To the Mayor and Members of the
CABINET

DONCASTER CHILDREN’S SERVICES TRUST – THE MEMORANDUM OF
UNDERSTANDING

<table>
<thead>
<tr>
<th>Relevant Cabinet Member(s)</th>
<th>Wards Affected</th>
<th>Key Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councillor Nuala Fennelly</td>
<td>All</td>
<td>N778</td>
</tr>
<tr>
<td>Councillor Tony Cordon</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

EXECUTIVE SUMMARY

1. Earlier this year the Secretary of State for Education commissioned a review of Children’s Services in Doncaster. This review On Ways forward for Children’s Services in Doncaster was undertaken by Professor Le Grande, Alan Wood and Moira Gibb and was published in July. On the 15th of July, the Secretary of State for Education wrote to the Mayor of Doncaster, enclosing a draft Direction which he was minded to issue, requiring the Council to transfer its social care services to an independent Trust.

2. The Council made representations to the Secretary of State suggesting that the Council retain its statutory responsibilities in respect of children’s social care services but proposing to commission these services in future from a new body to be known as the Doncaster Children’s Services Trust. Following these representations, the Secretary of State for Education has agreed in principle to the establishment of the Doncaster Children's Services Trust, without the requirement to remove Doncaster's children's services functions entirely. This marks a real opportunity to establish a new model for the delivery of children’s services in Doncaster and to accelerate improvement and innovation. As a first step, the Council and the Department for Education have drafted a Memorandum of Understanding to steer the implementation of the Doncaster Trust. This report explains the content of the Memorandum.

EXEMPT REPORT

3. This is not an exempt report.

RECOMMENDATIONS

4. The Cabinet is asked to

a. Approve the Memorandum of Understanding between the Secretary of State and the Council.
b. Note the intention, subject to consultation, to transfer current employees within children’s social care services under the Transfer of Undertakings (Protection of Employment) Regulations unless there are significant impediments.

c. Request regular updates on the progress in implementing the transfer of children’s social care services to the Doncaster Children’s Services Trust.

BACKGROUND

5. Earlier this year the Secretary of State for Education commissioned a review of Children’s Services in Doncaster. This review, *On Ways forward for Children’s Services in Doncaster* was undertaken by Professor Le Grande, Alan Wood and Moira Gibb and was published in July. On the 15th of July, the Secretary of State for Education wrote to the Mayor of Doncaster, enclosing a draft Direction which he was minded to issue, requiring the Council to transfer its social care services to an independent Trust.

6. The Council made representations to the Secretary of State suggesting that the Council retain its statutory responsibilities in respect of Children’s Social Care Services but proposing to commission these services in future from a new body to be known as the Doncaster Children’s Services Trust.

7. Following a meeting in September between the Secretary of State and the Mayor and Chief Executive of Doncaster, the Secretary of State wrote to the Mayor on 24th of September confirming that he was now content to agree in principle to the establishment of the Doncaster Children’s Services Trust, without the requirement to remove Doncaster's children's services functions entirely.

8. As a first step, the Council has agreed a Memorandum of Understanding with the Secretary of State for Education which lays out the broad outline of the Council’s proposals. This is attached as Appendix 1.

9. A Commissioner for Children’s Social Care has been appointed with responsibility for the establishment of the Trust and for overseeing existing improvement measures, working alongside the three existing Doncaster Commissioners.

10. The Trust will be a company limited by guarantee and will be an autonomous organisation, independent of the Council. The Council will enter into a contract with the Trust to deliver its children’s social care functions. The Trust will be responsible for, and have control over, its own finance, employment, human resource arrangements and property requirements and will have responsibility for the day to day delivery of children’s social care services on behalf of the Council. The Council has a positive track record with this type of arms length arrangement as demonstrated by the success of St Leger Homes.
11. The Trust will be governed by a Trust Board comprising a chairman appointed by the Secretary of State for Education, Non-Executive Directors, Chief Executive and Directors of the Trust. Doncaster MBC will have two nominees on the Board. The Non-Executives would be in the majority. The Non-Executives of the Board will be appointed by the Chairman subject to the approval of the Secretary of State. The Doncaster Clinical Commissioning Group and South Yorkshire Police will be asked to nominate a suitable senior officer to represent them on the Trust Board. The remainder of the Board will comprise of individuals who will be national experts and provide external support, and/or specific skills and expertise.

