



## Committee report

Committee	<b>CABINET</b>
Date	<b>9 NOVEMBER 2017</b>
Title	<b>OPTIONS FOR THE FUTURE ARRANGEMENTS OF CHILDRENS SOCIAL CARE AND EDUCATION SERVICES ON THE ISLE OF WIGHT</b>
Report to	<b>CABINET MEMBER FOR CHILDREN'S SERVICES</b>

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### EXECUTIVE SUMMARY

1. This report considers the options open to the council for the future management arrangements of its children's services. Upon conclusion of the five-year strategic partnership with Hampshire County Council in June 2018, the council now needs to consider how it intends to deliver children's services into the longer term. The strategic partnership with Hampshire County council arose out of a Statutory Direction put in place by the Secretary of State to secure the necessary improvements to children's safeguarding and education services on the Isle of Wight following a judgement of "inadequate" from an Ofsted inspection in 2012.
2. Examination of the options has been undertaken, and consideration given to the pros and cons, risks and financial implications of each. As a result, Cabinet is recommended to enter into a new period of a strategic partnership with Hampshire County Council as being the option determined to provide the best possible opportunity to deliver continued improvements in outcomes for children and young people on the Isle of Wight.
3. Consideration has been given to the legal processes by which it will be necessary to enter into a new term of engagement as the council moves from an enforced period of partnership into a voluntary term of engagement. A partnership agreement is already in place but this will require new heads of terms for future performance monitoring to be undertaken. Cabinet is also recommended to delegate to the Chief Executive in consultation with the Cabinet Member for Children's Services and Cabinet Member for Resources to determine the partnership outcomes; required performance outputs and resource requirements, for integration to the new partnership agreement together with any amendments required to the partnership agreement so that it reflects the current position and not the position at the time of the direction. An outline of those heads of terms, are appended to this report at Appendix A.

### BACKGROUND

4. As a result of an Ofsted inspection into the council's children's safeguarding service in 2012, the council was judged to be inadequate in respect of the effectiveness of its

arrangements to protect children on the Isle of Wight. As a result, the Department for Education issued a Statutory Direction requiring the council to enter into a strategic partnership with Hampshire County Council for a period of five years to deliver the necessary improvements for both children's safeguarding and education services.

5. The Cabinet of the time at their meeting of 19 June 2013 undertook the formal constitutional decision making required to enter into the strategic partnership with Hampshire County Council. However, they determined that this would be subject to the views of Full Council at their meeting of the same date. Full Council duly endorsed the decision of the Cabinet and as a Full Council function approval was also given to the appointment of John Coughlan, then Director of Children's Services for Hampshire County Council to act in the capacity as the Director of Children's Services for the Isle of Wight Council with effect from 1 July 2013.
6. Under the terms of the strategic partnership, the council's statutory duties and responsibilities remain and as such this means that the overall political control and accountability for the delivery of outcomes for children's services on the Isle of Wight is retained. The Director of Children's Services has full delegated responsibility for the strategic and operational management of all children's services functions, in accordance with the council's constitution, scheme of delegations and policy framework.
7. Since the inception of the strategic partnership, there has been regular reporting undertaken through relevant committees on the progress being made to secure the required improvements. As required under the ministerial direction, a Children's Improvement Board was also established and independently chaired by Professor Ray Jones.
8. Ofsted returned in June 2014 to undertake a re-inspection of the Isle of Wight's arrangements for school improvement. Ofsted's judgements were overwhelmingly positive and described the arrangements put in place through the strategic partnership as "effective" meaning that the work being done was considered to be leading to schools improving and children and young people doing better.
9. Ofsted returned again in September/October 2014 to undertake an unannounced inspection of services for children in need of help and protection, looked after children and care leavers, utilising a new and tougher single inspection framework. Ofsted's judgements saw the council's arrangements moving from being inadequate to requires improvement. This judgement moved the council in line with the majority of local authorities reviewed under this new regime, thus demonstrating that significant progress had been secured in what was a relatively short period of time.
10. In February 2015, the Department for Education formally reviewed the progress being made against the agreed improvement plans and concluded that while the Statutory Direction should remain in place, the Children's Improvement Board was no longer required given the rapid improvements that had been made to the Local Safeguarding Children's Board in holding partners to account for the safeguarding of children on the Island.
11. In November 2015, Steve Crocker was appointed as the Director of Children's Services as a replacement to John Coughlan who moved to his new position as Chief Executive of Hampshire County Council.

