

CABINET

20 March 2018

Title: Barking and Dagenham School Improvement Partnership – Update	
Report of the Cabinet Member for Educational Attainment and School Improvement	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Director: Jane Hargreaves, Commissioning Director, Education	
Accountable Strategic Director: Anne Bristow, Strategic Director for Service Improvement and Integration	
Summary	
<p>By Minute 21 (20 June 2017), the Cabinet approved the Business Case for the establishment of the Barking and Dagenham School Improvement Partnership (BDSIP). The proposal was to establish a not for profit company limited by guarantee, jointly owned by the Borough's schools and the Council which would provide both statutory and priority services, on behalf of the Council, and traded school improvement services to schools.</p> <p>The company will be jointly owned by the Council (19%) and the Borough's schools (81%) who sign up to becoming members and who will also purchase services from the company if they wish to. It will be a not-for-profit company, limited by guarantee. It will be a school company under the Education Act 2002 and as such, the Council will be the supervisory Authority with specified statutory obligations. The Company was formally registered with Companies House on 28 December 2017.</p> <p>Since the Business Case was approved by the Cabinet in June 2017, two key amendments to the arrangements have been proposed for the reasons outlined below:</p> <ul style="list-style-type: none">• Analysis of the cashflow indicates that there is a potential need for a working capital facility which could be drawn from the Council. It is estimated that this will be up to but not exceeding £200,000. The company requires this cashflow to cover payments for services provided in advance and is therefore seeking agreement to commence the relevant process.• The company, limited by guarantee as agreed by Cabinet, will be a School Company. School Companies Regulations require the formal agreement of the Council in order to enable Local Authority maintained schools to join BDSIP.	

Recommendation(s)

The Cabinet is recommended to:

- (i) Approve the formal establishment of a school company on the terms set out in the report, to which the Council shall have membership and directorships of the company;
- (ii) Give formal permission for Local Authority maintained schools to become members of the Barking and Dagenham School Improvement Partnership, in accordance with School Companies regulations;
- (iii) Approve a working capital facility of up to £200,000, only to be drawn as necessary, to cover payments for services provided in advance; and
- (iv) Delegate authority to the Strategic Director for Service Improvement and Integration, in consultation with the Cabinet Member for Educational Attainment and School Improvement, the Chief Operating Officer and Director of Law and Governance, to enter into all arrangements and agreements necessary to implement the above recommendations.

Reason(s)

To assist the Council in achieving its priorities of “Enabling social responsibility”, “Encouraging civic pride” and “Well run organisation” through the delivery of a School Improvement Partnership.

1. Introduction and Background

- 1.1 The national and local educational context continues to change, and the school system is becoming increasingly diverse and autonomous. Budget constraints are impacting on schools and local authorities alongside high expectations of continued improvement in outcomes for all children and young people. Although the role of local authorities in relation to school improvement has reduced, there is still a focus in national policy on place-based education. The future model of school improvement is of a school led system with the local authority retaining the role of advocate for children, young people and families in their area, specifically in relation to vulnerable learners.
- 1.2 Opportunities are being taken across schools and councils nationally to shape the future of education through the development of new local models and approaches, including jointly owned school and local authority companies delivering a range of services, including school improvement. The London Borough of Barking and Dagenham (LBBD), through the Council’s transformation programme, has the stated aim of becoming a commissioning council and establishing a School Improvement Partnership company
- 1.3 The proposed new model of school improvement for the Borough, is the outcome of joint working between officers, head teachers and governors, building on the strong partnership history between schools and the Council, well established school

partnerships, school to school support and successful current trading experience in some elements of the service. The vision is to offer all LBBD schools the opportunity to purchase services from a company that they own, and which will reinvest surplus to support further improvement. The ambition will be that every publicly funded school in LBBD will become a member of the company. It will be a dynamic, locally driven and supportive partnership which will attract and retain the best leaders and teachers to work in the Borough.

