

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 4th February 2014
Report of: Chief Operating Officer
Subject/Title: Business Cases for Alternative Service Delivery Vehicles
Portfolio Holder: To be confirmed

1.0 Purpose of the report

- 1.1 In February 2013 the Council set out its three year plan to becoming a strategic commissioning council. This consisted of 29 major change programmes covering 8 key priorities. The plan sets out the core purpose of the council, and identifies the need to redefine its role in core place-based services.
- 1.2 The move to a strategic commissioning model ensures a measured approach to achieving the Council's ambitions. It provides a platform for the Council to redefine and reinvent services avoiding 'salami' slicing and to sustain quality services to residents and businesses.
- 1.3 The intention to become a strategic commissioning council is supported by a clear strategic framework. This framework establishes the key principles of achieving the Councils required financial savings, providing opportunities to deliver qualitative benefits and ensuring residents receive excellent services which meet the changing needs and aspirations of modern life.
- 1.4 The Council already has two successful wholly owned companies in place – Engine of the North and Tatton Park Enterprises. This report updates Cabinet on progress towards become a strategic commissioning council and seeks their approval of the formal business cases for change in the three areas that have been under development during 2013/14.

2.0 Recommendations

Cabinet is asked to:

- Note the progress being made towards becoming a strategic commissioning Council;
- Approve the business cases for change appended to this report for the following Council services to trade as wholly owned companies:
 - Ansa Environmental Services Limited; and
 - Orbitas Bereavement Services Limited.

And to;

- Approve Everybody Sport and Recreation Services (ESAR) Limited to trade as a wholly owned company of Cheshire East Council, if necessary. This is

a precautionary measure as we expect ESAR to become a registered charity before it takes up any trading activity.

3.0 Background

- 3.1 All Council's find themselves in difficult financial times aligned with high demand for services and high public expectations. Many have responded to these pressures by reducing services – closing libraries and leisure centres and stopping some services altogether. Cheshire East Council have not done this.
- 3.2 Instead Cheshire East Council has seized the opportunity to think differently about how it can deliver services which better meet the needs of the residents, businesses and customers of Cheshire East. This new approach will require robust corporate leadership, innovation and for the Council and its partners to deliver more with less.
- 3.3 The Council has grasped this opportunity and in February 2013 it produced a report "**Becoming a Strategic Council**" it laid out how the Council will deliver better sustainable services through its new operating model. In summary, this focused on identifying and prioritising local needs, meeting those needs in a cost-effective way by stimulating and managing a diverse local market of high quality local providers. Importantly the new "Strategic Council" will be able to capture, leverage and disperse all available local funds and resources in line with its strategic ambitions and goals for its local communities, as part of its "place shaping" role. The report also set out a strengthened role for elected Members, beginning and ending with councillors' democratic relationship with local residents, who should have a stronger voice and input into commissioning decisions in the future.
- 3.4 It is clear that change is inevitable. Strategic Commissioning is about achieving even greater value for money, by doing things differently and using innovative new approaches to the way in which services are delivered, that achieve the outcomes desired by local people. It is not about simply reducing costs through arranging cheaper provision or about traditional outsourcing, as the new approach will be used to get the best from in-house services, from joint ventures between the Council and other providers, and from new delivery vehicles such as Social Enterprises or Staff Mutuals.
- 3.5 The Council completed an analysis of each service area to consider the various delivery options. The guiding principle in this assessment was the desire to create a more effective, efficient and locally responsive service. Delivering these outcomes is more important than the question of who actually delivers them.
- 3.6 The case for delivering services through Alternative Service Delivery Vehicles (ASDVs) is that they tend to lead to improved customer service for residents and business and will operate in a competitive, commercial environment, ensuring an engaged workforce, increased productivity and better value for money.

