

Appendix 1: Proposed Draft Governance Arrangements:

The previous executive paper provides summaries of the legal structure and the legal agreements that establish the Trust.

Trust – Articles of Association

The Trust has been established as a company limited by guarantee, (which will also be registered as a Community Interest Company in due course), wholly owned by the Council as a not-for-profit organisation, established with a board of directors. The Trust will operate on the basis of its Articles of Association, which is its main governing instrument and covers amongst other matters the following: constitution of the board; appointment and removal of Directors; Director remuneration; Business Plan development process; Conflicts of Interest; Member/Sole Owner decisions (such as reserved matters); and other company law matters.

The Trust is subject to the Council's strategic, governance and financial control through an annual business planning process and certain decisions which require the Council agreement (as sole member/owner to facilitate the Council being able to exercise a sufficient degree of control to satisfy the Teckal compliance requirements (under Regulation 12 of the Public Contracts Regulations 2015).

Council – Corporate and commissioning contract governance

There are two key aspects of the Trust and Council's governance and oversight of the relationship with the Trust including:

1. **Corporate governance** – to maintain the Council's oversight and fulfil its obligations as sole owner of the Trust. The Council's exercise of its rights as a member of the company is an executive function and one of the key points for consideration is where this function will be exercised. Set out below is reference to the establishment of a sub group for the Executive to review and consider the exercise of the Council's functions as a sole member of the Trust Board.

In addition to having certain consent rights under the Articles of Association such as over the appointment of Trust Board Members and the exercise of certain reserved matter rights, the Council will have two Council nominated representatives (appointed as Non-Executive Directors) to the Trust Board.

2. **Commissioning contract governance** – through the intelligent client function, the Council is to operationally manage its commissioning relationship for the provision of children's social care by the Trust. Intelligent client – the means by which the Council engages with the Trust, including how it supports the nominees and directors appointed to them, as "client", is an important factor and has a bearing on where roles and responsibilities are best allocated. The Intelligent Client function is responsible for monitoring the KPI's and key strategic visions of the Improvement Plan and determining where and how improvements will operationally occur

The commissioning contract governance arrangements are facilitated by the provisions in the Service Delivery Contract including key schedules such as the Annual Review; Service Specification; Performance Management Framework; Change Control Procedure; Dispute Resolution Procedure and Governance Arrangements schedule itself.

The key forums between the Trust and Council for oversight of the Service Delivery Contract are the Strategic Joint Working Group and the Operational Joint Working Group, which are joint officer groups of the Trust and the Council as described in further detail below. This Schedule also incorporates reference to Trust's attendance at Council Democratic Meetings, Statutory Boards and Partnership Meetings.

Alongside the development of structures and processes to discharge the above governance functions, the Council will continue to engage with the development and delivery of the Improvement Plan.

Proposed governance structure to support the Trust and Council

In addition to the detailed governance arrangements set out within the contract documentation, there are three key aspects to the structure that is being proposed:

- i. Commissioning Contract Governance - operational arrangements in respect of the Trust through the establishment of a monthly joint officer group;
- ii. Commissioning Contract Governance - the establishment of a strategic group to meet on a quarterly basis between the Council and the Trust;
- iii. Corporate Governance: A Member Steering Board or Executive Sub Group to act as a member forum for more general Council strategic oversight, co-ordination and reporting.

Operational Joint Working Group – monthly group. The purpose of the Operational Joint Working Group is to provide oversight of the contract management and monitoring arrangements. The meeting provides an operational forum for both Trust and Council to discuss their respective performance and any associated issues holding each other to account in respect of such performance. Therefore, it is proposed that the operational group holds the key intelligent client functions and meets on a monthly basis.

This working group will consist of key operational officers responsible for the operation of the Trust services, the Council's officers engaged with the intelligent client function and able to consider matters which include the following:

- (a) the Trust's performance of the Services in accordance with the Performance Framework, review and consider the Monthly and Quarterly Reports, and the Trust's performance against the Key Performance Indicators including discussions around reasons, mitigation and exacerbating factors;
- (b) agreeing remedial actions pursuant to the Performance Framework that need to be taken by the Trust (including any applicable Action Plans) in order to address a particular issue;
- (c) escalate matters to the Strategic Joint Working Group (where applicable) and matters referred to by that group;

- (d) review and agree the draft Annual Report prepared by the Trust pursuant to the Annual Review and provide information held by the Council as required by the Trust to produce the Annual Report;
- (e) provide a forum for mutual dependencies and cross-service issues to be discussed and resolved (including the Dependencies such as the SLAs), and agreeing remedial action plans around resolving performance concerns;
- (f) discuss the finances of the Trust as appropriate and receive financial information pursuant to Schedule 5 (Financial Mechanism);
- (g) provide a forum for the Parties to consider any central government policy objectives or other relevant regulatory guidance that may impact upon the Services; and
- (h) review the actions arising from the previous Strategic Joint Working Group to the extent that Strategic Joint Working Group has made decisions on matters for Operational Joint Working Group implementation.

