

CABINET

6 JUNE 2017

CHILDREN'S TRADED SERVICES

Portfolio Holder: Councillor Martin Potter, Educational Attainment & Improvement

Report from: Ian Sutherland, Director of Children and Adults Services

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Summary

Trading Services with schools is not new in Medway and since 2013 the Local Authority has developed services across the Council which have been traded. The majority of these services have delivered a consistent level of income on a full cost recovery basis. Whilst much progress has been made to provide a coordinated offer to schools there is the opportunity to increase income through a more commercial and flexible approach. It is proposed that this opportunity for financial benefit to the Council can be achieved by transferring traded services to Medway Commercial Group (MCG). This will ensure that the Council secures value for money, income generation and efficiencies by trading separately from the Local Statutory constraints associated with current service provisions.

The business plan, underpinned by market analysis, demonstrates that there is the potential to increase net profit by 50% between 2018/19 and 2021/22 of the financial forecast. This is a cautious estimate at this stage. A business plan has been developed for each service.

This paper sets out the potential vehicles to establish a traded service and recommends an option that is considered the most viable. This option is then explored in greater detail, including how mobilisation could work, potential risks, how the service could be structured and the financial implications.

1. Budget and Policy Framework

- 1.1 With the widespread introduction of the academy programme, free schools and the current and proposed changes to school/local authority education funding, the children's services sector is experiencing rapid change.
- 1.2 Changes to school and local authority funding include but are not limited to;
- The Early Years national funding formula which will be introduced from April 2017, requires local authorities to passport 93% (increasing to 95% in April 2018) of early years funding directly to schools and education providers. This funding would have been previously retained by Medway to operate central services.
 - The Schools Block and High Needs national funding formulas are currently out for consultation and are expected to be introduced from April 2018.
 - The removal of the Education Service Grant totaling £1.3m from September 2017.
 - Current traded services income from Medway schools is £0.856m (excluding HR services).
 - As the number of maintained schools reduces and the local authority's role in education changes this offers the Council a greater potential to increase trading with schools within Medway and beyond.
- 1.3 As local government funding restrictions continue to reduce overall budgets for the local authority, the opportunity to trade services on a commercial basis through an alternative vehicle provides a route to increase income generation. It is now timely to consider this as a realistic option.
- 1.4 The transfer of services to Medway Commercial Group Limited is a matter for Cabinet.

2. Background

- 2.1 The proposal is set out in the attached Business Case (exempt appendix). The services in scope will be moving into MCG on 1 August 2017. The services have a clear business plan to demonstrate their financial viability which has been scrutinised and signed off by the Interim Managing Director of MCG. These services deliver minimum statutory responsibilities the Local Authority has in respect of schools.
- 2.2 In summary, the following services are in scope to transfer into MCG from 1 August 2017:
- Schools Services including
 - School contracts (catering, cleaning and waste)
 - Free school meal eligibility
 - Governance Services
 - Teacher Recruitment
- 2.3 Officers will identify further potential trading opportunities in 2017-18.

3. Options

Option 1: Do nothing		Option 2: Merge with another traded service		Option 3: Local Authority Trading Company (LATCo)	
Opportunities	Threats	Opportunities	Threats	Opportunities	Threats
None identified	Trading plateaus or declines as academies join multi academy trusts and become more intelligent purchasers and the current LA services are not flexible enough to adapt to changing service needs.	Share of larger market area and existing customers	Medway does not retain individual identity in relation to commercial educational services	Opportunity to market services to a broader geographical area.	Larger companies are emerging e.g. Kent
		Shared costs and expertise		MCG is 100% owned by Medway Council	
				Transfer to MCG enables advantage to be taken of structure which is already set up	
				Provides opportunities around TECKAL contracts	
				Enables relationship with Medway schools and academies to be retained	

Option 4: Community Interest Company		Option 5: Public Sector Mutual		Option 6: Joint Venture	
Opportunities	Threats	Opportunities	Threats	Opportunities	Threats
Opportunity to work on a commercial footing	Existing services would need to have capacity to develop and maintain the totality of infrastructure of services. This may be too onerous for a small number of services initially.	This approach has been promoted by central government and could unlock a number of start up loans, investments and support	This would transfer ownership and profit away from Medway Council and therefore also any profit generated	Opportunity to generate income	Medway Council would only part own the company and would therefore only gain part of the profit.
					There are currently no obvious partners in the area with which to create a successful joint venture

It is proposed that Option 3 is the preferred way forward.

