

## **CABINET**

**20 OCTOBER 2020**

### **MEDWAY COMMERCIAL GROUP - BUSINESS STRATEGY**

Portfolio Holder      Councillor Howard Doe, Portfolio Holder for Housing and  
Community Services and Chairman of Medway Commercial  
Group Limited

Councillor Rupert Turpin, Portfolio Holder for Business  
Management

Report Author:      Perry Holmes, Chief Legal Officer and Corporate Client for  
Medway Commercial Group

#### **Summary**

This Report requests Cabinet to approve Medway Commercial Group (MCG)'s Business Strategy as set out in the Exempt Appendix , to approve a loan agreement on commercial terms with MCG to consolidate the outstanding credit owed to Medway Council by MCG and to approve amendments to the corporate structure of the company.

#### **1. Budget and policy framework**

1.1. MCG operates as a Local Authority Trading Company (LATCo) that is owned by Medway Council as shareholder, and was established in 2016.

1.2. Cabinet acts as the shareholder body receiving six monthly progress reports and are responsible for reviewing the trading and financial performance of MCG and approving its Business Plan.

#### **2. Background**

2.1. The Cabinet considered a six monthly progress report on 25 August 2020 which explained that a further report would be presented to the Cabinet setting out MCG's revised Business Strategy. Following the approval at its Board Meeting on 22 September 2020, MCG now presents its Business Strategy to Cabinet for formal approval. If agreed, it will form the basis of a refreshed Business Plan which will be presented to Cabinet in February 2021.

- 2.2. As shareholder, the Council can agree to provide working capital and borrowing facilities to ensure the viability of the company.
- 2.3. The MCG Board considered the corporate structure that currently has a holding company MCG, and two subsidiaries, Medway Public Services (MPS) which has a “teckal” personality and is where contracting with the public sector takes place and Medway Commercial Services (MCS) where trading with the private sector takes place. The Board suggested that given the teckal nature of MCG there is no need for the MPS subsidiary and that it should request Cabinet approval for the cessation of that subsidiary. For MCS, the Board wanted to review the position in due course.

### 3. Business Strategy

- 3.1. The Chairman of MCG commissioned a thorough re-evaluation of the business model for MCG. That work has not been completed. The Chairman and Board of MCG wanted to give the recently appointed Chief Executive Officer, Sean Kearns, the opportunity to review the Strategy. He presented his findings and views on the Strategy to Board in September 2020.
- 3.2. The Strategy is set out within the Exempt Appendix together with a summary of the Strategy, due to the commercially confidential nature of the information contained.
- 3.3. Approval of the Strategy would include transfer of Education Traded Services back to Medway Council as well as renegotiation of Recruitment Traded Services.

### 4. Loan

- 4.1. There is outstanding money owed to the Council from MCG which reflects underperformance under the previous Board and Management, the pursuit of unviable business diversification activities and the need to engage specialist Human Resources and Accountancy support. The appropriate mechanism to consolidate that credit to the Council is to facilitate a loan, at commercial rates for the timely repayment. This also provides business certainty for MCG as it seeks to improve performance against the agreed strategic areas.
- 4.2. The proposed basis for the loan facility is set out in draft in Appendix 1.

### 5. Company Structure

- 5.1. After reviewing the structure with fresh eyes the Board of MCG has approved a simplified model with MCG being the provider of public sector facing services and a subsidiary MCS, providing private sector services. The Cabinet as the representative of the shareholder has reserved to itself decisions about the structure of the company.
- 5.2. The proposed change reflects the focus in the Business Strategy of encouraging greater activity in the public sector, building on, and harnessing

the Council's excellent network of relationships with partners, particularly in the social care sector.

## 6. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Business diversification occurs which dilutes MCG's performance	No increase in commercial performance of MCG	Approve the Business Strategy to inform a future Business Plan that is clear and focussed. All other proposals for business activity must be agreed by Cabinet.	C2
MCG cannot seek to win new contracts whilst there is uncertainty about its viability	Potential customers, contractors and partners question the viability of the business	Provide a loan facility to MCG	D2
The current company structure does not reflect actual activity.	MPS is superfluous.	Review the structure and remove MPS.	D2

## 7. Consultation

- 7.1. The MCG CEO continues to engage with Medway Council's Chief Finance Officer and Chief Legal Officer about the implications of the Business Strategy and the loan agreement. The outcomes will be reported within the next six-monthly progress update to Cabinet.

## 8. Financial implications

- 8.1. The proposals in the Business Strategy would require renegotiation of the Management fee paid by MCG.

## 9. Legal implications

- 9.1. Any loan should be in a format approved by the Chief Legal Officer. The Transfer of Undertakings (Protection of Employment) regulations will apply to the return of any service to the Council. The Council has appropriate processes in place to manage such a situation and these should be followed. The other legal implications are set out in the body of the report.

## 10. Recommendations

- 10.1. The Cabinet is asked to approve the Business Strategy, as set out within the Exempt Appendix to the report, which will form the basis of an updated Business Plan which will be presented to Cabinet in February 2021.
- 10.2. The Cabinet is asked to approve the transfer of Education Traded Services back to Medway Council from 1 February 2021, subject to Cabinet approval of the Business Strategy.
- 10.3. The Cabinet is asked to agree to delegate authority to the Chief Legal Officer in consultation with the Chief Finance Officer and the Leader of the Council to renegotiate with MCG Ltd. the matters specified in bullets 2 and 3 of the Summary section of the Exempt Appendix.
- 10.4. Cabinet is asked to agree to delegate authority to the Chief Legal Officer in consultation with and the Chief Finance Officer and the Leader of the Council to agree the terms of a loan facility to MCG.
- 10.5. The Cabinet is asked to agree to wind up Medway Public Services (MPS) as set out in paragraph 2.3 and section 5 of the report and agree to delegate authority to the Chief Legal Officer to make the necessary amendments at Companies House to effect the changes.

## 11. Suggested reasons for decisions

- 11.1. The Business Strategy demonstrates good business planning and will ensure good commercial performance and return on investment to the Council. Approval of the Strategy will underpin a refreshed Business Plan.
- 11.2. The appropriate mechanism to consolidate credit to the Council is to facilitate a loan, at commercial rates for the timely repayment.

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## Appendices

Appendix 1 – Draft Loan facility  
Exempt Appendix – MCG Business Strategy and Summary of Business Strategy

Background papers

None