



Doncaster Council

Cabinet Report

Date: 30 March 2022

To the Chair and Members of Cabinet

TO SERVE NOTICE TO THE DONCASTER CHILDREN'S TRUST ARMS LENGTH MANAGEMENT COMPANY

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Rachael Blake Lani-Mae Ball	ALL	Yes

EXECUTIVE SUMMARY

1. The past 2 years has placed significant pressure on the children's social care system in terms of demand and complexity and the system continues to adapt to a post COVID-19 context. This report appreciates and acknowledges the commitment of all colleagues working in children services, whether in a direct delivery role or support function. The Doncaster Children Services Trust continued to deliver services to the most vulnerable children in Doncaster, at times putting themselves and their family lives at risk. This report builds on the confidence that workers are committed to do the best for Doncaster children, young people and their families.
2. This paper seeks approval to serve notice (by mutual agreement between the Council and the Trust) on the contract with Doncaster Children's Services Trust (DCST) an Arm's Length Management Company (ALMO) wholly owned by Doncaster Council for the delivery of specified Children's Social Care services functions. All parties believe that this is the logical next step in the journey of Children's Services in Doncaster.
3. Transferring the provision of social care services to Doncaster Council presents the opportunity to achieve better outcomes for children and young people in the delivery of integrated services that accelerate the pace of improvement. Collectively, it is believed that the organisational and financial resilience that can be provided within the Council, coupled with strong collective leadership and oversight in recent months, will accelerate the trajectory of improving services to children, young people and families. The work of the Voluntary Improvement Board in the remobilising of the partnership and the much stronger emergent

partnership post-pandemic sets a landscape of collective ownership. By transferring services to the Council, it will help simplify processes and align service delivery to the wider council services and wider partnership. Where services between the Trust and the Council are closely aligned, better outcomes are evidenced for children and young people.

4. The unique identity, culture and branding of Doncaster Children's Services Trust historically has been seen as a strength. Staff surveys have regularly reinforced the sense of identity and belonging that is felt, as being seen to be part of a distinct Children's Social Care vehicle. Therefore, consideration has been given to creating a hybrid delivery model. The proposal consists of a singular leadership function with direct oversight, and line of sight from the Director of Children Services. In essence, the delivery model shifts from being an ALMO to an in-house 'ring fenced' operation. This will enable the testing of the efficacy of culture and provide an opportunity to drive practice improvement at pace with minimal disruption as to how children service delivery and feel.
5. The proposal seeks to build a unified Children's Services with DCST nested in the existing Learning, Opportunities, Skills and Culture functions, with the Resources function providing support services. This will enable direct accountability and responsibility for the delivery of frontline services and therefore better integration with education services. A pre-transfer assessment will be conducted on receiving services to assess leadership, management and wider operational impacts and risks.
6. The transition by DCST into Doncaster Council will be driven by an improvement proposition that builds upon a shared ambition via a set of core values and a learning culture. The plan has clearly defined actions to drive change with tangible milestones over the next 3 years.

EXEMPT REPORT

7. The report does not contain exempt information.

RECOMMENDATIONS

8. To serve notice on DCST to end the contract for the delivery of specified children's social care services functions by mutual consent by end of September 2022.
9. To align services and then transfer employees within all services of DCST to Doncaster Council under the Transfer of Undertakings (Protection of Employment) Regulations.
10. To agree to the Director of Children Services undertaking the Chief Executive Officer role of DCST from the 1st of April to oversee the smooth transitioning of the Trust into the Council, accountable to the Chair of the Trust Board.

11. Implement an improvement proposition, which builds on the improved relationship between DCST and the Council by streamlining strategic oversight and management. Operational functions to transfer as 'ring fenced' DCST entity to ensure focus on practice improvement with minimal or no disruption. This will enable the development of robust plan for a shared set of values based on a learning culture that will drive improvement and lead to a stable and efficient workforce. There will be a focus on the availability of accessible and accurate performance data for management oversight of demand and an assurance function that highlights drift and delay at the earliest possible stage, ensures quality throughout the services, drives efficiencies and is able to evidence measurable improved outcomes for children and young people.

REASON FOR URGENCY

12. This decision is being taken in accordance with the Council's Access to Information Procedure Rule 15, (General Exception), as it has not been practical to provide the 28 days' notice normally required for a key decision and due to the timescales to start consultation in April 2022. The timescales are ambitious, and expedience is key. If the urgency provisions for decision-making were not applied, there is a risk to delivering rapid performance improvement plan and increasing financial pressures.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

13. The proposal supports that collective energies are focussed on child welfare and supporting families to thrive. This is supported by a continuous improvement programme with plans in place to increase quality and performance.
14. This will strengthen systems leadership and allow further opportunities for innovative practice to focus on achieving the best outcomes for Doncaster children, young people, and their families.