4. Advice and analysis

- 4.1 A Diversity Impact Assessment (Appendix 1) has been undertaken which has identified that there will be minimal or no impact on users. The commercial basis of MCG will provide more flexibility and have the potential to adapt services to users requirements more closely.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Service performance and quality	Ensuring the high levels of performance and outputs are maintained by services transferred.	<p>Service Level Agreement with Medway Council. Regular reports on performance to the LA Contract Manager.</p> <p>MCG is 100% owned by Medway Council and the Council retains the right to pull the service back into the Council if performance drops below an acceptable standard or if financial milestones are not met</p> <p>Contract management function in the LA will ensure standards are rigorously monitored.</p>	D2
Maintaining position in the market	Ensuring services maintain their foothold in the market and develop their market share.	<p>Carry out market segmentation exercise and clearly identify target market and ensure services are fit for purpose for that market.</p> <p>Proactivity in scanning the market for opportunities for bidding</p>	C2
Financial implications for council back office	Implications for current SLA costs for other services	Continue with current SLAs that will be agreed with departments. Joining SLAs of MCG at group level to maximise value and scope of work for Medway Council	E2
Redundancy	Potential redundancy costs for staff where work retracts	Ensure secure business plan is in place for business expansion prior to taking on additional staff	D2

6. Consultation

6.1 To date the following have been engaged:

Ian Sutherland – Director, Children and Adult Services
Carrie McKenzie – Chief People Officer
Councillor Andrew Mackness – Lead Member Children’s Services
Councillor Martin Potter – Lead Member Educational Attainment and Improvement
Headteachers
Ian Price – Interim MD (MCG)
Individual Service Managers of Services in scope
Maria Beaney – Finance Business Manager

6.2 Staff affected by this proposal will be consulted at the earliest opportunity following Cabinet decision. All TUPE implications will be undertaken in accordance with Medway Council’s Organisational Change Policy and Procedure and in line with this the Council will seek to minimise the need for compulsory redundancies wherever possible.

7. Financial implications

7.1 The income projections detailed in the business case have been prepared by the service, and scrutinised and challenged by the Interim Managing Director and the Business Consultant for MCG.

7.2 The premise underpinning transfers into the MCG is that services within the new delivery model will not cost the Local Authority any more than has been reflected in the 2017/18 budgets for in-house delivery. Indeed, it is anticipated that transfers into MCG will represent a more efficient delivery model and will therefore generate additional revenue, resulting in a transfer of a share of profit back to Medway Council. The projected growth in revenue is detailed within the attached business case.

8. Legal implications

8.1 Traded Services have provided predominantly discretionary services rather than statutory services to schools in the Medway area and has been able to charge them the full cost of providing those services in accordance with section 93 of the Local Government Act 2003.

8.2 Section 95 of the Local Government Act 2003 together with section 4 of the Localism Act 2011 enables Local Authorities to trade in any of their functions, through a company. Trading through a company places local authorities on a more even playing field with other businesses trading in similar services in the open market.

8.3 A business transfer agreement will need to be agreed between the Council and MCG to cover the terms of the transfer.

8.4 The Transfer of Undertaking Protection of Employment (TUPE) Regulations 2006 will apply to this arrangement with staffing costs and conditions, including MCG having to maintain the current LGPS or Teachers Pension Scheme (as applicable) for existing employees or future employees.

9. Recommendations

9.1 Cabinet is asked to approve the transfer of school and governance services to MCG Ltd with effect from 1 August 2017.

10. Suggested reasons for decision(s)

10.1 Transferring services to MCG represents the most time and cost effective solution that would allow Medway Council to benefit financially in the short, medium and long term. Current Services traded with schools have a consistent track record and desktop market analysis demonstrates that there is a considerable, as yet, untapped market for services.