12. In September 2016, a summary report was presented to members detailing the evidence of the progress made since the inception of the Children's Services strategic partnership between Hampshire County Council and the Isle of Wight Council together with the identification of the areas where further practice and management improvements were required and which would form the basis of revised improvement plans.
13. In June 2017 Department for Education officials again reviewed the progress of the partnership under the terms of the statutory direction and were extremely positive about the progress made.
14. The council's Internal Audit Service (delivered under service contract with Price Waterhouse Coopers) undertook an audit of the partnership arrangements with Hampshire County Council for the delivery of children's services. This review examined the strategic partnership documentation; supporting operational plans; reporting mechanisms and arrangements for exit planning for when the Statutory Direction reaches its conclusion. The outcome of that review concluded that there was satisfactory evidence to suggest that the partnership was working to the benefit of the council in its improvement journey, with a few minor suggested improvements required.
15. The strategic partnership agreement is due to expire in June 2018 and consideration now needs to be given to the options for the longer term management arrangements of children's services on the Isle of Wight. The options open to the council in this respect are considered to be:
  - 15.1 To let the strategic partnership agreement with Hampshire County Council expire in June 2018 and for the Isle of Wight Council to take back the strategic management responsibility for children's services and to develop alternative business models for aspects of children's social care and education.
  - 15.2 To extend the current strategic partnership with Hampshire County Council into the longer term, with break clauses in the partnership agreement to review after each substantive Ofsted inspection/every five years.
  - 15.3 To enter into a new strategic partnership with another local authority with break clauses in the partnership agreement to review after each substantive Ofsted inspection/every five years.
  - 15.4 To commission/create a not for profit Trust for the alternative delivery and governance arrangements for children's social care and education outside the operational control of the local authority.

## STRATEGIC CONTEXT

16. The council's Corporate Plan 2017 – 2020 establishes twelve outcomes as measures of success in achieving the overall ten-year vision for the Isle of Wight to be an inspiring place in which to grow up, work, live and visit. At the heart of this vision is the stated outcome that "all young people will have the best start in life so that they can fill their potential". The council has also set out its commitments in its strategy "Excellence in Education" to secure 100% of schools being rated as good or better by 2021. It is essential therefore that there continues to be robust arrangements in place for the

strategic and operational delivery of children's services and its related functions in order to provide confidence and assurance that continued and sustained improvements can be secured and maintained.

## CONSULTATION

17. There are no specific requirements for formal consultation to take place now that the council has the ability to determine what future management arrangements are considered to be appropriate for the longer term delivery of children's services on the Isle of Wight. However, the council does have statutory obligations (as set out in the legal implications of this report) for the delivery of children's services and must be assured that whichever option it chooses affords the best possible outcomes to be achieved for the Island's children and young people. Having received a judgement of inadequate by Ofsted in 2012 in respect of the effectiveness of its arrangements to protect children on the Isle of Wight, this did not place the council in a strong position with regards to its choices in the short term. As such it will be important to take into account the feedback from Ofsted and the Department of Education from subsequent inspections as to the progress made as a result of its strategic partnership with Hampshire County Council when evaluating alternative methods of service delivery.
18. Members have been kept informed of the progress made against the agreed improvement plan through the council's strategic partnership with Hampshire County Council. All aspects of its delivery have also been open to scrutiny. There is demonstrable evidence of the improvements that have been secured thus far, including the multi-agency local safeguarding children's board, charged with securing the necessary professional collaboration to work together to keep children safe, evidence of the relationships established through the work of the partnership.
19. There has throughout the life of the strategic partnership with Hampshire County Council, been a consultative forum in place for staff and recognised trade unions to meet and discuss matters of importance arising out of the leadership and management of children's services and to keep them informed of progress, expectations and developments.
20. Improvements have been substantiated by Ofsted and the Department for Education in their follow on inspection and whose inspectors will have met with partner organisations, service users and staff to inform their judgements.