BACKGROUND

15. The Secretary of State issued a Direction in November 2013 requiring the Council to transfer its social care services to an independent Trust. The Doncaster Children's Services Trust became operational on 1st October 2014 as a company limited by guarantee, an autonomous organisation, and independent of the Council with the responsibility for the day-to-day delivery of children's social care services on behalf of the Council.

16. The services delivered by the Trust received an 'inadequate' judgement in 2015 however, services improved to a judgement of 'Good' in November 2017 and the report was published January 2018. A series of Governance Reviews by an independently appointed consultant were commissioned to evaluate the then governance arrangement to support a post direction arrangement. The Direction was retained until after the final review was completed in Sept 2019, which was submitted to the then Secretary of State.
17. On 12th January 2021, a letter was received from the Children's Minister communicating the lifting of all Directions in respect of the delivery children's social care, to take effect 31st January 2021. The DfE subsequently withdrew financial support to DCST when the direction was revoked. This was an unusual and extended period of Directions under the DfE.
18. At the time when services improved sufficiently, and the governance reviews were underway, the policy context had moved on to a range of alternative delivery models available in relation to Children's Services. The Department of Education was clear that the new form of the Children's Trust needed to be able to 'autonomously operate' from the Council. It was decided that the Trust would become an Arm's Length Management Company. The new delivery model would continue delivering sustained improvement and positive outcomes for children and young people. This arrangement was confirmed by Cabinet on 12th March 2019 detailing the formation of a service contract for an initial 5-year term with two potential two-year extensions.
19. Based on the 2018 Ofsted Judgement of 'Good' the governance arrangements were revised to a 'light touch' contract management regime as per the recommendation of the DfE. However, as performance declined these arrangements did not enable effective challenge and the Annual Contract Review 2018/19 highlighted a significant revenue-funding gap. This led to the reporting mechanisms being amended by mutual agreement to provide improved visibility regarding DCST performance.
20. A robust contract management cycle was implemented as part of the ALMO contract in 2019 onwards. However, the financial position of the Trust continued to worsen whilst the quality of social work declined.
21. To drive improvement and quality assurance specific to social care, the Voluntary Partnership Improvement Board was jointly commissioned by Doncaster Council and DCST in November 2020. The support and challenge plan was introduced with accountability to the DCST Board and reporting to the Partnership Improvement Board. Due to significant investment from the Council, caseloads did stabilise and improvements were made to a range of identified function, in particular the Front Door, which were noted by Ofsted in the February 2021 focussed visit. Unfortunately, pace and urgency of improvement remained problematic and in line with the monitoring process letters of concern were issued during 2021/22.
22. The national context has significantly changed over the past 2 – 3 years in the

wake of Covid. Rising demand, complexity, and volatility of provider services to the most vulnerable children has changed the landscape significantly. This is reflected in numerous national reviews and white papers to be published, for example, the SEND white paper and the Social Care Review that is underway. Both these policy documents will consider the impact of a creaking social care system and a provider market that is not sufficient, sustainable or at times of lesser standards.

23. Both the Council and DCST believe that the joint ambition to deliver services that have a positive impact on the lives of children and young people has been hindered by a number of conditions, i.e.:

- Covid – remote and silo working
- The implementation of a new system and business readiness to change
- The limited line of sight of the DCS and limitations posed by the current governance arrangements in the effective challenge of poor performance
- Reporting lines making the environment more complex than what it needs to be at operational and strategic level
- Inconsistent assurance leading to variability of practice
- Lack of organisational resilience that impacts on contingency plans and resourcing
- Recent inability to have effective performance data which gives oversight of practice
- Lack of professional curiosity at all levels and an analytical mindset.

24. It is believed that one joint offer of services for families provides better outcomes rather than the current model where families perceive services are delivered across two organisations. Examples of this are Early Help and services to children leaving care including the Virtual School and Education and Employment services. More recently, relationships have supported a one-team approach and it is hoped that these early developments can be further built upon and strengthened.

25. Benefits include:

- Direct accountability and responsibility for the delivery of frontline services and therefore better integration with education services
- Organisational resilience
- The artificial organisational boundaries will be removed and areas like early help and commissioning will be organised as one. This will reduce unnecessary duplication and create opportunities for resource planning.
- Improved Value for Money and savings achieved in the short to medium term. Stronger overall financial management.
- A singular focus on providing high quality, integrated services that achieves better outcomes for children, young people and their families, provide added value to the partnership.