12. Whilst the Trust will initially deliver Doncaster MBC’s children’s social care functions, the Council retains the ambition, over time, for the Trust to deliver all of Doncaster’s statutory duties in relation to children and young people. However, initially it will need to be tightly focussed on delivering high quality children’s social care.

13. The Secretary of State will appoint the Chairperson of the Trust. The Chief Executive will be appointed by a Trust appointments panel comprising the Commissioner, the Chairperson, Doncaster Council and the Department for Education. The Trust will be accountable to the Council under this contract. It is intended that the contract will contain provisions about monitoring the performance of the Trust, including requirements for:

- a six-monthly report by the Chairperson to the Secretary of State and Doncaster MBC;
- the Trust’s participation in the Doncaster Safeguarding Children Board;
- membership of the Doncaster Children’s Partnership;
- scrutiny of the Trust’s service within the terms of the Local Government Act 2000; and
- a three year Business Plan submitted by the Trust to Doncaster MBC, Doncaster Health and Wellbeing Board and the Doncaster Children’s Partnership.

14. The Board of the Trust will appoint its own senior staff and any future staff not covered by the transfer of staff from the Council to the Trust. Unless there are significant impediments and subject to consultation, the Council’s intention is to transfer current employees within children’s social care services under the Transfer of Undertakings (Protection of Employment) Regulations. Current terms and conditions will be protected for transferred staff. It is anticipated that the conditions of service for appointed Trust employees will be broadly in line with those in local government but that ultimately will be a matter for the Trust Board.

15. The Memorandum of Understanding requires that the functions that will transfer and the staff who will transfer with those functions will be agreed between the Commissioner and the Council by December 20 2013. It also requires that identified staff will be consulted on the transfer, as
appropriate, from January 2 2014. Consultation will also need to include recognised trade union representatives as well as staff affected. This will be an extremely challenging timetable and will be dependent on the Department of Education making the required progress on the appointment of the Chair of the Trust, meeting key milestones and putting in place the additional capacity the Council will need to manage the transfer.

16. The Memorandum of Understanding indicates that the Trust will be responsible for, and have control over, its own finance, employment, human resource arrangements and property requirements. The Council will offer these services to the Trust, but it will be a matter for the Trust as to whether it accepts this offer or alternatively procures these services from elsewhere or provides these services from within the Trust. If either of the latter options is chosen there will be residual costs on the Council where there are diseconomies of scale or where contracts that currently cover Children’s Social Care services cannot be negotiated downwards. Furthermore, those support services staff who spend most of their time providing back office services to children’s social care are likely to also be covered by the TUPE regulations and will transfer to the Trust. More detailed work will also need to be done on the arrangements for the novation of existing contracts to the Trust, the ownership of any ICT systems and assets and the transfer of any other capital assets from the Council to the Trust.

17. It is worth noting that the Secretary of State for Education made a clear commitment to the local MPs that the Department for Education would fund any additional costs arising from Children’s Social Care services being delivered through the Trust. The briefing to the local MPs is attached as Appendix 2.

18. Cabinet agreed a revised Improvement Plan at its meeting on 3rd October 2013. It is essential that the commitment to deliver improvement to children’s services and the delivery of the actions within the Plan are not hindered by the preparation for the Trust. This will include any necessary changes to the way some Children’s Social Care services are delivered in line with the requirements of the Plan prior to the establishment of the Trust.

19. The Department of Education also intends to procure a partner to support the development of the Trust. The main roles for this partner will be to:

- Determine and set up the most appropriate legal structure for the Trust, including, as appropriate, registering as a company and appointing company members;
- Work with the Council to disaggregate existing services, budgets and business systems and manage any transfer of systems and staff.
- Undertake the due diligence exercise on behalf of the Council and the Trust to ensure that the transfer of services, systems and budgets is both safe and secure.
- Design a detailed project plan to achieve the transfer

20. The plan will contain a series of work strands that will lead to project delivery of the Trust in shadow form by 1 April 2014. Subject to the detailed project planning by the procured partner, it is anticipated that the Trust will be operational by September 2014 or as soon as reasonably possible thereafter.