## FINANCIAL / BUDGET IMPLICATIONS

21. The costs associated with the delivery of children's services must be a consideration within the context of affordability within the council's overall financial envelope and constraints that exist. Whichever option pursued it must be capable of demonstrating value for money and a strong return on investment in delivering sustained improvements and outcomes for children and young people on the Isle of Wight.
22. The current budgetary provision for the delivery of the strategic partnership with Hampshire County Council is circa £1.3 million per annum. This makes provision for the allocation of an agreed percentage of Hampshire County Council officer time, for work undertaken for the Isle of Wight Council, plus a 15 per cent overhead charge to cover additional administrative costs and travel expenses. There is an additional £700,000 per annum charge for the delivery of other service support activities, outside of the

partnership agreement and which could be subject to separate review. These include the hosting of the council's social care database system; out of hour's service; school property services and school improvement programmes. Any new partnership agreement that is entered into will need to ensure that it remains within this current budgetary provision.

23. As a result of the strategic partnership with Hampshire County Council, there have been some £4.3 million savings delivered in the delivery of children's services in the period 2014 to 2016, with a further potential £1.2 million identified for delivery within the current financial year.

## LEGAL IMPLICATIONS

24. Specific duties under the Children Act 1989 stipulate that the local authority is required:
- To safeguard and promote the welfare of children within their area who are in need; and
  - So far as is consistent with that duty, to promote the upbringing of such children by their families by providing a range and level of services appropriate to those children's needs
25. The local authority also has duties under the Children Act 1989 to provide accommodation for any child in need within their area who appears to require accommodation of them and further duties towards children that are being looked after by them.
26. Under the Children Act 2004, the council must make arrangements for ensuring that its functions are discharged having regard to the need to safeguard and promote the welfare of children in its area. This is defined in the government guidance "Working Together to Safeguard Children (2013)" as:
- Protecting children from maltreatment
  - Preventing impairment of children's health or development
  - Ensuring that children are growing up in circumstances consistent with the provision of safe and effective care
  - Taking action to enable all children to have the best outcomes
27. There are also a number of specific duties to organise and plan services and to safeguard and promote the welfare of children and young people. Such duties are defined within the remit of the statutory position of Director of children's services (section 18 of the Children Act 2004). It is essential that the Director of Children's Services and senior managers reporting into that role have the relevant skills, experience, knowledge and competence in safeguarding and child protection.
28. The local authority is the lead agency and is responsible for ensuring children in need of protection receive the required services. It also has a statutory responsibility for ensuring that there is a Local Safeguarding Board in place and that it is fulfilling its roles and responsibilities under the "Working Together to Safeguard children" guidance.

29. Where the Secretary of State is satisfied that a local authority is failing in any respect to perform any function as determined by statute, then he may make such directions as is considered necessary to secure performance to an adequate standard. In the case of the Isle of Wight, the direction issued by the Secretary of State identified that the council must enter into a strategic partnership with Hampshire County Council for a period of five years unless revoked earlier by the Secretary of State.
30. At the conclusion of the statutory direction in June 2018, subject to any revisions the Secretary of State may consider necessary, the council will be free to put in place the longer term arrangements for the leadership and management of children's services it determines are appropriate and which are capable of providing assurance that outcomes for children and young people under its statutory obligations can be met.
31. Utilising the power to trade under section 1 of the Local Authorities (Goods and Services) Act 1970, a local authority has the power to enter into an agreement with any public body for the supply of administrative, professional or technical services. However, any agreement is subject to the council having complied with the public procurement regulations. An exemption applies where the agreement between two public bodies is one where there is a sharing of resources, that the agreement is one of partnership working rather than it being merely a supply of services which would indicate a contract for services arrangement.
32. The partnership between the Isle of Wight Council and Hampshire County Council has evolved during the last four years to one where the arrangement is beneficial to both councils, not simply in financial terms but for example:
- The Area Director (Isle of Wight) is a member of children and families management team and contributes to the development of policies, procedures and practice across the two local authorities;
  - All service managers are part of the Hampshire County Council and Isle of Wight Council wider children and family's management team with shared key strategic responsibilities across both organisations;
  - All team managers take part in service wide meetings and work across the partnership to develop specific projects;
  - Isle of Wight Council staff have engaged in peer reviews of Hampshire County Council's children's services on a regular basis (Hampshire County Council staff undertake an annual peer review of the Island's children's services);
  - Isle of Wight children's service staff contributed to the development of the Department for Education innovations programme across both organisations and are currently supporting the 'partners in practice' developments in Hampshire County Council;
  - Isle of Wight children's services staff contribute to task and finish groups regarding specific projects across partnership
  - There has been a range of secondment opportunities made available for both Isle of Wight staff and Hampshire County Council staff within respective organisations (two secondments to the Isle of Wight Council and four secondments to Hampshire County Council);
  - The Area Director (Isle of Wight) led and developed the HSCB and IWSCB Neglect Strategy and toolkit;
  - More recently Isle of Wight Council staff contributed to improvement work being led by Hampshire County Council with Torbay children's social care peer support visits