26. The Improvement proposition sets out an emerging ambition that is characterised by the following:
- Consistently high-quality frontline practice and the management of risk at the appropriate level
 - Stable, highly motivated, high performing workforce. Know what excellent practice looks like and feels supported
 - Improvement is part of core business and not dependent on leadership alone. Embrace disciplined innovation to drive ongoing improvement.
 - Staff feel supported, able to ask for help and challenge appropriately
 - Oversight of key services are embedded; assurance is robust and performance data is used effectively
 - The local partnership system works well for children. Collective leadership ownership and leadership.
 - The areas that deliver better outcomes for children and young people are those where the Trust and Council are most joined up.
 - Delivering value for money is part of the day-to-day decision making processes. Being cost conscious not cost driven.
27. The time horizon for the delivery of our collective ambition is 2024 (calendar year).
28. A joint Transformation and Integration Group, jointly chaired by the DMBC Chief Executive and Trust Board Chair has been established to oversee the transition to the Council. Beneath this a Joint Practice Improvement Group; care will be taken to ensure that focus remains on continuous improvement of social work practice and oversight. This will be jointly led by the DCS and Director of Children's Social Care/Deputy CEO of the Trust. There are also other joint groups focusing on the operational aspects of the integration and Mosaic improvement.
29. The Trust Board appointed the Director of Learning, Skills, Opportunities and Culture (statutory DCS) as the Chief Executive of the Trust from the 1st of April. This will help enable a smooth transition for the Trust into the Council.
30. A timetable of activity is in place to facilitate informal and formal engagement of DCST staff and Council staff to celebrate the success of the Trust and the Council, understand the barriers to success and to co-produce the future culture of a unified organisation.

OPTIONS CONSIDERED

31. Three options were considered:
1. Do nothing, this will not provide the required rapid improvement and prevent escalating financial pressures
 2. Continue to be more rigorous in contract management arrangements. History tells us the governance arrangement is not conducive to drive performance at pace and financially the governance model is not sustainable

3. Serve notice on the contract through mutual agreement and enable the transition at pace.
32. Option 3 is the preferred option. Services will transition as soon as practicable. A tentative timeline of 6 months has been produced and will involve extensive staff consultation and engagement, stakeholder management, novation of contracts and the wrapping up of the contract and the company.

REASONS FOR RECOMMENDED OPTION

33. There is confidence that with the wider support of Doncaster Council the social care services that have been delivered through DCST can improve at pace resulting in better outcomes for children and young people. The realignment of the services will deliver lower overheads to ensure spend is directed to front line delivery.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

34.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>Further development of a sustainable, professional workforce to ensure continuity of a quality service delivery across all children's services</p> <p>Investment in local workforce to decrease reliance on agency workers</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>Strengthened working relationships across partners and wider organisations working with young people will ensure a high quality delivery offer local to where young people live</p>

	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>Increased opportunities for life-changing experiences to develop life skills through the increase in the range and availability of opportunities locally for young people</p>
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>Doncaster children will be safe and protected from the risk of harm by strengthened safeguarding policies and procedures which ensures timely and targeted support for the most vulnerable families</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>Strengthened working relationships and partnerships with Team Doncaster to support families with information and access to pathways for services and opportunities for them to thrive and feel connected to their local community</p>

RISKS AND ASSUMPTIONS

35. Risk 1: Strategic Relationship: There is the opportunity to simplify processes by combining the two organisations it will remove the separation of commissioning, contract management and performance management. There is a desire to deliver social care services as part of the wider children's services to ensure improvement at pace.

36. Risk 2: Financial – On-going cost pressure to the Council budget due to increasing costs of service delivery on the DCST budget. The proposal will see a reduction in overheads and efficiencies through shared resources/costs.
37. Risk 3: Workforce - Staff consultation will take place prior to TUPE transfer. Alignment to council services is underway to aid transition, vacant posts will be reviewed on a case-by-case basis until the transfer has been completed and any restructuring of staff will follow where necessary and appropriate.
38. Risk 4: Reputational Risk – DCST’s failure to achieve the required levels of performance and quality improvement at pace is a reputational risk to the Council. A combined Senior Leadership Team will support the improvement journey at pace as part of the directorate and wider services for children and allows for consistency and increased line of sight to ensure the required level of performance
39. Risk 5: Workforce stability – A comprehensive communication and engagement plan is being finalised to engage in meaningful dialogue with staff. There is a collective understanding and belief that staff are our greatest asset.

