

<b>Report to:</b>	Strategy & Resources Committee	<b>Date:</b>	14 January 2019
<b>Report title:</b>	Portage Service Spin Out		
<b>Report from:</b>	Chief Executive Directorate		
<b>Ward/Areas affected:</b>	Borough wide		
<b>Chair of Committee/Lead Member:</b>	Councillor Ruth Dombey		
<b>Author(s)/Contact Number(s):</b>	Shona Okeke - Public Health Project Officer, 0208 770 5506 Pam Fry - Portage Coordinator		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• Making Informed Choices</li> <li>• Living Well Independently</li> </ul>		
<b>Open/Exempt:</b>	Open with the exception of Appendix A, B and C which are exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972.		
<b>Signed:</b>			<b>Date:</b> 3 January 2019

## 1. Summary

1.1 As part of the Smarter Council initiative, the council has had a long standing policy of asking staff to rethink how they could best deliver their service in order to improve outcomes for local people within a reduced budget. In October 2014, the council agreed an offer to staff which sets out how they will be supported to consider new delivery models on this basis. This, along with our work on shared services, has enabled considerable changes to how the council is able to sustain and improve services and has specifically led to the setting up of:

- Cygnet ICT
- Opportunity Sutton Ltd.
- Encompass
- Cognus

1.2 In summary the process has two parts. One is the completion of an expression of interest that needs to be agreed by the Corporate Management Team (CMT) and the Lead Member - this gives Council staff a mandate to put together a detailed business plan to explain how they would transition into a new delivery model and sets out why this option would be favourable. That business plan including financial assessment of the proposed model is what is set out in the accompanying papers. This paper proposes permission for the service manager to transfer services from the council into a Community Interest Company (CIC). This new company



(NewCo) will enable new services that offer additional services, and generating additional income

- 1.3 Portage is an internally provided service covering the London Borough of Sutton only. The eligibility criteria are;
- The child lives in the London Borough of Sutton
  - The child is between the ages of birth and three years old at point of referral
  - The child has two or more areas of developmental difficulties and are demonstrating a minimum of a six-month delay impacting on their learning.
- 1.4 An earlier version of this proposal was presented at Strategy and Resources in July 2018 and invited back to the October Committee meeting for further clarification. The decision was taken to not consider it at that meeting but to present a fuller business plan in January 2019.

## **2. Recommendations**

The Strategy & Resources Committee is recommended to:

- 2.1 Formally confirm the Council's support for the transition of the internal Portage service into the Community Interest Company (CIC) based on the externally validated business plan.
- 2.2 Delegate to the Strategic Director of People's Services, authority to negotiate contractual arrangements as part of the transfer needed (see appendix A).
- 2.3 Delegate to the Strategic Director of Resources, the authority to negotiate the transfer of office assets, buy-back support and cash-flow loan arrangements based on similar lines with other previous new delivery models.

## **3. Background**

- 3.1 The Sutton Portage Service is a free pre-school home visiting education service providing a bespoke home visiting service for disabled children and those with special educational needs. The service provides a direct intervention with the children and a supportive and nurturing service for parents and carers. Sutton Portage also delivers similar services to community based groups around the borough.
- 3.2 Sutton Portage Service is funded entirely through DSG funding and whilst there are no specific savings target set against its budget, all services are expected to review the potential and opportunities that they have to contribute to the council's budget deficit and the improvements to the service that can be made for Sutton residents, staff and stakeholders.
- 3.3 Portage is a specialist and accredited service. There are currently very limited home based services on offer locally, however none of these replicate the specific services provided by Portage and none are expected to be established in the immediate future to the best of our knowledge.

- 3.4 The service is valued by both commissioners and its current users base and has demonstrably improved the lives of the people it has served to date.
- 3.5 There is potential for commissioning opportunities, for example through the Outcome Based Commissioning Reviews (OBCR) and in partnership with Sutton Clinical Commissioning Group (CCG), in order to reduce demand on statutory services as the spin out broadens its offer. This should also support the Sutton Plan.