## EQUALITY AND DIVERSITY

33. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
34. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions. Improving outcomes for children and young people will have benefits for each of the protected characteristics but have the most marked impact upon the life chances of the most vulnerable. In determining the future strategic and operational management arrangements for children's services, it is imperative that equality and diversity is an integral part of service delivery and where necessary that full equality impact assessments are undertaken to inform decision making in respect of any service or policy changes. However, for the purposes of this report, the recommendation proposed relates to the method by which strategic and operational management will be undertaken. Given the evidence thus far of the significant improvements already secured, ratified by external inspection, it is not considered that there are any specific implications in respect of the recommendations offered in this report.

## OPTIONS

35. **Option 1: *To let the strategic partnership agreement with Hampshire County Council expire in June 2018 and for the Isle of Wight Council to take back the strategic management responsibility for children's services and to develop alternative business models for aspects of children's social care and education.***

### **Pros and cons:**

- 35.1 Under the strategic partnership, the Isle of Wight Council retains full political accountability, complete financial responsibility and the full employment of Isle of Wight staff. The Director of Children's Services for Hampshire County Council fulfils the duties and responsibilities of this role for the Isle of Wight with the support of the Hampshire County Council's children's services departmental management team. The Director has full operational performance responsibilities and Hampshire County Council managers have full management rights with regard to Isle of Wight staff but who operate within the delegated decision and policy framework of the Isle of Wight Council.
- 35.2 Naturally, over the lifetime of the strategic partnership thus far, much of the service provision has been redefined as necessary to secure the required improvements. This option would therefore necessitate the council to identify alternative business models for the delivery of children's social care and education services for the Isle of Wight. Children's services currently being delivered through the Hampshire Partnership (and which would therefore need to be considered in an alternative delivery model) would include:
- residential placements
  - fostering short breaks (respite care)

- supervised contact
- children with disability
- care leavers
- Multi Agency Safeguarding Hub (MASH)
- Social care IT client case system
- School improvement
- Inclusion services
- Commissioning of Special Educational Needs (SEN) and alternative provision places
- The statutory function of the virtual Headteacher
- Post-16 Education
- Early education and childcare
- School admissions
- Home to school transport commissioning
- Social care and education data and information reporting
- School places planning
- Schools capital function
- Support for schools in financial difficulty
- Complaints function
- Staff development and training (for the whole council)
- Adoption (this service is being combined with Hampshire, Southampton and Portsmouth to create a regional adoption agency).

35.3 The vast majority of staff in these functions are directly employed by the Isle of Wight Council and are based on the Isle of Wight. The main contribution of the partnership is the senior management and leadership. Key officers that are currently shared with Hampshire County Council would need to be 'replaced' if the partnership ceased would be:

- Director of Children's Services
- Deputy Director of Children's Services
- Deputy Director – Education & Inclusion
- Assistant Director of Access, Performance and Resources
- Head of Service - Information, Transport and Admissions
- Head of School Organisation
- Head of Service - Strategic Development & Procurement
- Head of Service – Workforce Development
- Head of Service – Education Improvement
- Head of Service – Youth Offending Service
- Head of Service - Complaints

35.4 There are a number of options that could be considered in the future delivery of children's social care and education services, including for example establishing our own in-house residential placement facility; Independent Fostering Agency; creating a short breaks charity that could fundraise to develop a greater range of on Island activities; engaging with sub/regional commissioning and local providers; establishing a combined health and social care organisation that integrates children, transitions and adult services, developing a care leavers academy that combines social care, mental health, housing, College/training providers and the



Chamber of Commerce to prepare care leavers for adulthood including parenthood etc. to name just a few.

