

Cabinet – 21 March 2007

Change for Children

Portfolio: Councillor Zahid Ali, Children's Services

Service: Children's Services

Wards: All

Key decisions: Yes

Forward plan: Yes

Summary of report

Over the past several years we have seen some excellent progress in the area of Children's Services. Schools, Education Walsall, Social Care and Youth Service colleagues directly, and supported by colleagues in the PCT, Police and other agencies and voluntary groups, and now the Local Strategic Partnership, should all take some credit for this improvement. This has been recognised in many different ways:

- Consistent CPA scoring of 3 for Children's Services over the last two years
- Remarkable progress in a short period of time

Under The Children Act 2004 it is a requirement to move to an equally strong but also more integrated strategic approach to children's services which follows the Victoria Climbié Report. The Education and Inspections Act 2006 also places the local authority in a more strategic role for children and young people across the whole borough. We have already made considerable progress in this regard and a broad direction of travel was established in the first Change for Children Cabinet Report in September 2006.

The Council's education functions were outsourced as a result of government intervention five years ago, before the Children Act and the implications of Every Child Matters – Change for Children. This current contract arrangements ends in July 2008. Future commissioning of education services are part of Walsall's Change for Children agenda. The local authority now has the opportunity to exercise its statutory role and seek the best commercial contract and professional support for schools, children and young people of Walsall, and the professional staff who work for them.

We have formal cross party project board with WEB and Schools Forums Representatives which is discussing the way forward.

A significant element to the next stage of our work to further improve life in Walsall for the 66,000 children and young people, and families we serve is to plan for the succession to the interventionist education contract brought in by the DfES. This contract which established the partnership with Education Walsall (SERCO) has seen, with schools and the Council working in partnership, notable achievements. This

contract comes to a natural end in July 2008 having already been extended once in 2003, and there is general recognition of the progress we have made together.

However, there is still much to do, in areas such as early years co-ordination, GCSE results, looked after children, 14-19 planning, as well as needing improvements in the conditions of our schools. The Cabinet wishes to set new ambitious and aspirational targets for an integrated and more strategic Children Service's approach and this second 'Change for Children' Cabinet report addresses this issue and makes the following recommendations:

Recommendations

- 1) That the Cabinet endorse Option 4: Part B Procurement for the provision of Children's Services with particular reference to education support services.
- 2) That the Cabinet endorse the broad outline scope as defined, and as agreed with the DfES.
- 3) Review aspects of provision which serve children and young people or institutions which largely serve their needs, which lie outside of the current contract and the Children's Services Directorate and DCS direct responsibilities. This will be to assess their place in any future arrangements. This will include areas of mutual interdependence, for example, ICT, asset management, etc.

Resource and legal considerations

The reconsideration of the education contract was identified as a major work area for the CYP Directorate during the 2007/8 budget setting process and investment of £589,000 was approved by Council. The cost of the procurement process will be met from the funding made available. Councils moving from a DfES Interventionist Contract to a business partnership arrangement is a relatively new nationally and therefore alongside on-going consultation there maybe unforeseen issues. If therefore the current funding level is insufficient then a further report will come back to Cabinet.

This level of funding is based upon support from other Directorates, as submitted within the September Cabinet Report.

We are in discussion with the DfES over the legal process of the move from an interventionist contract which must involve Ministerial approval. DfES expectation, although not binding upon us, that we should engage in a procurement process.

Colleagues from legal are providing support via the project review team.

Citizen impact

The implication of 'Change for Children' will contribute to all five outcomes of Every Child Matters for the children and young people and their families in Walsall. Service delivery with a key focus on local areas and key stakeholders in local areas, such as Local Neighbourhood partnerships (LNPs), Schools, etc will be an important part of the programme. Engagement and consultation is taking through a series of Locality Partnership Events using the LNP areas.

There is significant potential for impact via schools, integrated children's services and our partnership work, all of which are part of the process by which we will design the next stage of our work.

Community safety

The 'Change for Children' Programme will impact on the safety of children, young people and their families in Walsall and in this way improve wider community safety.

Environmental impact

The implication of 'Change for Children' will supplement current progress on neighbourhood needs analysis and lead to developments which will impact directly on the health, social care and learning of children and young people and their families in Walsall.

Equality implications

The implication of our 'Change for Children' (C4C) programme will lead to recommendations and developments that will impact directly on the health, social care and learning of children and young people and their families in Walsall. There is a focus on identified vulnerable groups and areas of recognised disadvantage.

