

Item No. 13.	Classification: Open	Date: 13 December 2011	Meeting Name: Cabinet
Report title:		Changes to Delivery Arrangements for the Youth Service – Comments of the Strategic Director of Communities, Law & Governance	
Ward(s) or groups affected:		All	
Cabinet member:		Councillor Catherine McDonald, Children's Services	

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

1. The Strategic Director of Communities, Law & Governance (acting through the employment section) notes the content of the report.
2. The report seeks cabinet's approval of a proposal to redesign the youth service and to deliver its functions differently, with effect from April 2012. The purpose of the proposal is to meet the council's strategic objectives, resulting in a better, more cost effective service and achieving agreed budget savings.
3. It is noted that the proposal involves:
 - a. rationalisation of buildings from which some activities are provided;
 - b. moving voluntary sector provision to new commissioning arrangements; and
 - c. a reorganisation of the staffing structure
4. The budget reduction was considered by the council as part of the budget setting papers which were approved by the council assembly on 22 February 2011. Nevertheless effective consultation must be conducted on the report's proposal with those affected by it: service providers, service users, key stakeholders and employees.
5. The report sets out consultation undertaken to date, in paragraphs 11 to 13 with service providers, including the voluntary sector, service users and staff in relation to the new delivery arrangements. It is also noted that the report refers in paragraph 47 to consultation to be undertaken with the trade unions and employees in relation to the reorganisation of the staffing structure.
6. The report author has confirmed that the equality impact assessment referred to in paragraphs 31 to 36 of the report is in its early stages and that it will be completed in accordance with the council's current Equalities and Human Rights Scheme or the council's proposed Equalities Approach, which is subject to consultation.
7. An equality impact assessment ('EqIA') or equality analysis as it is proposed to be renamed, informs the council of the impact that its decision will have on the

community and specifically if there are any groups within the community who will be impacted. It also provides a means by which steps can be taken to lessen the impact, where appropriate. This is important because when exercising its powers the council must have due regard to its equalities duties as set out in the Equalities Act 2010 and specifically the need to:

- eliminate discrimination, harassment, victimisation or other prohibited conduct;
- advance of equality of opportunity between persons who share a relevant protected characteristic and those who do not;
- foster good relations between those who share a relevant characteristic and those that do not.

8. The proposed delivery model and the principles on which it is based, as set out in Appendix 1, have been developed and agreed following extensive consultation as noted above. The EqlA will need to address what, if any, impact the implementation of each of the three elements of the proposed delivery model (rationalisation of buildings and activities, voluntary sector commissioning and new staffing structure) may have on members of all groups with protected characteristics under the Equality Act among (1) service users, (2) service providers and (3) council staff and, if there is any adverse impact how it is proposed to mitigate that. The EqlA will inform, and therefore will need to be completed before; the decision to implement each element is made.
9. The proposed commissioning of service provision from the voluntary sector will, if it is to be allocated by contract, be subject to the gateway process. If it is to be allocated by grants then it will be the council's grants process.
10. The report refers, in paragraphs 19-23, to proposed rationalisation of buildings from which some activities are provided. The implications of any decision on such rationalisation will need to be discussed with the council's property department and legal advice sought.
11. The proposed reorganisation of the youth service has employment law implications. It is noted that the proposed reorganisation will involve a reduction in the number of posts.
12. The reorganisation must be managed under the council's reorganisation, redeployment and redundancy policy and procedure and other relevant human resources procedures to ensure that the council acts in accordance with employment legislation. The council must ensure that the criteria used to select posts for redundancy are objectively justified. For example, the youth service has a significant number of part time employees. The automatic selection of part-time workers for redundancy as opposed to any comparable full time worker within the current structure, engaged in the same or broadly similar work may be unlawful, unless objectively justified, under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 as amended or under the Equality Act 2010, since many part- time workers are women.
13. As noted above, one of the underlying principles is that equalities impact assessments are carried out at critical stages so that the council has due regard to the equalities implications of the proposed staffing changes and comply with its equalities duties.

14. It is further noted that in paragraph 48, it is believed that there will be no TUPE issues in relation those staff that are being made redundant. However the transition from a direct delivery service to a service that is commissioned externally may amount to a service provision change which is a relevant transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE 2006 Regulations). Further analysis should be undertaken of those functions which are to be to commissioned to ascertain whether the TUPE 2006 Regulations will apply and, if so, consideration given to any implications.
15. The proposal set out in the report involves a significant service reorganisation and is a matter within the portfolio of the cabinet member for children's services. Under the constitution, decisions on major reorganisations are a matter reserved for full cabinet. The proposal does not involve a major departmental reorganisation nor a major reallocation of functions between departments or chief officers nor does it require approval of creation of a post at grade 17 or above. Whilst it is therefore potentially not a matter reserved to cabinet and the decision may potentially be taken by the Cabinet Member using her individual decision making powers the Leader has, under his strong leader delegation powers set out in part 3 of the constitution, specified on the forward plan that the matter be moved to cabinet in order to ensure visibility and accountability of the decision.

AUDIT TRAIL

Cabinet Member	Councillor Catherine McDonald, Children's Services	
Lead Officer	Merril Haeusler, Deputy Director, Education, Children's Services	
Report Author	Pat Shelley, Head of Youth Service	
Version	Final	
Dated	9 December 2011	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Head of Human Resources	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	9 December 2011	