- 35.5 The creation and establishment of alternative models of service delivery will, however, require significant additional staffing capacity and could also detract valuable officer time that are currently focussed on the delivery of the improvement programme. Should in-house or strategic partnership options not be available, this would necessitate procurement specifications and contract tendering arrangements to be put in place in order to satisfy public sector procurement regulations, all of which will require dedicated officer resource and may incur additional costs to the council.
- 35.6 The council is ambitious in its intention to reach an Ofsted judgement of 'good' at the next inspection of social care, which is likely to take place during 2018/19. This would indicate that improvement has continued throughout the strategic partnership period but it will be necessary to demonstrate that this improvement could be sustained once the partnership concludes in 2018.
- 35.7 This option offers the ability for the council to regain direct strategic management control and influence over the appointment of senior management roles although success would be contingent on appointing a Director of Children's Services who has sufficient reputation and standing and comes from a local authority which is rated as 'good' or 'outstanding'.
- 35.8 The ability to provide quality services alongside the opportunity to intervene in the case of failure makes continuing in-house provision a low risk option for the council. This is providing the quality and improvement continues and the service remains able to anticipate failure and take corrective action.
- 35.9 Under central government proposals to reform children's social care, there is an expectation to see more children's services delivered through alternative delivery models (ADM). These ADMs include not for profit Trusts (such as Slough) but also the partnership arrangements such as those between Hampshire County Council and the Isle of Wight Council, with a target that by 2020, over a third of all current local authorities are to be delivering their children's services through a new business model or be actively working towards a different model. This option could therefore, depending on the delivery models considered, be counterintuitive to the national policy direction.
- 35.10 Ofsted is consulting on changes to their inspection arrangements which would lead to an increase in the frequency and focus of inspections, especially those judged 'inadequate' or 'requires improvement'. The Isle of Wight Council voluntarily underwent a thematic pilot inspection in July 2017 for children in need and child protection services in order to assist Ofsted in testing the methodology for the new inspection framework. The feedback received from this pilot inspection was very encouraging, indicating that the current arrangements continue to be robust and demonstrating strong outcomes and continued improvement. With the next Ofsted inspection likely to take place during 2018/19, it is considered to have provided a good foundation of preparation for that inspection when it arrives. To disrupt that progress by a change of direction in

strategic leadership and operational management could be detrimental to the significant progress and improvements secured thus far.

- 35.11 This option would require an increase in the staffing establishment but the extent to which this would be necessary will be dependent upon the business models chosen for the future delivery of children's services functions. At a time when the council continues to be faced with significant financial challenges both in the short and longer term following a period of local government reform, it is unlikely that the council will be in a position to secure the additional funding necessary to achieve the outcomes that this option may require. There also remain significant financial challenges of delivering preventative and early help interventions that reduce demands on children's social care in terms within the current market options and which continue to put pressure on existing budgetary constraints.

## **Risks**

- 35.12 The high turnover of senior managers historically within Isle of Wight children's services (six Directors of Children's Services in the eight years prior to the strategic partnership including the Director of Children's Services at the time of inspection being a combined role of Director of Children's Services and Director of Adult Services) caused instability, frequent reorganisation and churn. This combination ultimately contributed to an 'inadequate' Ofsted judgement. The strategic partnership with Hampshire County Council over the last four years has afforded stability, consistency and resilience of leadership to children's services which can be evidenced by the outcomes secured thus far by way of improvements. To move to alternative business models could mean that this option risks that this could happen again.
- 35.13 Another factor of Ofsted's judgement of inadequate for the Island's children's services in 2012 is that we had become professionally isolated and self-referential. Without an external relationship with a local authority judged 'good' and 'outstanding' for leadership and management, there is a risk that this option could again lead to deterioration in social work practice.
- 35.14 At the commencement of the strategic partnership, there were significant social worker recruitment and retention difficulties with a heavy reliance on agency staff. A key element of the improvement programme has been focussed on workforce development, including concentrating on reducing caseloads and improving the quality of supervision and practice standards thus enabling staff to feel well supported and managed. This alongside a targeted recruitment and retention strategy to attract applicants to the island, it has been possible to minimise the need for agency staff. New social workers recruited during and because of the strategic partnership (and existing social workers who chose to stay) may decide to leave leading to an increase in the numbers and cost of agency social workers which was another contributory factor in children's services judged 'inadequate'.
- 35.15 Any reduction in social work management oversight of social work practice because of the development of alternative business models risks affecting the quality of social work, which in turn would reduce outcomes for children and Ofsted rating Isle of Wight children's social care as 'inadequate'.