#### **4. Proposed Service offer**

- 4.1 If the recommendations are agreed, this will be the first Portage Service to develop into CIC status in its own right and this new model of service delivery aims to be the lead in its field; developing a range of specialist and bespoke services for its local community and residents that are not currently on offer. A greater variety of support services will ensure a sustainable future, with the ability to target families who both meet and do not meet the current portage criteria. There should also be a reduction in the dependency of families on council services whilst maintaining high quality standards; all without increasing the Portage budget.
- 4.2 Currently, portage is delivered purely on the DSG and not by any external funding. This is set to continue under contract with the Council (currently this costs £225K p.a.) from April 1st 2019, for a minimum period of two years, subject to member approval to spin out at Strategy and Resources Committee.
- 4.3 The CIC model will consist of the following features;
- 4.3.1 The continued portage service to be delivered for Sutton residents only - this is free at the point of contact and only available to those who meet the portage criteria.
  - 4.3.2 A range of new bespoke home visiting services available for families with children aged 0 - 8 years and who do not meet the portage service criteria - these will be chargeable services and available to the public.
  - 4.3.3 A range of bespoke interventions & support services for local pre-schools, nurseries & education providers - these will be chargeable services
  - 4.3.4 A range of services available to support parenting - these will be chargeable services and available to the public.
  - 4.3.5 Availability of a discretionary fund for Sutton residents only, to enable services to be provided.
- 4.4 It should be noted that growth of the income generating services and wider learning is dependent on investment and income generated. Therefore, additional staff and resources will grow in line with demand and finance available. Assumptions around expenditure is set out in section 5.3 of the business plan (page 22). However, the CIC model dictates that any surplus funds are reinvested into the NewCo to increase services in the area, which will benefit local residents.
- 4.5 Current staff will be TUPED on People Plan terms and conditions and they will have continued access to the Local Government Pension Scheme (LGPS). The LGPS is closed to all new staff,

however they will be offered a market rate pension scheme. Further staff expansion is finance dependent.

## 5. Issues for consideration and mitigating actions

- 5.1 A need for an independent review of financial planning - 31TEN consultancy were commissioned to review the business plan for financial robustness based on assumptions and cash flows that sit within the document. The activity included:
- Checking the 3 year budget plan figures correctly represent the corresponding list of financial assumptions
  - Checking the cash flow mechanics and calculations
  - Confirming the base case modelling position
  - Running a sensitivity analysis.

Please see appendix B for details of the financial assessment.

### 5.2 Resilience of the service going forward

5.2.1 The current service manager will become the managing director (MD) of the NewCo, taking on the operational running of the CIC. In any eventuality where the MD is unable to make decisions, the NewCo will be governed by two directors (1 exec and 1 non-exec director). In addition the NewCo will be supported by an advisory board including representation from parents, staff, professional services (for example law and accountancy) and two external networks in the private sector. Details of the advisory board and directors are available in section 3.4 of the business plan.

5.2.2 Staff will have the opportunity to be upskilled specifically in leadership qualities through support provided by the Mutuels Leadership Development Programme for emerging and early stage mutuels (Cabinet office).

### 5.3 Financial positioning of the service going forward

5.3.1 The Council intends to contract the new CIC for a period of two years for the Portage Service only, from April 1st 2019, subject to member approval at Strategy and Resources Committee. The annual value of this contract will be £225,400 p.a. for this period (assuming members approval). The NewCo will then receive a 2 year contract via direct award with London Borough of Sutton to provide Portage services to Sutton residents after which they would have to compete with the wider market. This goes some way in short to managing the sustainability of the NewCo and the delivery of the Council's anticipated changes within children's social care.

5.3.2 The business plan includes expansion which relies on other external funding, the plan is clear that staff and costs will not increase until those additional external funding streams are contractually secured.

### 5.4 Contingency plan for the Council in the event of business failure

5.4.1 The Council accepts that there is potential that the spin out could fail. It is important to keep in mind that Portage remains a non-statutory service therefore the need to bring it back in house would be a policy decision. In the case where the service would be brought back in, the Council will need to consider:

- The cost of bringing staff back in - this may be applicable to staff who have TUPE rights. The current cost of the Portage service is £225K with an estimated £10K internal cost covering the administrative process of doing this.
- The reputational cost to the local authority
- The location of the Portage service - the Portage office is not intending to change its current location within Sutton Library and therefore would not present any difficulty.
- The Portage service structure and position within the organisation in light of transformation changes within LBS social care and education model
- Possibility for the Council to go to market for the Portage contract only

5.4.2 However, given the external support, it could be argued that this spin out is starting from a stronger position than previous spin outs considering the potential for diversity of growth, scalability identified and external funding in place.

