

# Cheshire East Council

## Cabinet

---

<b>Date of Meeting:</b>	13 <sup>th</sup> March 2017
<b>Report of:</b>	Frank Jordan, Executive Director Place
<b>Subject/Title:</b>	Review of Alternative Service Delivery Vehicles (ASDVs)
<b>Portfolio Holder:</b>	Councillor Paul Bates, Finance and Communication

---

### 1. Report Summary

- 1.1. In July 2017 the Council commissioned an external and independent review of its Alternative Service Delivery Vehicles (“ASDVs”) from Edge Public Solutions Limited (“Edge”) a company that specialises in improving public services and value for money.
- 1.2. The review was completed in November 2017 and Edge concluded that improvements could be made to how the Council commissioned services from its ASDVs and how the ASDVs were governed.
- 1.3. In addition, Edge identified specific improvements that could be made to the how ASDVs operate.
- 1.4. In summary, Edge concluded that a change programme should be implemented which could lead to significant savings and benefits for the Council and its residents.
- 1.5. This report summarises the key recommendations made by Edge and seeks authority to implement the governance required to deliver the ASDV change programme.

### 2. Recommendations

- 2.1. That Cabinet:
  - 2.1.1 Consider and note the contents of this report, the findings and recommendations of the Edge report set out in Appendix A and B and endorse the need for an ASDV change programme.
  - 2.1.2 Approve the creation of a Cabinet Committee named the Shareholder Committee.

- 2.1.3 Delegate to the Shareholder Committee the executive functions of the Cabinet and the Portfolio Holder for Finance and Communication in respect of the ASDVs
- 2.1.4 Instruct the Shareholder Committee to design, implement and oversee an ASDV change programme.

### **3.Reasons for Recommendation**

- 3.1 The Council must ensure that it regularly and robustly reviews its commissioning practices to confirm that it continues to provide value for money to its residents.
- 3.2 The Council's ASDVs have now been operational for a number of years with the first ASDVs becoming operational nearly 5 years ago. As such it is an appropriate time to review the Council's commissioning arrangements with its ASDVs.
- 3.3 Edge's review (based on the information available to Edge) has recommended the most effective operating model for each ASDV;

Edge's recommendations have included one or more of the following solutions for each ASDV;

- To stay as an incorporated company in its current form and make improvements to governance and service delivery.
  - To dissolve the company with service delivery returning to Cheshire East Council.
  - To dissolve the company and transfer the responsibilities to another ASDV.
  - To dissolve the company and explore an alternative model such as private partnership or sale.
- 3.4 Edge have also identified a number of potential saving opportunities in respect of operating changes and enhanced commissioning as well operational improvements. Delivery will require a change programme over 2 years incorporating cultural change, performance improvement, staff development as well as the key initiatives. Edge's proposals for the change programme are detailed further within Appendix A in Part 2 of the agenda.

### **4. Other Options Considered**

- 4.1. Do Nothing: The Council could continue to provide services in the same way, but this would not provide the required check and balance that is

required as part of providing value for money for the residents of Cheshire East.

## **5. Background**

- 5.1. Given the current fiscal climate within the Public Sector, the Council must do all it can to make the best use of its resource, one essential tool to achieving this is Strategic Commissioning.
- 5.2. 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, to achieve the outcomes desired by local people

### *Edge's Review of ASDVs*

- 5.3. With this in mind a review was commissioned from Edge to see if the current ASDVs were still meeting the objectives of the Council namely to:
  - Deliver significant value to customers, residents and the Council
  - Create a sustainable competitive advantage.
  - Deliver Strong growth prospects.
  - Work in an environment where the Council is not its only customer.
  - Invest to generate a commercial return.
  - Generate year on year efficiencies or income opportunities
  - Work to become self-funding (no Council subsidy)
- 5.4. The key objectives of Edge's review were:
  - 5.4.1 To ensure that the configuration of each ASDV (and its management) is meeting the needs of the Council and the Borough's residents. This included an evaluation of the scope of services provided by each, identification of any risks to CEC, commissioning arrangements, objective setting and performance management; and
  - 5.4.2 To identify opportunities for possible financial savings and/or income opportunities that could form part of the Council's medium term financial plan.
- 5.5. Over the course of Edge's review each ASDV was evaluated through the data available including financial accounts, statutory filings, operating, agency and shareholder agreements, and performance information and by meeting key stakeholders.
- 5.6. Operational managers and staff in each ASDV as well as all Council nominated commissioners, Trade Unions, ASDV Chairs and Managing Directors were consulted as part of the review. These key stakeholders will

continue to be consulted as the change management arrangements are implemented.

