishing and running the Company. As noted in the economic case, the key driver for the ADM is improvement of outcomes for children, **not** cost reduction or income generation.

30. In order to formulate the Finance Case to estimate the costs and risks associated with the Company and create a robust 5-year Financial Model, a number of informed assumptions have been made regarding the areas below. These have been based on detailed discussions with colleagues from across the Council.

- Proposed scope of services and FTE transferring
- Proposed buy-back arrangements
- Proposed technical and financial considerations (e.g. pensions, insurance, contracts)
- Proposed property arrangements, which are still to be confirmed and use of non-building assets
- Anticipated set up costs and additional needs of the Company and the Council
- DfE intent to mitigate VAT liability.

31. The projected financial requirements are summarised below:-

- It is estimated that an investment of approximately £4.6m will be required to establish and set up the Company model. This is likely to change during implementation as key decisions are taken, in particular on where the Company will be located and a more detailed understanding of additional ICT infrastructure costs
- The cost of the service is estimated to be c£77m in 2019-20, rising to c£82m in 2022-23. These figures include the current running costs for the service along with provisions made for inflationary increases; likely demand pressures; additional improvement plan costs required regardless of an ADM; the cost of support services; potential VAT liabilities; and an additional cost (£2.5m) attributed directly to the running and commissioning of the Company
- The deficit of costs against income, before any funding from the DfE or additional funding from the Council is included, is £7.5m in 2019-20, rising to £11.1m by 2022-23
- Based on assumed funding from the DfE for irrecoverable VAT, the deficit is reduced to £6.2m from 2019-20 rising to £9.7m by 2022-23. This may change during implementation as key decisions are taken around organisational design of the Company along with the budget preparation for 2019-20 and beyond

- This deficit position does not take into account the use of any of the Children’s Services contingency which has been assumed in the draft Medium Term Financial Plan (£5m in 2019/20 and a further £4.5m for 2020/21).

32. The case concludes in stating that the affordability of the ADM is heavily dependent on the agreement made between the Council and the DfE regarding funding. In the absence of the agreement from DfE to funding, the Financial Case demonstrates the increased costs associated with the implementation and running of the ADM, as opposed to ascertaining exactly how it will be funded. Therefore, once an agreement has been made regarding funding, the Financial Model must be revisited to ensure the Council identifies the additional budget required to be able to successfully deliver the service within the proposed ADM model.

Management Case

33. This section of the Full Business Case addresses in detail how the scheme will be delivered and the ‘achievability’ of the preferred option. Its purpose is to set out the actions that will be required to enable the successful delivery of the scheme, within specific timescales, in accordance with best practice.

34. It takes into account the Council's ability to deliver a large-scale programme that cuts across a number of disciplines which will impact all children's social care services staff, a significant proportion of the wider Council as well as partners and suppliers.

35. The timescale to achieve this change is estimated to be 1 year, starting in April 2018 for a go-live goal of 1 April 2019. This is an achievable timescale, based on similar implementation timescales for other children’s services companies, provided the sufficient capabilities and resources are dedicated to implementation.

36. There are a number of critical path activities that will enable the Company to go-live successfully, which will provide the foundation for the detailed implementation plan. These are listed in the table below:

Category	Activity	Target date
MoU	Memorandum of Understanding agreed with the Secretary of State	1 May 2018
DfE Funding	Funding agreed with the DfE	1 May 2018
Companies House	Company registered	May 2018
	Final constitutional documents filed at Companies House	31 March 2019
Contracts	Council client function operational (i.e. commissioning arrangements)	June 2018
	Contract negotiations of schedules commence	September 2018
	Third party contracts novated / assigned etc.	January 2019
	Draft services contract ready for testing	October 2018
	Services contract signed (including final Cabinet/Council approval)	March 2019
Accommodation	Property surveys and commencement of any refurbishment required	July 2018
	Property ready for move-in	March 2019