**OPTIONS CONSIDERED**

Option A

21. The Secretary of State’s original intention was to remove children’s services functions from the Council. The Council made representations to the Secretary of State as we believed it would be legally problematic and would also present significant risks to the service. This option is not therefore recommended.

**REASONS FOR RECOMMENDED OPTION**

22. The proposed solution offers a real opportunity to pioneer a new model for the delivery of children’s services in Doncaster and to accelerate improvement and innovation.

**IMPACT ON THE COUNCIL’S KEY PRIORITIES**

23. The report impacts on the Council’s key priorities as follows:

<table>
<thead>
<tr>
<th>Priority Theme</th>
<th>Mayor's Top 10 Priorities</th>
<th>Implications of this initiative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creating a strong, connected and inclusive economy</td>
<td>Improve Doncaster's economy</td>
<td>The implementation of the Trust arrangements is aimed at strengthening services to ensure maximum protection for children and young people and that they have positive quality of life outcomes. This will enable positive contributions to be made to Council</td>
</tr>
<tr>
<td>Developing stronger communities</td>
<td>Regenerate Doncaster's Town Centres</td>
<td></td>
</tr>
<tr>
<td>Increasing and improving housing</td>
<td>Give people choice in transport</td>
<td></td>
</tr>
<tr>
<td>Protecting and improving all our children’s lives</td>
<td>Increase affordable housing and build Council houses</td>
<td></td>
</tr>
<tr>
<td>Improving health and support for independent lives</td>
<td>Improve services for children and young people</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Improve education and skills across the Borough</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure people in need of adult social care receive a timely and appropriate service</td>
<td></td>
</tr>
<tr>
<td>Priority Theme</td>
<td>Mayor's Top 10 Priorities</td>
<td>Implications of this initiative</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Tackling crime and anti-social behaviour (ASB)</td>
<td>Reduce crime and end all forms of ASB</td>
<td>priorities particularly the economy and developing stronger communities, as well as protecting and improving children’s lives.</td>
</tr>
<tr>
<td>Creating a cleaner and better environment</td>
<td>Protect the environment from inappropriate development, decay and architectural vandalism</td>
<td></td>
</tr>
<tr>
<td>Internal Transformation (Including the Council’s Recovery Programme)</td>
<td>Ensure local people get value for money from Council services</td>
<td></td>
</tr>
</tbody>
</table>

**RISKS AND ASSUMPTIONS**

24. There are significant risks inherent in transferring a children’s social care service that is under-going a major improvement programme. It is critical, therefore, that the focus remains on safeguarding vulnerable children and delivering the required progress laid out in the Children’s Services Improvement Plan. Our contract with IMPOWER Consulting Ltd will help mitigate this risk by providing the additional capacity to retain the required focus.

**LEGAL IMPLICATIONS**

25. The legal powers directing the intervention are set out in the directions of 17 April 2013 and 16 August 2013. They require Doncaster MBC to cooperate fully with the Commissioner to establish the Trust. The delivery of specified children’s services functions will be the responsibility of the Trust.

26. The Secretary of State does not intend to use his power under section 497A(4A) of the Education Act 1996 (“the 1996 Act”) at this stage to establish the Trust, as his nominee, to exercise functions, but instead intends to direct Doncaster MBC under section 497A(4) of the 1996 Act to enter into arrangements with the Trust to exercise functions on behalf of Doncaster MBC.

27. Although not legally binding, the Memorandum of Understanding sets out the process which the Council and the Commissioners will adopt in order to establish the Trust.