- 3.7 The rest of this report summarises our progress for developing these models. The detailed business cases for change are attached as appendices:
- environmental services, (Ansa, appendix A);
 - bereavement services, (Orbitas, appendix B); and
 - leisure and sports development services, (Everybody Sport and Recreation, appendix C).
- 3.8 Under the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2004, local authorities must prepare a detailed business case before embarking to trade under the powers and to have the business case approved by the Executive, where they are operating under the executive model.
- 3.9 Each business case has been prepared in line with statutory guidance and the principles of the Council's own strategic framework. Through this process we have demonstrated that there is a sound financial case for creating each wholly owned company and allowing them to begin trading.
- 3.10 The business cases were considered in detail by the Technical Enabling Group on 13 December. They were also discussed, by the Executive Monitoring Board (EMB) on 16 December 2013. EMB endorsed the business cases subject to the need to respond to TEG feedback - this included reflecting the case for change and further understanding of risks between the Council and the companies.
- 3.11 To offer further assurance, the Chief Operating Officer engaged Price Waterhouse Cooper (PwC) to undertake a high level review of the business cases during early January. PwC conclude that the business case for change has been made in each case. They are satisfied that the key financial assumptions underpinning the business cases are reasonable and prudent and in line with similar documents reviewed elsewhere.
- 3.12 PwC recognise the scale of the Council's change programme and the significant amount of preparatory work already done or in hand. They highlight a number of areas where further work would help to minimise risk and optimise the successful implementation of the new organisations. PwC also recommended that the Council develop ambitious business plans to take full advantage of the business opportunities set out at a high level in the business cases.
- 3.13 PwC acknowledge the Council's clear focus on the development, implementation and mobilisation of the leisure trust. PwC highlight the need to maintain this focus given that the Council will – though its direct ownership - be able to continue to develop the arrangements for Ansa and Orbitas beyond the 'go live' date.
- 3.14 PwC are also undertaking further financial analysis for the Council. This will particularly focus on VAT issues relating to the leisure trust to ensure that the optimum tax structure is implemented and hence all possible savings are fully realised.
- 3.15 The Executive Summary of the PwC review is attached at Appendix D.

4.0 Business Case – Ansa Environmental Services Ltd

- 4.1 In June 2013, Cabinet approved the formation of a Wholly Owned Company, limited by shares, as its preferred model to deliver existing Environmental Operations. The company includes Waste, Recycling, Fleet and Streetscape services. Ansa Environmental Services Limited and its nominated Directors are now registered at Companies House.
- 4.2 Ansa Environmental Services Ltd will deliver waste management, elements of streetscape and fleet management services on behalf of Cheshire East Council. In doing so, the Company can take full advantage of the Teckal exemption in its business activities for the benefit of the Council and residents of Cheshire East. The key driver in this has been the Council's move towards a commissioning model for the delivery of its services to tackle the inevitable financial and cultural challenges that it faces over the next few years.
- 4.3 The main benefits of operating through the company are that operational and procurement costs can be reduced, greater entrepreneurial activity can take place to increase revenue streams and the Council's reputation will be enhanced through more transparent services that are focussed on local needs. The Council will determine how any benefits generated by the company will be used. For example such benefits could be retained by the Council or the company through reinvestment in services or dividends. There will also be opportunities for shared delivery with other public bodies.
- 4.4 The successful culture of delivery within the company will see improvements for residents and businesses alike. In real terms, there will be opportunities to make investments in infrastructure whilst the company is geared towards saving 10% of its current budget over the next 5 years. Over the same timeframe a culture of reward for enterprise, creativity and effort will support the company's aspirational target of creating new income streams (worth an additional 2.5% of its current budget). This has to be achieved without any dilution of focus on delivering high quality services to residents and businesses of Cheshire East.
- 4.5 The detailed business case to create a wholly owned company to manage environmental services is attached at appendix A.