Performance and risk management issues

The 'Change for Children' (C4C) programme has adopted the corporate project methodology and includes the appropriate risk management. A strategic approach has been established by the Local Authority that responds to the statutory requirements and ensures that resources are maximised to support developments. This will require there to be a strategic co-ordination of all performance issues related to Every Child Matters.

'Change for Children' is a major and substantial programme with a specific timetabled schedule. These risks are and will be managed on an ongoing basis through the appropriate reporting channels.

Scrutiny Committee have been engaged in discussions about aspects of Change for Children and will be kept fully informed at all stages.

Equality implications

The implication of our 'Change for Children' programme will lead to recommendations and developments that will impact directly on the health, social care and learning of children and young people and their families in Walsall. There is a focus on identified vulnerable groups and areas of recognised disadvantage

Consultation

We have formal cross party project board with WEB and Schools Forums Representatives. This has been a key part of the creation of the ideas in this paper. The first formal presentation of the ideas contained above was to the Children's and Young People's Scrutiny Panel who have been complementary about our consultation process.

Scrutiny made three key recommendations:

1. The service should not be transferred back to the Council
2. The contract should not be an intervention contract/should be a different contract
3. The panel supports Part B Procurement as covered in Change for Children (Option 4)

We have held a large number of meetings (see appendix A) as well as a series of on-going locality partnership events. Consultation is on-going throughout the process.

This strategy is part of a wider communication strategy that encourages engagement with all key stakeholders. Our current relationship with Education Walsall has done much to raise the levels of achievement and aspirations across Walsall. However, there is a great deal more we wish to achieve and will use this process as a key part of engaging partners in achieving this.

Vision 2008

The report supports the Council vision for making our schools great and takes forward actions detailed in the Children and Young People's Plan.

Background papers

Cabinet Report September 2006 – Change for Children

Transforming Children's Services in Walsall, August 2006
(Executive Summary attached to cabinet Report September 2006)

Children and Young People's Plan, April 2006.

Appendices:

Appendix A – Executive Summary of the Engagement Strategy and Consultation Process.

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David Brown
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12 March 2007



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12 March 2007

1.0 Overview

- 1.1.1 The Council by means of intervention and direction from the DfES entered into a contract with Serco for the provision of education services. The resulting contract terms and conditions were imposed on to the council by DfES and resulted in Walsall having marginal inputs or influence within the final contract documentation and as a consequence the contract management processes.
- 1.2 The current arrangement has been delivered solely by Serco since the inception of the contract in December 2002. The council invoked an extension for a further two years in July 2006, thus ensuring by self sealing term of contract, the current contract arrangements with Serco will formally cease to be in effect on 31st July 2008.
- 1.3 To assist Walsall in establishing future delivery needs for the provision of services for young people post July 2008, the council have engaged the services of professional external legal advice from Eversheds to assist in identifying potential options available to the council and opinion as to possible procurement routes.

2.0 Scope

- 2.1 This is a huge opportunity to bring together our work to support children, young people and families. Although the project will consider all aspects of the existing contract and some of these may see little change, others will change dramatically as part of our consultation and move towards integrated children's services and there will also be a review of all services which play a role for children and young people as required by The Children Act.
- 2.2 Some significant aspects of the outsourcing need to be addressed in relation to new partnership arrangements, particularly strategic responsibility, financial and performance management. Different contractual arrangements must be considered beyond 2008 to meet the requirements of the Every Child Matters agenda in order to be fit for purpose within Walsall's Change for Children programme.
- 2.3 The role of schools and Headteachers have changed dramatically since the interventionist contract of 2001/2. The Education and Inspections Act 2006 (with the recent amendments on well being and community cohesion in terms of Governing Body responsibility) mean that the relationship between the Local Authority as and Headteachers needs to be both close and strategic in nature. We would expect that many of the approaches taken with Headteachers in designing aspects of the future specifications will also become part of a longer term strategic relationship as envisaged by NRA 2005 (New Relationships for Schools).
- 2.4 "At a time when local authorities are being encouraged to take on a changing role and consider mixed economy provision, Walsall can consider itself ahead of the game". (*Extract from commissioned report: Transforming Children's Services in Walsall, August 2006*).

The potential to do things different and to do things really well are tremendous in Walsall.