- 1.4 There is a strong partnership history between schools and LBBD. In an educational landscape which continues to fragment, there is a clear appetite to maintain the “family of LBBD schools” to ensure the best possible outcomes for schools and children and young people in the borough.
- 1.5 Once established, the company will be a strategic forum for the further development of a school led system across the borough through the sharing of proven effective practice and by enabling schools to design the services that will have the greatest impact. The School Improvement Partnership company will need to be sustainable and viable and, as a not for profit company, will have the ability to reinvest any surplus to allow the company to provide additional support for local schools.

2. Proposal and Issues

- 2.1 At its meeting on 20 June 2017, the Cabinet approved the Business Case for BDSIP and agreed to establish a not-for-profit company, limited by guarantee, to provide high quality, best value services to ensure continued improvements in educational standards for all children and young people in the borough. The company will enable a new and strengthened formal partnership, fit for the future, between the Council and schools.
- 2.2 The benefits of approach include the opportunity to:
 - reshape the current partnership between schools and the Council to ensure the future viability of the “family” of LBBD schools.
 - operate independently from the Council, enter into contracts and access funding not available to local authorities.
 - build a cost-effective school led education system for the borough.
 - enable schools and the Council to buy services from a company which has as its core purpose, the raising of outcomes and standards for all LBBD children and young people.
- 2.3 BDSIP will provide both statutory and priority services, on behalf of the Council, and traded school improvement services to schools. The company will also broker school to school support, bringing together the best of both school led, and Council provided support services, and will provide membership benefits for schools to include networking, support and provision of resources.
- 2.4 The company will be owned by the Council and the Borough’s schools who sign up to becoming members. All schools will be able to purchase services, should they wish to. The members of the company will appoint a board of directors who will lead the strategic direction of the company. A chief executive will be in control of the day to day running of the company, but major decisions would need approval from the board and, on occasion, company members. The Council will be both a

member of the company and a commissioner of statutory and priority services from the company. These will be delivered on the Council's behalf, through an annual Service Delivery Agreement.

- 2.5 The company, limited by guarantee as agreed by Cabinet, will be a School Company. Schools Companies Regulations require the formal agreement of the Council in order to enable LA maintained Schools to join BDSIP.
- 2.6 The School Company under the Education Act 2002 gives school companies the power to undertake the following activities:
- i) to provide services or facilities for any schools;
 - ii) To exercise relevant local education authority functions or
 - iii) To make or facilitate the making of arrangements under which facilities or services are produced for any school by other persons.
- 2.7 However, a school company cannot be set up without the consent of the Local Authority. So, Local Authority maintained schools require the formal agreement of the Council in order to join the BDSIP. When a school sets up a School company the Local Authority is designated as the "Supervising Authority" the purpose of which is outlined in the legal implications.
- 2.8 It is forecast that in the first year of trading, the School Improvement Partnership company would have a turnover of £2.29m, of which £1.33m (c.60%) is traded income from schools, and would generate a surplus of £80k, after expenditure of £2.2m. Going forward, the company will need to make efficiencies on its cost base and/or generate additional income from LBBB schools or other sources of revenue in order to maintain viability and build up reserves, which can be reinvested into services for LBBB schools. Although current financial modelling shows a projected cumulative loss of £61k in 2021/22, it is felt that this is a reasonable additional income target for the company to achieve by that point. In 2016/17, there was an underspend in the centrally retained element of the DSG, which was carried forward and used to fund the start-up costs with the agreement of schools' forum. This funding was released from underspends generated by the services that form the core of the company and there is no requirement for the company to repay these costs in future.
- 2.9 Analysis of cashflow indicates that payment terms from LBBB and future clients will be critical to ensuring that the company remains viable. There is therefore a need for a working capital facility which could then be drawn from the Council. It is estimated that this will be up to but not exceeding £200k. The company requires this cashflow to cover the payments for services provided in advance.

3. Options Appraisal

- 3.1 The option that was recommended to and approved by Cabinet on 20th June 2017, is to establish a School Improvement Partnership Company limited by guarantee. The benefits include opportunities to; reshape the current partnership between schools and the Council to ensure the future viability of the "family" of LBBB schools; operate independently from the Council; enter into contracts and access funding not available to local authorities; build a cost effective school led education system for the borough; enable schools and the Council to buy services from a

company which has at its core purpose, the raising of outcomes and standards for all LBBB children and young people.