5.0 Business Case – Orbitas (bereavement services)

- 5.1 In September 2013 the Council's Policy Development Group considered a report setting out the options for bereavement services. The group supported the creation of a 'Wholly Owned Company' believing it would offer one of the safest and most sustainable ways of delivering change for residents of Cheshire East, promoting cost efficiencies and effectiveness whilst retaining control of a sensitive service area and managing the reputational risks associated with service delivery. Additionally it was thought it would improve the speed of decision making and allow staff to develop and implement their entrepreneurial skills.
- 5.2 In October 2013, Cabinet agreed to the formation of a wholly owned Company, limited by shares, to deliver Bereavement Services for the Council. This work

has now been completed. Orbitas, Bereavement Services Limited and its nominated Directors are now registered at Companies House as a wholly owned company of Cheshire East Council (the Council own 100% of the shares in the company).

- 5.3 The financial case for Orbitas is sound. Even with the anticipated increase in market competition the company can be financially viable as a stand-alone entity by reducing operating costs and increasing income. The company provides real opportunity for the 'Orbitas' team to shape how the service is delivered, designed and provided. This increased level of involvement in running the service, coupled with the ability to act promptly on decisions is undoubtedly a key way of engaging and motivating the team. This has already been confirmed by staff during the consultation and stakeholder meetings.
- 5.4 With the ability to offer a broad range of services, to introduce incentivised performance management and to act quickly it is likely that Orbitas will offer a better and more responsive service for users. Improved service levels and quick fixes to facility issues will arrest some of the concerns funeral directors have expressed in the service.
- 5.5 Orbitas will also enable the Council to respond positively to the construction of new private crematoriums in Northwich and Lach Dennis. For example, a refurbishment scheme for Crewe Crematorium will ensure a similar standard of customer service is provided across the area. A high level business case has been completed for this scheme and it is also being considered by TEG and EMB as part of the ongoing review of new project proposals and potential incorporation into the 2014/15 capital programme.
- 5.6 The detailed business case to create a wholly owned company to manage bereavement services is attached at appendix B.

6.0 Business Case – ESAR(leisure and sports development services)

- 6.1 In June 2013, Cabinet agreed to the formation of a Charitable Trust to deliver leisure services on behalf of the Council. This work has now been completed. Everybody Sport and Recreation (ESAR) Limited, and it's nominated Directors, are registered at Companies House as a wholly owned company of Cheshire East Council (the Council own 100% of the shares in the company). The next step is to register ESAR as an independent charity. The creation of the charitable trust will improve the quality of service for local people.
- 6.2 ESAR links directly into the Council's three year plan in seeking to improve services for local people. In particular, outcome 5 - people live well and for longer; local people have healthy lifestyles and access to good cultural, leisure and recreational facilities.
- 6.3 The Council will only need to grant ESAR power to trade if it has not been registered with the charities commission by 1 April 2014.
- 6.4 The remit for the review of leisure, play and sport development services was to consider alternative management vehicles that could manage the variety of facilities and services currently provided by the Council; the benefit of this is that it will enable the Council to focus its delivery of leisure services through an independent charitable company, which will deliver an improved and enhanced

service. At the same time, the Trust will have access to financial and other resources (e.g. grants) to enhance service delivery which are not available to the Council,

- 6.5 A further benefit of a charitable trust is that it allows the benefits of NNDR and VAT relief to be fully realised creating a significant financial benefit to the current operation of the Councils' current in-house leisure, play and development services.
- 6.6 A detailed contract and performance specification is currently being produced, that will protect the Council's interest and ensure that the significant investment in Everybody Sport and Recreation will play an important role in the achievement of the council's key strategic outcomes moving forward.
- 6.7 The specification is an important document as it helps define the clear benefits and outcomes expected by the Council and Local residents from the new Trust. These will align with the charitable article of the new organisation and will include key performance measures around participation; target key demographic groups and areas of health inequalities and deprivation.
- 6.8 To protect the Council further the freehold of the assets will remain with CEC and a lease to operate will be given to the trust, maximum caps on such things as pricing will form a key element of the specification, but it is also important the Trust is given sufficient flexibility to manage and best utilise the assets under its control in order that it can have the maximum impact on the lives and in particular the health and wellbeing of the residents of CEC.
- 6.9 The detailed business case to create a charitable trust to manage leisure, play and sport development services is attached at appendix C.