28. Further specific legal advice will be required as the establishment of the Trust model continues, particularly in relation to governance issues and the transfer of staff into the new Trust.
FINANCIAL IMPLICATIONS

29. The Council is not expected to meet the set up costs of the Trust, nor any of the additional costs incurred by virtue of its social care functions being delivered by the Trust. The Department of Education will meet the reasonable costs of setting up the Trust; provide a project team that will work with Doncaster MBC on the initial set up of the Trust; and meet the reasonable financial costs of the Doncaster project team.

30. The Council will agree an initial three year budget for the Trust with the Chairperson of the Trust.

CONSULTATION

31. This report has significant implications in terms of the following:

<table>
<thead>
<tr>
<th>Procurement</th>
<th>X</th>
<th>Crime &amp; Disorder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Resources</td>
<td>x</td>
<td>Human Rights &amp; Equalities</td>
</tr>
<tr>
<td>Buildings, Land and Occupiers</td>
<td>x</td>
<td>Environment &amp; Sustainability</td>
</tr>
<tr>
<td>ICT</td>
<td>x</td>
<td>Capital Programme</td>
</tr>
</tbody>
</table>

BACKGROUND PAPERS

32. Report to the Secretary of State for Education on Ways forward for Children’s Services in Doncaster July 2013.

REPORT AUTHOR & CONTRIBUTORS

Jo Miller Chief Executive

Jo Miller@doncaster.gov.uk
Appendix 1

Memorandum of Understanding between the Secretary of State for Education and Doncaster Metropolitan Borough Council

Purpose

1. This Memorandum sets out the understanding between the Secretary of State for Education ("the Secretary of State") and Doncaster Metropolitan Borough Council ("Doncaster MBC") to establish a new, external and independent body (known as the Doncaster Children’s Trust and referred to in this Memorandum as "the Trust"), in a timely way, to secure effective children’s services for the future in Doncaster.

2. A Commissioner for Children’s Social Care ("the Commissioner") has been appointed by the Secretaries of State for Education and Communities and Local Government with responsibility for the establishment of the Trust and for overseeing existing improvement measures, working alongside three existing Commissioners ("the DCLG Commissioners"). The legal powers directing this intervention are set out in the directions of 17 April 2013 and 16 August 2013 ("the Directions"). They require Doncaster MBC to cooperate fully with the Commissioner to establish the Trust. The delivery of specified children’s services functions will be the responsibility of the Trust. This marks a real opportunity to establish a new model for the delivery of children’s services in Doncaster and to accelerate improvement and innovation.

3. The Secretary of State does not intend to use his power under section 497A(4A) of the Education Act 1996 ("the 1996 Act") at this stage to establish the Trust, as his nominee, to exercise functions, but instead intends to direct Doncaster MBC under section 497A(4) of the 1996 Act to enter into arrangements with the Trust to exercise functions on behalf of Doncaster MBC. However, for the avoidance of doubt, the Secretary of State retains his ability to use the power under section 497A(4A) of the 1996 Act if he considers it necessary to do so in order to secure swifter improvement.
Participants

4. The Participants to this Memorandum are the Secretary of State and Doncaster MBC. The urgent need to secure significant improvements to children’s social care in Doncaster requires the Participants to work closely together to establish the Trust. The Participants intend to be transparent in their approach and to operate on the basis of mutual respect.

5. The Commissioner will lead on, and will be accountable to the Secretary of State in relation to establishing the Trust by 1 April 2014. It is intended that Doncaster MBC will enter into a contract with the Trust, in accordance with the terms of a direction by the Secretary of State. The Commissioner will also oversee the implementation of the new delivery model initially in shadow form by 1 April 2014. Subject to the detailed project planning by the procured partner, it is anticipated that the Trust will be operational by 1 September 2014 or as soon as reasonably possible thereafter. The Trust will perform Doncaster MBC’s children’s social care functions on behalf of Doncaster MBC. The Commissioner also has broad oversight of improvements to these services before 1 April 2014. He is supported in his role by a project team at the Department for Education (“the DfE”).

Period

6. This Memorandum will come into effect upon signature by the Participants and will remain in effect until the contract between Doncaster MBC and the Trust is entered into in accordance with a further direction - unless it is varied in accordance with the terms in paragraph 28 of this Memorandum or terminated by the Secretary of State for Education pursuant to paragraph 29. It is intended that a review of the operation of the Trust by the DfE or its representative will take place in or by April 2019.