Lead officer contact

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Appendices

Appendix 1– Diversity Impact Assessment

Exempt Appendix - Business Case for Children's Traded Services

Background papers

None

TITLE <i>Name / description of the issue being assessed</i>	Medway Commercial Group Education Services
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DATE <i>Date the DIA is completed</i>	14 February 2017
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LEAD OFFICER <i>Name, title and dept of person responsible for carrying out the DIA.</i>	Helen Jones Assistant Director – Commissioning, Business and Intelligence
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1 Summary description of the proposed change

It is proposed that traded elements of Children’s Services are transferred into Medway Commercial Group.

In scope are the following services:

- Teacher Recruitment
- Catering, Cleaning and Waste Management Services
- Governance Services
- Free School Meal Eligibility Checking
- SIMS licencing
- The Key

2 Summary of evidence used to support this assessment

Service delivery information.

3 What is the likely impact of the proposed change?

Is it likely to :

- *Adversely impact on one or more of the protected characteristic groups?*
- *Advance equality of opportunity for one or more of the protected characteristic groups?*
- *Foster good relations between people who share a protected characteristic and those who don’t?*

(insert ✓ in one or more boxes)

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age			√
Disabilty			√
Gender reassignment			√
Marriage/civil partnership			√
Pregnancy/maternity			√
Race			√

Religion/belief			√
Sex			√
Sexual orientation			√
Other (eg low income groups)			

4 Summary of the likely impacts

- *Who will be affected?*
- *How will they be affected?*

As a result of the change, services transferring to Medway Commercial Group will be able to trade on a commercial basis. Services transferring will provide the same or better services so there will be minimal or no negative impacts on users. The commercial basis of Medway Commercial Group will provide more flexibility and have the potential to adapt to users' requirements more closely. The ability to generate additional income will enable Medway Council deliver improved services to the residents of Medway.

TUPE protection will apply for employees who are transferring to Medway Commercial Group. Consultation will be undertaken with staff and unions.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- *Are there alternative providers?*
- *What alternative ways can the Council provide the service?*
- *Can demand for services be managed differently?*

A range of opportunities were considered as part of the Options Appraisal. The transfer of these services to Medway Commercial Group enables the continued availability of services and for Medway Council to benefit financially from their success. In turn this will benefit Medway residents. An alternative option considered was to retain the status quo. This would not give the services the agility to succeed in an increasingly commercial market. Other options, for example joint venture, shared service or public sector mutual would result in an element of the profit earned being retained by other organisations. The option selected gives the most financial benefit to Medway Council and, as a consequence, its residents.

6 Action plan

Action	Lead	Deadline or review date
Consultation with staff and unions	HJ	June/July
Any issues from consultation to be reported back to CADMT.	HJ	End of July
Consult with schools to refine services to better suit their needs.	HJ	Ongoing

Rigorous monitoring of implementation of statutory work	HJ	August onwards
Audit of data governance arrangements to ensure we are compliant with data sharing	HJ	July

7 Recommendation

It is recommended that the services in scope are transferred to Medway Commercial Group. This DIA screening has demonstrated that there is minimal or no adverse impact on protected characteristic groups. The change has the potential to positively impact on all groups in Medway through increased income generation.

8 Authorisation

The authorising officer is consenting that:

- the recommendation can be implemented
- sufficient evidence has been obtained and appropriate mitigation is planned
- the Action Plan will be incorporated into the relevant Service Plan and monitored

Assistant Director

Date

Contact your Performance and Intelligence hub for advice on completing this assessment

RCC:	phone 2443	email: annamarie.lawrence@medway.gov.uk
C&A: (Children's Social Care)	contact your normal P&I contact	
C&A (all other areas):	phone 4013	email: chrismckenzie@medway.gov.uk
BSD:	phone 2472/1490	email: corpipi@medway.gov.uk
PH:	phone 2636	email: david.whiting@medway.gov.uk

Send completed assessment to the Corporate Performance & Intelligence Hub (CPI) for web publication (corpipi@medway.gov.uk)