- 35.16 Meaningful school improvement requires access to a large number of staff with sufficient expertise across a range of functions, place planning, inclusion, special educational needs, teaching and learning, curriculum, leadership succession. The Isle of Wight budget is unlikely to be able to fund this depth of expertise and therefore generalists would have to be appointed. This puts at risk the improvements that have taken place to date.
- 35.17 The ministerial direction remains in place until June 2018. Should the council determine that it wishes to return leadership and management of children's services to within the council's control and/or through alternative arrangements, the Department for Education may reconsider their views as to whether the direction could be lifted.
- 35.18 To undertake a full procurement exercise for the commissioning of new services that may be required, could bring greater insight of what the market has to offer as well as to afford the opportunity to fully evaluate quality and cost considerations. Conversely, it may bring with it the risk that the market is insufficient to provide the required service solutions, leaving the council vulnerable to gaps in provision and an inability to meet its statutory obligations.

**Financial considerations:**

- 35.19 Payment from the Isle of Wight Council to Hampshire County Council for the strategic management of children's services is on a full cost recovery basis. Payment is defined within the partnership agreement as the direct salary costs associated with the provision of services, plus an allowance for direct overhead costs, plus a percentage rate to recover other Departmental overheads and a further percentage rate to recover other back office and support service activities. Current budget provision for the strategic partnership is approximately £1.3 million per year.
- 35.20 If this option were to be pursued, not paying for the strategic management from Hampshire County Council means that the financial commitment to continue to pay for strategic management remains. The Isle of Wight Council would as a minimum need to recruit and retain a Director of Children's Services. Utilising the council's current pay framework, the maximum salary level would be £106,576 per annum (£145,202 including on-costs). However, it is unlikely that the council could attract the calibre of officer required at this level of remuneration. It is anticipated therefore, that this would more likely need to be in the region of £130,000 - £150,000 (and therefore a total cost of between £182,000 and £213,000). Consideration would also need to be given as to how the current support from Hampshire County Council's children's services departmental management team would be replaced and associated benefits replicated. To replace the current posts that the council currently has access to, as set out in paragraph 35.3 above, would be in the region of £1.2 million in salary costs alone (using the council's pay framework for illustrative purposes one Assistant Director at £91,452, with on-costs £124,437; seven Heads of Service at £88,202, with on-costs £119,202 culminating in a total cost of £839,852 and two Deputy Directors at £95,515, with on costs £120,015, a total cost of £260,000. This is without any associated recruitment campaign costs. Whilst it may not be necessary for all of those positions to be replaced, and indeed there could be potential for some of

these roles to be combined, there will be significant impact for the council in the loss of access to this wide range of specialist expertise.

35.21 The Local Government Association has published research entitled 'A Brave New World: Is inspection improving children's services?' The research estimates that the financial costs of failing an Ofsted inspection was between £3 million and £10 million. This includes new recruitment costs, the enhanced costs of interim staff and agency workers' fees. It also included the costs of improvement support, whether from within the council and its partners or external organisations.

35.22 There would also be additional costs incurred by this option as it would be necessary to establish additional management time and capacity to develop alternative models of service delivery and the rolling out of alternative delivery models whilst maintaining a continuity of service prior to the alternative models going live.

35.23 Should this option be recommended a full business case would need to be developed in order to establish the necessary detail to inform decision making.

36. ***Option 2: To extend the current strategic partnership with Hampshire County Council into the longer term, with break clauses in the partnership agreement to review after each substantive Ofsted inspection/every five years, or***

***Option 2a: To enter into a strategic partnership with another local authority.***

### **Pros and cons**

36.1 This option would ensure a continuity of the improvements secured during the period of the partnership and in meeting the council's ambition to get to a 'good' and then an 'outstanding' Ofsted rating. This option addresses the professional isolation the Isle of Wight has previously experienced, affords challenge to practice and minimises the risk of being too self-referential when it comes to benchmarking good, safe social work practice. Staff would continue to have access to wider professional networks and secondment opportunities between each of the local authorities which encourages the sharing of good practice, resources and experience. There are excellent examples of the secondment of Isle of Wight staff to Hampshire County Council and who have returned to secure senior positions with the council and who now form part of the children's services leadership and management team. The partnering arrangement has raised the professional profile of the Isle of Wight and has been good for recruitment and retention of social workers which is a challenge nationally and even more so as an island locally.