Creation of the Doncaster Children’s Trust

7. The Trust will be a company limited by guarantee and will have:
   - legal personality;
   - the ability to own property in the company’s name;
- the ability to enter into contracts in the company name; and
- limited liability.

8. The Trust will be an autonomous organisation, independent of Doncaster MBC. Doncaster MBC will enter into a contract with the Trust in accordance with the terms of a direction to be given by the Secretary of State. The Trust will be responsible for, and have control over, its own finance, employment, human resource arrangements and property requirements and will have responsibility for the day to day delivery of children’s social care services on behalf of Doncaster MBC.

9. The Trust will be governed by a Trust Board comprising a chairman appointed by the Secretary of State, Non-Executive Directors, Chief Executive and Directors. Doncaster MBC will only have two nominees on the Board. The Non-Executives would be in the majority.

10. The Non-Executives of the Board will be appointed by the Chairman subject to the approval of the Secretary of State. The Doncaster Clinical Commissioning Group and South Yorkshire Police will be asked to nominate a suitable senior officer to represent them on the Trust Board. The remainder of the Board will comprise of individuals who will be national experts and provide external support, and/or specific skills and expertise.

11. There should be discussion between the Commissioner and Doncaster MBC around whether one or more members of Doncaster MBC’s staff should be represented on the Board or whether a different mechanism for communicating staff views to the Board would be more appropriate, for instance the creation of a staff council.

12. The Chief Executive will be appointed by a Trust appointments panel comprising the Commissioner, the Chairperson, Doncaster MBC and the DfE. The Trust will be accountable to Doncaster MBC under this contract. It is intended that the contract will contain provisions about monitoring the performance of the Trust, including requirements for:
13. The Trust will have its own unique identity and its headquarters will be located in separate Doncaster MBC accommodation.

**Services transferred to Doncaster Children’s Trust**

14. Whilst the Trust will initially perform Doncaster MBC’s children’s social care functions, Doncaster MBC retains the ambition, over time, for the Trust to perform all Doncaster MBC’s statutory duties in relation to children and young people. These statutory duties are set out here [DN insert hyperlink]. The list of functions will be refined in discussions between the Participants, and the discussions may have a bearing on the contract between Doncaster MBC and the Trust (see paragraph 20 below).

15. In Phase 1, the Trust will be tightly focused on delivering high quality children’s social care. All the relevant functions and services, in particular those regarding planning, managing, providing and/or delivering Doncaster MBC’s children’s social care functions, will be performed by the Trust. Those staff to be transferred will be the subject of further discussion between the Participants (see paragraph 20 below).

16. All other services including infrastructure support such as finance, human resources advice and ICT will be procured by the Trust.

**Phase 1 of Implementation**

17. Whilst the Commissioner will lead on, and will be accountable to the Secretary of State in relation to establishing the Trust by 1 April 2014, the
implementation stage will commence with a project team formed of the Commissioner, the DfE and Doncaster MBC who will act jointly to establish the Trust.

18. To establish the Trust, an implementation plan will be agreed by the Participants. The detailed project plan will be drawn up by the organisation that will be appointed by the DfE following consultation with Doncaster MBC and the Commissioner (“the procured partner”). The plan will contain a series of work strands that will lead to project delivery of the Trust in shadow form by 1 April 2014. This will include the procurement of specialist and support services.

19. To ensure the project is launched in line with the delivery plan, timely and accurate reporting will be achieved through six-weekly progress reporting on the milestones, communications issues arising and key deliverables within the project plan, to a Steering Group comprising Doncaster MBC, the DfE and the Commissioner.

20. Save for as set out in paragraph 12, the Board of the Trust will appoint its own senior staff and any future staff not covered by the transfer of staff from Doncaster MBC to the Trust. The functions that will transfer and the staff who will transfer with those functions should be agreed between the Commissioner and Doncaster MBC by December 20 2013. Doncaster MBC and the Commissioner agree that identified staff will be consulted on the transfer, as appropriate, from January 2 2014. It is anticipated that the conditions of service for Trust employees will be broadly in line with those in Local Government but that ultimately will be a matter for the Trust Board.