Membership is being confirmed and current proposals include:

- ICF Lead;
- Council Finance Lead;
- Council Representative (authorised representative under the Service Delivery Contract);
- Council's SLA lead;
- Trust's Director of Social Care;
- Trust Director of Resources
- Trust Representative/Chief of Staff

The Chair will be the Council's ICF Lead and the Deputy Chair will be the Trust's Director of Social Care. Decisions will be taken by majority voting with the Chair having the casting vote and terms of reference will include a process for escalation of disputes.

Strategic Joint Working Group – quarterly group. The purpose of the Strategic Joint Working Group is to provide strategic, political and executive oversight and scrutiny of the Trust's delivery of the Council's statutory functions, through regular periodic monitoring of performance (including financial), Change Control and Annual Review. The Strategic Joint Working Group will also provide a forum for any concerns with the Council's performance of its obligations under the delivery agreements, including the dependencies and also its performance of any retained statutory functions and/or services. The Strategic Joint Working Group is also a point of escalation for issues arising from the Operational Joint Working Group.

The officers who sit on the Strategic Working Group will not be the same officers who sit on the Operational Joint Working Group or the Trust Board. Membership is under discussion and may include: Lead Member for Children's Services; Director of Children's Services; Director of Resources Section 151 Officer / Monitoring Officer; Council's ICFLead; Trust Chair/Deputy Chair; Trust Chief Executive; Trust Director of Resources; Trust Director of Social Care and Trust Representative/Chief of Staff.

Matters to be considered by the Strategic Working Group are set out in the Service Delivery Contract terms of reference and include the following:

- consider any matters that are escalated to it from the Operational Joint Working Group;

- review the overall commissioning arrangements between the Parties;
- horizon scanning, including consideration of any national policy changes and associated consequences;
- ensure that the Services are being delivered in accordance with the Service Delivery Contract;
- ensure that performance is aligned with the Trust's Business Plan;
- review all relevant plans and notices issued pursuant to the legal agreements and where relevant discussing any changes to the Key Performance Indicators;
- agree and/or amend/modify the draft Annual Report and Business Continuity plan and convene conduct annual reviews, and consider whether any changes are required to the legal agreements and business plan;
- monitor the Trust's financial position against the Contract Sum;
- carry out the Contract Sum negotiations and any proposed In-Year Business Cases;
- review the performance of the Council Dependencies and any property arrangement with the Trust in which the Council is the landlord or licensor etc.;
- review relationships, partnerships and interdependencies;
- review appointments or other changes in personnel of the senior operational staff of the Council, any policies to be implemented which will affect the majority of Council staff, and staffing issues which have the potential to cause interruption of the Services; and
- monitor Teckal Compliance for the purposes of compliance with Regulation 12 of the Public Contracts Regulations 2015; make a determination of a Party's liability under the Service Delivery Contract in respect of a Loss not covered by the insurances.

Steering Board/Executive Sub Group

A Steering Board is proposed to consist of elected members of the Council. The Board will meet not less than quarterly and receive updates from the Strategic Board on progress across the improvement programme. The Steering Board will not have decision making powers and will be made up of members of the Executive.

There are two key functions of the Steering Board the first of which will be to act as a forum for consideration of matters which may require a Council / Executive decision or approval in its capacity as sole Member as referred to above as part of the Council's corporate governance arrangements (such as exercise of reserved matters and other decisions under the Articles of Association which require the Council approval as sole Member), as well as any matters relating to the Service Delivery Contract and SLA Agreement, which require Council agreement or review.

The second key function is to act as a forum in which the Council is able to consider and give direction to Council representatives on the Strategic Joint Working Group and officers on the overlap between the activities with the Council, and other projects being undertaken. This will help to ensure that the various strategic workstreams, such as housing, employment and skills, education, transport, health, and other social value synergies are being fully taken into account in how the Trust operates.

In relation to the making of actual decisions, the Steering Board will act in advisory and decision making capacity. Key matters will generally be referred to Executive for decision, such as the annual business and improvement plan, together with any other such strategic decisions that may be required. In due course, it may be desirable to identify and approve a more detailed terms of reference and delegation scheme for how matters referred to the Council are to be dealt with. This can be done after the Trust is established and early operational experience has been gained.

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