- 5.7. A number of potential savings have been identified by Edge but these require further detailed analysis by the Shareholder Committee and the ASDVs to ensure that:
- a) They do not cut across initiatives already included in the Council's Medium Term Financial Strategy ("MTFS"); and
  - b) That the level of savings is realistic and deliverable.

***Key Recommendations Arising from the Review***

- 5.8. The report prepared by Edge at Appendix A outlines a number of recommendations in relation to the Council's management of ASDVs as well as recommendations for each ASDV.
- 5.9. The first core recommendation from Edge is that the current parent company to the ASDVs, Cheshire East Residents First Limited's ("CERF") board, should be decommissioned and its strategic oversight function should be transferred to a newly formed Cabinet Committee. It is recommended that this is affected by the creation of a Shareholder Committee.
- 5.10. The terms of reference for this committee will be agreed at its first meeting. However, in summary the role of the Shareholder Committee will be to provide strategic oversight of the Council's commissioning arrangements for its ASDVs. The Shareholder Committee will also design, implement and oversee the change programme required to implement the proposed changes required for each ASDV. However the Shareholder Committee will not get involved in the detail of the day to day management of each ASDV.
- 5.11. The Shareholder Committee will be subject to the Council's Committee Procedure Rules (as detailed in the Constitution). It is to be noted that Edge recommended the appointment of co-opted members to the Shareholder Committee and, under the Council's Committee Procedure Rules; the Committee will be able to co-opt any person to advise and assist its function. Co-optees must not be elected Members of the Council and would not be entitled to vote at any meeting of the Shareholder Committee.
- 5.12. The Shareholder Committee will be advised by the Chief Executive, the interim Executive Director of Corporate Services, the Director of Legal Services and the Executive Director of Place.
- 5.13. The Edge report also recommends the appointment of a Managing Director and Finance Director to support the Shareholder Committee. This is not being recommended at this stage but consideration would be given by the Shareholder Committee as to the level and type of resources that are required at the group level for the management of the Council's ASDVs.

- 5.14. The Edge report then recommends that a strategy for each ASDV should be implemented. A summary of the core recommendations for each ASDV is provided in appendix B
- 5.15. It should also be noted that a number of detailed recommendations are made in relation to each ASDV in the Edge Report.
- 5.16. Edge also recommended that a clearly defined and precise commissioning framework, including contract management, be developed for each ASDV with clearly defined roles for each commissioner and formalised structured reporting and performance review arrangements put in place.
- 5.17. The Shareholder Committee will put in place necessary arrangements to ensure that an effective change programme is established and provide strategic oversight for the delivery of these changes.

## **6. Wards Affected and Local Ward Members**

- 6.1. All wards

## **7. Implications of Recommendation**

### **Policy Implications**

- 7.1 The programme and review is in line with the Council's three year plan.

### **Legal Implications**

- 7.1. Pursuant to the Constitution (and in particular the ASDV Framework), the exercise of any of the Council's rights as a shareholder in a company is a Cabinet function. Subject to the Council's Executive Arrangements, which require the collective Cabinet to make some decisions, the Portfolio Holder for Finance and Communication has individual responsibility to make all executive decisions in respect of the Governance and Performance of ASDV.
- 7.2. Pursuant to section 15 – Discharge of functions: leader and cabinet executive of the Local Government Act 2000 and the Executive Arrangements and Cabinet Procedure Rules (as detailed in the Constitution) where Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may delegate such function to a committee of the Cabinet ("Cabinet Committee"). Even where executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them.
- 7.3. The Leader or the Cabinet may appoint a Cabinet Committee as considered necessary and appropriate to assist in the discharge of executive functions.