7.0 Wards and Local Ward Affected

- 7.1 All wards are affected by this decision.

8.0 Policy Implications

- 8.1 The recommendations are in accordance with the Council's plan to become a strategic commissioning council.

9.0 Financial Implications

- 9.1 The detailed financial implications for the organisations are detailed in the appended business cases.

10.0 Legal Implications

- 10.1 **ESAR:** External solicitors have been engaged to support the company in being established as a charity. A detailed examination of the legal implications of deciding to establish a wholly owned company and to carry out trading through that company was reported to Cabinet in May 2013.

10.2 Orbitas and Ansa

- 10.2.1 As stated at paragraph 3.7, under the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2004, local authorities must prepare a detailed business case before embarking to trade under the powers and to have the business case approved by the Executive, where they are operating under the executive model.
- 10.2.2 A detailed examination of the legal implications of deciding to establish Orbitas and Ansa as wholly owned companies and to carry out trading through those companies was contained in the reports to Cabinet in October and June 2013. The companies are wholly owned and controlled by the Council and because they will do more than 80% of their business for the public sector, they both qualify for the 'Teckal' exemption. This means the Council can award contracts to the companies without the need to carry out procurement exercises under the Public Contracts Regulations 2006.
- 10.2.3 In regards to Orbitas, it is also worth highlighting that, in order to qualify for the Teckal exemption it has been necessary to structure the company so it acts as the Council's agent for the provision of bereavement services. In that sense the service will continue to be provided by the Council.

11.0 Risk Management

- 11.1 The risks within the ASDV programme are identified and managed at 3 levels: Project, Programme and Corporate.
- 11.2 The project risks for each of the new companies are detailed within the appended business cases. The respective project boards in managing the risks have established appropriate mitigating actions and monitor each risk on a regular basis in accordance with the Council's project management methodology.
- 11.3 Programme risks are those that are common to more than one ASDV project. These risks together with other risks generated by the impact of the overall ASDV programme are identified, managed and monitored by the ASDV Steering Group. There are currently 20 risks and one opportunity captured on the programme risk register.
- 11.4 Corporate risks are those that have the potential to cause corporate concern. These have been identified from the programme risk register and escalated to the corporate Risk Management Group for consideration, monitoring and inclusion on the Corporate Risk Register. The Corporate Leadership Board ensures that actions and recommendations within the Corporate Risk Register are implemented.
- 11.5 The Audit and Governance Committee is responsible for keeping under review the effectiveness of the risk management, control and governance arrangements. Audit and Governance Committee receives a quarterly update on the Corporate Risk Register and considers any changes to the corporate

risks and their ratings. Cabinet also receives quarterly monitoring reports and an annual report on the Corporate Risk Management.

12.0 Other considerations

12.1 Following Cabinet's approval of each business case work will continue to develop the more detailed business plans and draft contracts for the new companies. The headline commercial and contractual arrangements will be set out in a further report to Cabinet in March.

13.0 Supporting information

June 2013: Cabinet Report - Determine Future Delivery Model for Waste Management Services:

<http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s23790/14-Future%20Delivery%20Model%20for%20Waste%20Management%20-%20report%20Part%201.pdf>

October 2013: Cabinet report - Environmental Operations Change Programme:

<http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s25634/Environmental%20Operations%20Change%20Programme%20-%20report%20final.pdf>

June 2013 Cabinet report – Future Delivery Model for Bereavement Services

<http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s25616/Bereavement%20Services%20-%20report%20final.pdf>

October 2013: Cabinet report - Preferred Delivery Model for Leisure, Sport, Play and Development Services:

<http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s23782/09-Leisure%20Delivery%20Options%20-%20report.pdf>

Other background papers relating to this report can be inspected by contacting the report writer:

Name: Paul Bradshaw
Designation: Head of HR & OD
Tel No: 01270 686027
Email: paul.bradshaw@cheshireeast.gov.uk