## 6. Options and opportunities

6.1 The service will need mixed use accommodation and the rental costs are likely to be high. An interim arrangement is currently being arranged to house the service in Central Sutton Library to provide a range of activities to enhance the provision for families. This will provide a more phased approach to spinning out but still provides opportunities to link the NewCo into signposting within the local authority. The view is still to find a more suitable location long term.

6.2 Business planning reflects accommodation costs at the higher end of the spectrum as a cautious approach but it may be possible to reduce this cost significantly if premises at lower rent can be identified.

6.3 The NewCo is registered on companies house, now allowing the possibility for consideration from funders. There continues to be credible commitment from funders which could provide the platform for company and service growth.

6.4 Buy-back arrangements are yet to be decided. Whilst there are positives to continuing with LBS services, the CIC has the opportunity to access market rate services including but not limited to;

- IT (CIC is likely to continue with LBS/RBK services through a Service Level Agreement)
- Payroll (external quotes are being sourced including within the voluntary sector)
- Pensions (market rate to be offered to new staff. LGPS operate a closed scheme for TUPED staff)
- Financial management



## 7. Impacts and Implications

### Financial

- 7.1 This project, if agreed, will not, initially, save money from the general fund, however it should help the pressures on Dedicated Schools Grant (DSG), either by enabling the service to operate more cheaply and / or by generating income that it currently cannot access. The NewCo accepts the risk that they are taking should the Council decide to reduce or stop the DSG funding currently available after the initial two years.
- 7.2 To date, the costs of the project have been contained within the existing service budget, the Smarter Council, through the support from internal services and at the Portage Managers own expense.
- 7.3 Included within the Business Plan is a 3 year budget plan, detailing all expenditure broken down by type (including initial set up costs and contingency), alongside all income / funding sources. The business plan includes provision for the financing cost of a state aid compliant loan from the Council to NewCo over a period of ten years. The funding and financial viability for this project is dependent on both continued investment of some DSG funding contribution and a major new external funding contribution.

### Legal

- 7.4 The CIC was registered on the 20 July 2018 at Companies House as PLAYWISE LEARNING CIC, a community interest company limited by guarantee (registered CIC number is 1147564).
- 7.5 It is proposed that the new company will be a staff mutual providing the Portage Service to the Council. It will not be a company falling under regulation 12 (1) of the Public Contracts Regulations 2015 (PCR) (also known as the Teckal exemption) and so normally the Council would have to go out to the market and carry out a tender. As the services being provided to the council will fall under Schedule 3 of the PCR, the threshold levels to apply for the purposes of the PCR is £615,278. The proposal of a 2 year term would result in the contract value being under the threshold and so the PCR will not directly apply, though the Treaty principles of equality, transparency etc. would. As the council has advised they have not been able to identify an alternative provider this could be grounds for a waiver from Contract Standing Orders in order that the Contract could be awarded directly to the CIC.
- 7.6 If a direct award is made the legal documentation which will be required is a Transfer Agreement which will cover the actual transfer of the service from the Council to the CIC. A Commissioning Agreement will also be required to govern the relationships between the Council as a commissioner of the service and the CIC providing the services.
- 7.7 Any assistance provided to the CIC from the Council whether it be e.g. loans or provision of accommodation would need to be carefully considered in light of the State Aid rules.

- 7.8 As existing Council staff will be working for the new company there will need to be legal advice on TUPE and pensions.

## 8. Appendices and Background Documents

Appendix letter	Title
A	Portage Business Plan exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972
B	Independent financial review exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972
C	Delivery Model Impact Analysis exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972
D	Equalities Impact Assessment
E	Risk Register

### Background documents

Portage Service Impact Report

### Audit Trail

Version:	Final	Date 3 January 2019
----------	-------	---------------------

### Consultation with other officers

Finance	Yes	Matt Tizzard
Legal	Yes	Fabiola Hickson
Human Resources	Yes	Priam Samuel
Adult Social Services	Yes	Sandra Roche
Equality Impact Assessment required?	Yes	Complete

This page is intentionally left blank