- 3.2 Services will be provided by the company up front, but current payment terms mean that these services are paid for at a later date. This necessitates the need for a working capital facility up to but not exceeding £200k which could be drawn from the Council until such a time that the company is able to build its own reserves.

4. Consultation

- 4.1 A review was commissioned in 2016 by the Council to understand the views of Schools Forum members on the future of school improvement services and partnership working. Support was mostly positive. A further consultation was conducted in January 2017. This included meetings and an online survey with Head Teachers and Chairs of Governors to gather their views on both current services and the development of the School Improvement Partnership Company. Following this exercise, a decision was taken to support the development of the proposed new company.
- 4.2 The proposals in this report were considered and endorsed by the Council's Corporate Strategy Group (CSG) on 18 January 2018.

5. Financial Implications

Implications completed by: Katherine Heffernan, Group Manager - Finance

- 5.1 As set out in this and the previous report to Cabinet, the School Improvement Partnership is forecast to have a turnover of £2.29m which is drawn from a number of sources including traded income from schools and services commissioned by the Council using a mixture of DSG centrally retained funding and general fund budgets. This maintains funding at the same level as in 2017/18. There are no savings expectations currently written in the MTFs. There is an implicit assumption however that the company will need to absorb reductions in DSG funding in future years.
- 5.2 The business plan shows that the operating margin of the company is likely to be very narrowly balanced with only a small surplus forecast in the first year and losses in later years. This is a financially risky position with little contingency and minor adverse events could result in further trading losses. The new company will therefore need to work hard to make operating efficiencies and increase its income in order to ensure its financial sustainability.
- 5.3 The case for the establishment of the company therefore rests on other grounds than financial ones. It should however be noted that if the Council wished to continue providing these services without setting up a company it would also be exposed to many of the same risks.
- 5.4 This report recommends the establishment of a working capital credit facility of up to £0.2m. This is a maximum and will only be drawn as necessary. Interest will be charged at commercial rates. As liquidity/cashflow is a major challenge for new entities this credit facility reduces the risk of failure in the first years of trading for the company. However, Cabinet are advised that the decision should be made in the

knowledge that when funding is advanced to a separate entity there is always a risk of non-repayment especially in instances where the debtor has relatively small amounts of collateral.

6. Legal Implications

Implications completed by: Assaf Chaudry, Major Projects Solicitor

- 6.1 Local Authority Maintained Schools in exercising of their statutory powers under section 11-13 of the Education Act 2002, School Companies Regulation 2002 and the School Companies (Amended) Regulation 2014 can set up a school company. However, the schools can only set up such a company with the consent of the local educational authority. The local authority can refuse to provide consent to a school becoming a member of the company on the following grounds:
- a) the school is subject to special measures;
 - b) the school has serious weaknesses;
 - c) the LEA considers that the school is likely to become subject to special measures or be assessed as having serious weaknesses within the next year;
 - d) the school has a deficit budget;
 - e) the GB of the school has within the last 3 years been a member of a school company which became insolvent at a time when the GB was a member or
 - f) the GB of the school has been a member of a company which failed to act in accordance with these regulations within the last 3 years.
- 6.2 Under the School Companies Regulation 2002 each school company must have a local education authority designated as its Supervising Authority. This role means that the supervising authority has a duty to monitor the management and finance of the school company and ensure that the company isn't poorly managed or there is a risk of the company becoming insolvent.
- 6.3 This report recommends the establishment of a working capital credit facility of up to £200k. This will be as a loan, the terms of which must not breach the State Aid rules.

7. Other Implications

- 7.1 **Risk Management** – The risk management implications were covered in the Full Business case that was approved by Cabinet on 20 June 2017.

Public Background Papers Used in the Preparation of the Report:

- “School Improvement Partnership Full Business Case” Cabinet report and minute, 20 June 2017
(<https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=180&MId=9410&Ver=4>)

List of appendices: None