- 2.5 Prior to commencement of a procurement process if agreed, it is envisaged that the Council will conduct an options appraisal of a small number of key services, where internal delivery is part of the strategic function of the Children's Services Authority.
- 2.6 If Part 4 is accepted by Cabinet then we would like to look at a range of provision and some innovative and creative solutions with a much more flexible and creative contract. However, given the statutory nature of the Directorate we are starting with the presumption that we would need clarity around contract management and therefore may feel that one strategic partner would be most effective even if we retain the ability to commission other contractual/partnership relationships via them.

3.0 The Options

- 3.1 External legal advice from Eversheds Solicitors (Eversheds undertake much of the procurement work for HM Government) in consultation with the council has identified 4 possible options for the continuance of the service post contract expiry. The options explored focused on 4 key elements and is summarised as follows

3.2 Option 1: Extend contract with Serco

- 3.2.1 This option has been dismissed in consultation with Eversheds for the following reasons:
 - i) The contract has been extended once in a period of two years, which invoked a clause of self-sealing, which does not afford the council the possibility of extending the contract further than 31st July 2008.
 - ii) The contract was interventionist in its approach, i.e. the council has limited strategic control over the service elements provided by Serco. The service elements in the current contract do not fully reflect the council's requirements in light of the changing environment for services to children.
- 3.2.2 If the council wishes to extend the contract, Procurement strongly recommends that a robust procurement exercise should take place in order to understand the market and to benchmark the current contract against the market, both in terms of price and service offerings. This would reveal whether this contract demonstrates best value for money for the council. In addition the risks associated with undertaking an inappropriate procurement process and awarding contract without testing the market fully are significant and could result in the council being challenged through judicial review and/or re-intervention from DfES.

3.3 Option 2: In-sourcing

- 3.3.1 The option to simply take back the service in-house, whilst in itself would pose few, if any, public procurement issues the employment/TUPE matters on re-

employing staff would present the significant risks, it is not a viable commercial option for the Council and as a result is not recommended.

3.3.2 If the council were to transfer the services back into the council, the following issues and risks have to be taken into account and given consideration:

- i) The council will need to manage employment disparity in terms of contract conditions, pensions and conditions of employment for approximately 80 staffs. The TUPE administration process and HR resources required could be very timely and costly. The potential for employment claims as a consequence of the transfer would also need to be managed.
- ii) The in-sourcing will also have potential impact on the progression of Walsall's Transformation programmes. The process of in-sourcing will inevitably draw the council's resources away from current programmes and this might delay, if not significantly disrupt, current programmes.
- iii) The staffing and recruitment for future needs, in particular specialist senior managers, can be timely and costly as the local economy does not support the level of expertise required.
- iv) In order to transfer the 42 service elements of the contract in-house, there is likely to be tremendous change given the current reforms to the legislation governing children's' services and others coming through parliament. This means that within a few years the council might be presented with problems of reconfiguring structures to support the changes with potentially high redundancy costs.

3.4 Option 3/4: EU Procurement Routes (3 Part A or 4 Part B)

3.4.1 Option 3 is to carry out a full EU procurement exercise as the value of the contract will exceed the threshold set out in the legislation. The Public Contracts Regulations 2006 will govern any procurement exercise relating to the provision of services. However services have been categorised in to either Part A or Part B and the requirements are different for each category.

3.4.2 Part A services require full OJEU advert and compliance with the timescales set out in the above regulations, while Part B negates the need for full OJEU advert requirement and less onerous timescales. This means that the procurement process of Part B will be easier and less time-consuming in comparison to Part A. Part A requires intensive resources, especially in Evaluation and Qualification process and the given the heavily prescribed procedures to be followed. Part B services can be procured using more flexible processes although the council is still under an obligation to undertake a fair, open and transparent procurement. It is not necessary to adopt Part A since this contract falls within Part B service areas.

3.5 Option 4

3.5.1 For services procured under Part B, the council can focus on organisations with pre-qualified abilities and experience, which helps to reduce time and resources required and make the subsequent tender evaluation process more straightforward. Also, Part A has limited flexibility in market engagement as once the contract is advertised in the EU no further changes to the scope of services can be considered. This will affect the level of competition and the ability to

ensure that the service meets the council's needs, particularly if providers are able to offer innovation and transformation. This means that the council can focus on specification scoping, encouraging innovation and focused dialogue in order to achieve better quality services and value for money.

- 3.5.2 In conclusion, by using Part B procurement route, the council can avoid the challenges associated with in-sourcing and the entire procurement exercise can be achieved in a shorter timeframe with less resources required.