Appointments

21. The Secretary of State’s responsibility includes the appointment of the Chairperson and setting the terms and conditions of this appointment, including remuneration. It is anticipated that the Chairperson will serve an initial three-year term, at no more than 104 days a year, with a possible extension to this term of office of a further two years. The Chairperson
should not serve for longer than 5 years. The remuneration of the Chairperson will be paid by the DfE for the first three years, at a rate to be determined by the Secretary of State.

22. For the appointment of the Chief Executive, please see paragraph 11 of this Memorandum.

23. The Non-Executive Director appointments will be made by the Chairperson and subject to approval by the Secretary of State for a period of no longer than three years, subject to a satisfactory annual review.

Operational budget for the Trust

24. Doncaster MBC is not expected to meet the set up costs of the Trust, nor any of the additional costs incurred by virtue of its social care functions being delivered by the Trust. The DfE will: meet the reasonable costs of setting up the Trust; provide a project team that will work with Doncaster MBC on the initial set up of the Trust; and meet the reasonable financial costs of the Doncaster project team. Doncaster MBC will agree an initial three year budget for the Trust with the Chairperson of the Trust. The Participants will work together to understand current and future demand for children’s social care services in Doncaster. In the first year, the DfE will meet the full additional running costs incurred by virtue of Doncaster MBC’s social care functions being delivered by the Trust, at a level to be agreed during initial budget discussions between the DfE, Doncaster MBC, the Chairperson and Chief Executive of the Trust.

25. The Participants intend to agree a process for agreeing further contributions by the DfE to the Trust’s budget for future financial years as a part of the initial budget discussions.

26. Doncaster MBC will routinely receive the financial information relating to the new body. An annual budget discussion should take place between the Trust and Doncaster MBC to check that the Participants still have an accurate and shared understanding of demand for children's social care services in Doncaster.
27. The budget will need to be independently verified in an annual report to be sent by the Trust Chairperson to the Participants.

**Role of Doncaster Commissioners**

28. The DfE and DCLG Commissioners (“the Commissioners”) will make available to Doncaster MBC a guidance note on the several roles and responsibilities of the Commissioners under the Directions.

**Variations to the Memorandum of Understanding**

29. The arrangements under this Memorandum will be kept under review, and can be amended at any time by joint decision of the Participants in writing.

30. The arrangements under this Memorandum can be terminated by the Secretary of State.

31. The Participants do not intend this Memorandum to be legally binding or to create legal relations between them.

32. Any dispute that may arise as to the interpretation or application of this Memorandum will be settled by discussion between the Participants. If a dispute fails to be resolved the matter will be put to the Secretary of State for decision.

**Signatures, date etc**

Alan Wood on behalf of DfE SoS

Mayor on behalf of Doncaster MBC
The Proposition

1. The Secretary of State for Education would establish a Trust to take over the children’s social care functions of Doncaster Council. The Trust would be led by an independent Board reporting to the Secretary of State, but with local (and Council) representation. Insofar as possible, we would want to achieve the transfer from the Council to the Trust in collaboration with Council colleagues and other key local stakeholders. The Secretary of State’s powers under S497A of the Education Act 1996 would be used to direct the action needed.

Objectives

2. Establishment of the Trust is intended to put in place three key conditions for improvement of the service in Doncaster:
   - Better leadership – we think a good quality leader of the work is more likely to be secured by a Trust independent of Council control;
   - Better quality social workers – we know Doncaster struggle to recruit social workers at present and think a “fresh start” approach will help significantly with that;
   - Better challenge of officers’ approaches. Current political oversight of children’s services in Doncaster is very limited, and historically, there are examples of scrutiny and wider political engagement hampering progress. A well constituted Trust Board should provide much better support and challenge to the Chief Executive.