In making such appointments, the name of the Cabinet Committee must be specified, along with its membership (including its Chairman and, if appropriate, Vice-Chairman) and its powers. At the Annual Meeting of Council, the Leader must report to the Council a written report detailing the terms of reference and constitution of any Cabinet Committees and the names of Cabinet Members appointed to them. Pursuant to section 24 – Absence of requirement for political balance of the Local Government Act 2000 neither Cabinet or a committee of Cabinet is to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

- 7.4. The proposed Shareholder Committee is a Cabinet Committee and in summary, the Shareholder Committee would discharge the executive functions of Cabinet and the Portfolio Holder for Finance and Communication in respect of the ASDVs. Whether or not to establish the Shareholder Committee on the proposed terms of reference is a matter for Cabinet to determine. If established, the Shareholder Committee would be subject to the Council's Committee Procedure Rules (as detailed in the Constitution).
- 7.5. The arrangements in respect of the proposed shareholder committee would need to be set out in the Constitution

### **Financial Implications**

- 7.6. The recommendations contained in the report will have financial implications, as regards the potential for savings from a programme of transformation for the group of companies, and also the costs of managing and delivering the programme itself.
- 7.7. Funding for a change programme is not currently reflected in the Council's business planning and draft Budget for 2018/19. Appendix A describes the potential for savings in respect of each company; and it is recognised that in respect of particular proposals there are certain initiatives already reflected in the plans of companies and the Council's draft 2018/19-2020/21 MTFS.
- 7.8. As part of implementing the proposals and preparing the transformation programme in detail, it will be necessary to review and determine the scope for savings (as informed by Appendix A ) these have yet are to validated over and above those contained in the MTFS; and also identify the resources and expertise required (internal and external) and the associated costs of change.
- 7.9. Dedicated Programme and Project Management will be required and this will funded via utilisation of earmarked reserves (e.g. CERF Group ring-fenced reserve) as additional resources (internal/ external expertise) are required, subject to appropriate approvals for use of reserves once spending requirements have been identified.

- 7.10. Appendix A (Delivery Considerations section) refers to a level of investment in transformation resources being required over a 2-year time period. Whilst it is expected that savings will ultimately cover such costs, it may be necessary to seek budget approval in due course, in order to cash-flow the costs of change.

### **Equality Implications**

- 7.11. None

### **Rural Community Implications**

- 7.12. None

### **Human Resources Implications**

- 7.13. Transferring the service delivery to an arm's Length Company or bringing back in-house will trigger a TUPE transfer of employees who are working in or for the service immediately before the transfer
- 7.14. The Council will have to undertake the necessary due diligence to identify which employees have the right to transfer back to the Council and must be able to provide the necessary employee liability information in accordance with the TUPE regulations.
- 7.15. The Council and any arm's length company will also have to comply with the Regulations consultation requirement which stipulates that consultation on changes to terms and conditions (measures) needs to be conducted in good time before the transfer. In "good time" is not defined in the regulations but a comparison is usually drawn with the timescale for redundancy consultation which is 45 days.

### **Health and Wellbeing Implications**

- 7.16. None

### **Implications for Children and Young People**

- 7.17. None

### **Overview and Scrutiny Committee Implications**

- 7.18. None

### **Other Implications (Please Specify)**

- 7.19. None.

## **8. Risk Management**

- 8.1. There are number of risks associated with the programme. These will be captured in detail along with mitigating actions as a part of the programme governance.
- 8.2. There is a risk that if the outcome of the review is not communicated appropriately then the benefits will fail to be realised. To mitigate this, continued engagement with company Chairs, MDs, trade unions and the existing workforce at this early stage will be part of the arrangement to successfully delivering the outcomes of the review.

## **9. Access to Information**

- 9.1. In accordance with paragraph 19.4 of the access to information procedure rules, Appendix A and Appendix B are available to members on request (subject to appropriate steps being taken to protect any confidential or privileged information). The Appendices contain exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) and are therefore not for publication).

## **10. Contact Information**

Contact details for this report are as follows:

<b>Name:</b>	Christopher Allman
<b>Designation:</b>	Senior Manager Project and Change
<b>Tel. No.:</b>	01270 686689
<b>Email:</b>	Christopher.allman@cheshireeast.gov.uk