Category	Activity	Target date
Staff transfer	Organisational structure / design completed	September 2018
	Staff TUPE list ready	October 2018
	TUPE consultation commences	November 2018
	Staff TUPE transfer	April 2019
Chair recruitment	Chair appointed	September 2018
Board recruitment	Executive Directors & Non-Executive Directors appointed	October 2018
	Company Board fully operational in shadow form	December 2018
Business plan	Business plan completed (i.e. design of the company)	November 2018
Bank account	Bank account set up	November 2018
Cabinet approval	Company budget 2019/20 and business plan presented to Cabinet	February 2019
Regulatory approval	Ofsted registration complete	January 2019
Ministerial approvals	Submissions for go-live; Chair recruitment; DfE funding	On-going
Go live	Company go-live	1 April 2019

37. The target dates have been devised through an understanding of 'standard' lead times which have been gathered through similar programmes, Worcestershire County Council's capabilities and resources and the current state of services. These dates are indicative and subject to change following the detailed design. Please note that timescales aspire to a minimum of a 4-month shadow period, where the Board will be operational in shadow form. This provides the Board and transferring staff the opportunity to identify design issues, and embed ways of working. The Full Business Case includes a more detailed implementation plan which addresses the above critical activities and key milestones.

38. The programme will continue to be overseen by a Commissioner for Children's Services. The key programme decision-making body, outside of the formal democratic governance, will continue to be the ADM Programme Board who will sign-off major deliverables and own the scope and direction of the programme. The ADM Steering Group will be accountable for the operational delivery and management of the project. Each work stream is accountable for the delivery of work in its area, reporting to the Steering Group. Alongside the Programme governance structure above are the established structures of decision making and scrutiny by elected members. This comprises Cabinet, Full Council and Scrutiny.

Conclusions

39. The full business case demonstrates a comprehensive understanding of the proposed Wholly Owned Council Company model, activities required, technical and

financial considerations, and risks associated with implementing this option. Conclusions against each case have been summarised below:

- The **strategic case** sets out the case for change against the local context, including the DfE intervention, the opportunity to sustain the improvement of Children's Social Care and support the wider Council strategies. It clearly states the proposed scope of services and rationale to reach an agreement in principle, and describes the key risks associated with the ADM Programme which must be mitigated to ensure success. This case provides a strong strategic case for change and foundation for this business case
- The **economic case** demonstrates that the organisation has selected the most economically advantageous offer, which best meets the existing and future needs of the service, within the constraints of the DfE intervention. It has considered a wide range of financial and qualitative benefits, recognising that there are limited financial benefits associated with the Company and significant cost
- The **commercial case** - this sets out the content of the proposed 'deal' between the Company and the Council. It has provided appropriate consideration to the Council's costs, to avoid unnecessary stranded costs whilst maximising value and service quality for the Company. Based on the current positions contained within this case, particularly regarding support services and existing contracts, the Company is commercially feasible for the Council to implement. However, this case in particular, is founded on a number of key assumptions and starting positions that must be investigated fully during implementation
- The **financial case** provides a detailed review of the budget, income and expenditure of the Company over a 5-year period; 5-year staffing projections; and transitional costs. The financial case does not comment on the affordability of implementing the Company, as this is heavily dependent on funding arrangements agreed between the Council and the DfE, although it does indicate that significant investment is required in order to deliver the Company model
- The **management case** specifies the plans for the successful delivery of the programme of work to cost, time and quality. The ADM Programme has already been well resourced and governed, with robust mechanisms for monitoring risks and milestones in place. Providing the requested internal and external resources are provided, and the Programme continues to be governed effectively, the ADM Programme will be well-placed to successfully deliver the implementation of the Wholly Owned Council Company.

40. It is therefore recommended that Cabinet approve the development of a Wholly Owned Council Company as a positive opportunity to further progress and sustain the ongoing improvement activity across Children's Social Care. The ambition being, that at the point of transferring services into the Company, the Service will be performing well and the Company will have a positive platform to sustain the improvement and further improve outcomes for children and young people.