LEGAL IMPLICATIONS [SRF 9.3.22]

40. In accordance with Section 17 of the Childrens Act 1989
 - (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—
 - (a) To safeguard and promote the welfare of children within their area who are in need; and
 - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children’s needs.
41. As is set out within the body of the report, by virtue of a Secretary of State Direction in 2014 the Council were required to establish a company (DCST) and transfer to it the delivery of certain specified Children’s Services functions. That Direction was lifted in January 2021 and the Council is free to consider how best to deliver those functions. The legal powers and duties in relation to safeguarding children have remained with the Council throughout the period of the DCST arrangement and this will not change.
42. The current contract with DCST for the provision of services runs until 2024. However, the service can be terminated by mutual consent and the Council and DCST have agreed that this will occur in September 2022.
43. DSCT staff currently carrying out the services, which are transferring to the Council, will transfer to the Council in accordance with the provisions of TUPE. TUPE imposes obligations on the incoming and outgoing employers of transferring staff. Specific legal advice should be sought regarding the obligations of the receiving employer and in relation to an appropriate

consultation process involving affected staff. Specific legal advice should also be sought in relation to company matters and the assignment of any contracts held by DCST.

FINANCIAL IMPLICATIONS [AB 10.3.22]

44. Services delivered by DCST are a significant budgetary pressure to the Council; the forecast outturn for DCST at quarter 3 is a gross overspend of £6.26m to the 2021/22 contract value, mainly due to increased spend on the Care Ladder due to additional demand for placements. The 2022/23 budget approved by Council on the 28th February incorporated rebasing the DCST budget to £65.15m, an overall increase of £6.98m. This includes £3.54m due to the effect of increased demand/complexity of cases that will continue into 2022/23, £0.7m to cover DfE funding no longer being received, and £2.74m for price and pay inflationary/increment increases. The increased budget reflects the national position where Children's Services across the country are experiencing similar cost pressures.
45. It is envisaged that cashable savings will be delivered contributing towards the saving approved in the 2022/23 budget of £0.8m over the 3 years, through closing working with partners, however it is too early to quantify at this stage.
46. The change in governance arrangements will transfer the provision of social care services to Doncaster Council from its current form of being delivered by DCST, an Arm's Length Management Company wholly owned by Doncaster Council. By mutual agreement between the Council and DCST, notice will be served on the current contract.
47. The specific financial implications will be considered and implemented as part of the transition in accordance with the relevant deadlines. The required funding for the period of the contract will be transferred to DCST in accordance with the current payment mechanism, to ensure that DCST have sufficient cashflow for the delivery of services, with a final reconciliation and adjustment. Following the contract end date, the funding would be retained by the Council and allocated as required to service budgets.

HUMAN RESOURCES IMPLICATIONS [KW 9.3.22]

48. There are significant HR implications for the Council arising from the report. The Council will need to comply with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) which protect the rights of employees in a transfer situation enabling them to be protected on the same contractual terms and conditions and preserve their continuity of employment. All employees who were employed in the transferring services immediately before the transfer will automatically transfer from DCST (the transferor) to the Council (the transferee). Where employees transfer the Council will take over the rights and obligations arising from those contracts of employment, except criminal liabilities. Any liabilities relating to employees who were dismissed before the transfer (for a reason connected with it) will also transfer to the Council. The Council will also need to ensure it complies with the Collective

Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2013.

TECHNOLOGY IMPLICATIONS [JG 09/03/22]

49. The Council already provides most technology to Doncaster Children's Services Trust and there has been very strong technical governance applied throughout the existence of the Trust. However, there will be some technical reconfiguration required which will be achieved within the required timescales. This will also present an opportunity to rationalise such as stepping down the separate website and intranet and ensuring the Trust has no other duplicating functionality that could be delivered by one solution for the Council and Trust functions.
50. The business change management and readiness of the Trust moving from the Liquidlogic system to Mosaic is a key issue despite lots of prolonged work by the Council to facilitate this successfully. The Council's Mosaic team will continue to support the transferring services and colleagues as part of this transition to assist in these matters being resolved.

HEALTH IMPLICATIONS (RS 10.3.22)

51. This whole report is about improvement the health and wellbeing of children and young people. Structural changes may help improve children's health and wellbeing but will not be sufficient without the improvement proposition. Decision makers will want to be assured that the proposals will bring about these improvements for all children and maintain health and wellbeing for staff.

EQUALITY IMPLICATIONS [AH 15.03.22]

52. Due regard to equalities requirements has and will be considered as part of the transfer being completed according to TUPE regulations, which covers duties and liabilities around equalities, including the completion of an Equalities Impact Assessment as required.

CONSULTATION

53. The proposal is be mutual agreement between the Council and the Trust and is very much co-produced. Staff engagement will follow.
54. The Chair of the Trust Board has written to the Department of Education (Dfe) to inform them of the intended decision. A meeting will be set up between the Chair of the Trust Board the Chief Executive of Doncaster Council and appropriate Dfe colleagues.

BACKGROUND PAPERS

55. NONE.

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

Dfe – Department of Education

DCST – Doncaster Children's Services Trust

TUPE – Transfer of Undertakings (protection of Employment) Regulations

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