These changes make the prospects for the thoroughgoing improvement programme needed in Doncaster’s children’s services much more encouraging than taking a “one more chance” approach with a service which has failed persistently over a number of years.

The Trust

3. Membership of the Trust Board would need to include external social work expertise, people with a strong track record in transformational leadership, and local knowledge and expertise, including someone who could represent the Council. We’d envisage a Board of maybe six to ten people. The Chair would report directly into the Department, but would want to retain a relationship with the Council and might, of course, be called to the Council’s Scrutiny Committee. A strong Chief Executive would also be needed to lead the service day to day – probably a DCS with a strong track record of service improvement

Scope

4. We would propose to remove the children’s social care functions from the Local Authority – in essence, children’s safeguarding, children in care and adoption and fostering services. Those functions would be exercised by the Trust. There would be a small number of functions which might need to remain with the Council and there would be a decision to be made about which of the Council’s early intervention
The responsibilities would best transfer to the Trust. We would work those issues out in discussion with the Council. Education and Early Years services would remain with the Council. A discussion will be needed about the location of the Director of Children’s Services post (in Hackney it was located in the Learning Trust). Similarly, detailed discussions would be needed about which specific posts should transfer to the Trust and which remain in the Council.

5. We would expect an early plan from the Trust on how social work practice in Doncaster can be improved on a sustainable basis.

Staffing

6. Our expectation (though it is, of course, a legal rather than a policy issue) is that social care staff would TUPE transfer to the Trust.

Links with other Partners

7. The Trust would, of course need to work closely with Health and Police colleagues and with schools. It would be represented on the Local Safeguarding Children’s Board. We would expect the Trust to respond to casework requests from both MPs and individual Councillors as a Local Authority would.

Duration

8. We envisage the Trust would operate for up to ten years, though with an option for returning services to the Council after five years if all parties felt that was the right thing to do at that point.

Funding

9. We would expect the Council to continue to meet its funding obligations for children’s social care services. **DfE will be prepared to consider providing some funding for the costs involved in setting up the Trust and (for any costs over and above what might be normal in delivering children’s services), in its operation.** We would, of course use the Department’s contractual relationship to drive value for money in the way the Trust operated. We could expect costs over time to reduce as effective early intervention, better social work more generally and sharper commissioning of social care services are brought to bear.

Consultation

10. We would want to move quickly in January to announce our intention to establish the Trust, allowing a period of time for representations, before finalising a decision. The urgency of the action required and the lead in time to establish the Trust suggests we can wait no longer. Other aspects of the transfer – for example around the staff would be subject to separate (statutory) consultation arrangements.

Immediate Action

11. We envisage it will take at least six to nine months to establish the Trust and manage the transfer to it. Clearly improvement action needs to continue throughout that period. We will want to discuss with the Council ways of ensuring continued progress in the interim, including support for the transition, the possibility of appointing a Commissioner with specific responsibility for children’s services, as part of the wider CLG intervention and strengthening the local Safeguarding Children Board.
An early Direction from the Secretary of State might require the agreement of a short term action plan.

**Examples of other Trusts in Local Government**

12. The Hackney Learning Trust – a not for profit company with a twelve person Board which successfully ran education services in Hackney for ten years, delivering significant improvements in performance. The Trust has now been reintegrated into the Council, with the former Chief Executive now Hackney’s Director of Children’s Services.

13. Sheffield City Trust – which provides recreation and leisure services in Sheffield through a company limited by guarantee governed by a board of non-executive trustees, half of whom are nominated by Sheffield Members of Parliament and half of whom are nominated by the Sheffield Chamber of Commerce and Industry. Similar arrangements exist in Redbridge and Wigan.

14. Pendle Leisure Trust – has responsibility for the management and development of a wide variety of leisure related facilities and activities and directly manages a range of services and facilities including leisure centres, a golf course, arts development, music festivals, civic halls and an athletics track. The Trust is an industrial and provident society with exempt charitable status. The Trust employs approximately 250 staff and is supported by a board of 16 trustees. It has a turnover of £4 million and an annual grant from the local authority of £1.25 million.

Department for Education

December 2012