Legal, Financial and HR Implications

41. External solicitors Bevan Brittan are working closely with the Council's Legal Services to consider the legal implications for the move to a Company and this will include fully understanding the Council's ability to delegate the exercise of statutory decision-making as well as ensuring robust legal and democratic governance is

developed between the Council and the Company. The Full Business Case (Appendix 1) includes directly drafted content and feedback from both Bevan Brittan and the Council's internal Legal experts. Bevan Brittan will continue to support the Council throughout the implementation phase. As a separate entity, the Company will also need to procure its own independent legal advice to support the contract negotiations between the Company and the Council. The necessary funding for this has been included within the Financial Case.

42. The financial analysis has outlined that there are increased costs in developing and delivering a Company for Children's Social Care. These increased costs relate to one-off implementation costs as well as recurrent costs for both the Company and the Council. The recurrent costs include additional VAT liabilities as the Company is likely to incur a similar amount of VAT on the in-scope services as the Council does currently. However, under current rules, the VAT incurred by the Company will be irrecoverable.

43. In addition, where the Council currently uses 'in-house' services, such as legal, there will also be additional irrecoverable VAT charge if such services are supplied to the Company. Therefore, all in-house support services supplied to the Company by the Council will be subject to VAT. It may be possible to exclude services from the contract and retain responsibility within the Council, thereby removing the VAT cost. However, such separation could be difficult both legally and practically and will not be without its risks.

44. The DfE have provided a note within the full business case stating that they are currently in discussions with Her Majesty's Revenue and Customs and the Treasury in the hope of reaching agreement on a long-term solution in respect of VAT liabilities for local authorities implementing alternative delivery models. Irrespective of the outcome of these discussions, the DfE's view is that local authorities should not incur greater costs through the value added tax (VAT) regime than would be the case were it to continue providing services in-house, and the Department would seek to provide funding accordingly. As such, within the financial case, it is assumed that the VAT is funded.

45. The affordability of the Company is heavily dependent on the agreement made between the Council and the DfE regarding funding. In the absence of this pending agreement, the Financial Case demonstrates the costs associated with the implementation and running of the Company, as opposed to ascertaining exactly how it will be funded. Therefore, once an agreement has been made regarding funding, the Financial Model must be revisited to ensure the Council makes provisions within its budget to be able to successfully deliver the service within the proposed Company.

46. Based on the requirement for increased funding for services in scope of the Company, assuming that funding from the DfE is allocated for irrecoverable VAT, the operation of the Company is estimated to be £6.2m greater than the allocated budget within the MTFP in 2019-20 rising to £9.7m in 2022-23. This includes service demand pressures, the cost of the improvement plan and £2.5m additional budget that is attributed to the running and commissioning of the Company. This may change during implementation as key decisions are taken around organisational design of the Company along with the budget preparations for 2019/20 and beyond.

47. Those staff working in services considered to be included in-scope of the ADM are likely to transfer to the new organisation under TUPE Regulations and would be directly employed by the new Company rather than the Council. In accordance with these Regulations staff would transfer to the Company on their current terms and conditions, including access to their current pensions. There will be a TUPE consultation period (best practice is 90 days) during the implementation phase. The cost of increasing HR capacity to help manage the smooth transfer of staff has been included within the Financial Case

Privacy and Public Health Impact Assessments

48. None at this stage. Recommended that further assessment is done in the next phase of work.

Equality and Diversity Implications

49. An Equality Relevance Screening has been carried out in respect of these recommendations. It identified that further equality impact analysis will be required in the next phase.

Supporting Information

- Appendix 1 – Full Business Case
- Appendix 2 – Categorisation of Services

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of the Children, Families and Communities) the following are the background papers relating to the subject matter of this report:

Agenda and background papers for the meetings of the Cabinet held on 28 September 2017 and 14 December 2017.

Statutory Direction – 19 September 2017