36.2 There has been a demonstrable track record of sustained improvements made over the term of the partnership as evidenced in the various reports to members (recorded as background papers at the end of this report) and supported by external validation through Ofsted and the Department for Education. As a result of the council's voluntary engagement in a thematic pilot inspection in, it has also been possible to establish feedback that suggests the improvements secured as a result of the partnership are becoming embedded and afford a robust platform for further improvements to be made. This will stand the council in good stead for when Ofsted return in 2018/19 for their next formal inspection utilising their new

inspection framework. To change direction in respect of leadership and management arrangements at this point in time could severely jeopardise the momentum and stability gained thus far, for the council to reach its short and long term corporate plan outcome and measures for all young people to have the best start in life so that they can fill their potential and for a well education and skilled community.

- 36.3 The Isle of Wight would continue to have access to a broad range of educational capacity so that the improvements made to date in relation to educational attainment, quality of schools and attendance can be built upon. The wider work between schools on the Island and within Hampshire can continue to be built upon through targeted facilitation.
- 36.4 There is already a detailed partnership agreement in place that sets out the agreed operational arrangements. However, it will be necessary to consider new heads of terms for the partnership and to upon which future performance monitoring can be undertaken. These adjustments will be based around the continued delivery of the council's statutory duties and the outcomes set out in the Corporate Plan. The Chief Executive could be afforded delegated authority, in consultation with the Cabinet Member for Children's Services and Cabinet Member for Resources to determine the expected partnership outcomes; required performance outputs and resource requirements, for integration to the new partnership agreement together with any amendments required to the partnership agreement so that it reflects the current position and not the position at the time of the direction. An outline of those heads of terms, are appended to this report at Appendix A.
- 36.5 The County Council Network 2015 report 'Delivering Children's Services in Challenging Times view is that the *'government should prioritise partnerships between local authorities to improve 'failing' children's services departments, rather than placing them in the control of democratically unaccountable independent trusts.'* [www.countycouncilsnetwork.org.uk/library/july-2013/file113/](http://www.countycouncilsnetwork.org.uk/library/july-2013/file113/). This affords the council confidence and comfort that it is taking the best possible action to improve children's services on the Isle of Wight.
- 36.6 The council could enter into a partnership with another local authority other than Hampshire County Council. However, due to the location of the Island, it would ideally need to be an authority that is close by to allow for accessibility and to minimise travel and the associated costs with it. It should also be an authority that has been rated as 'good' or 'outstanding' and to be of sufficient size to afford the capacity necessary to provide strategic leadership and management of the Isle of Wight's children's services that still has improvements to be made. None of those closest authorities were categorised at that level in their last Ofsted inspections.

## **Risks**

- 36.7 Hampshire County Council may decide not to continue the partnership arrangement beyond the current term stipulated in the statutory direction. However, as a result of on-going discussions, it is considered that this is a low risk although it will require a formal decision to be taken by Hampshire County Council through their committee structures and this has been timetabled to take place

following the council's decision whether or not to make an offer for the entering into a continued strategic partnership under new heads of terms.

- 36.8 The ministerial direction that determines that the council is required to work in partnership with Hampshire County Council for a period of five years (which expires in June 2018) is yet to be reviewed. The Department for Education may consider it necessary to extend that direction, meaning that the council must maintain its partnership arrangement or indeed stipulate that a different set of arrangements are required. This is considered to be a low risk from this option's considerations but should the council determine that this route be the preferred option, the partnership agreement would need to be amended so that it could be revoked by either local authority with three months' notice without agreement from the Secretary of State should the direction be lifted.

### **Financial considerations**

- 36.9 The cost of the continued investment by the Isle of Wight into the partnership needs to be weighed against the likely costs incurred if Ofsted rate the Isle of Wight as 'inadequate' post the conclusion of the original five year partnering arrangement. Entering into a new partnership agreement also provides opportunity to set out a new heads of terms for required delivery outcomes and also presents the opportunity to review the level of support necessary and the costs associated with it.

37. ***Option 3: To commission/create a not for profit Trust for the alternative delivery and governance arrangements for Children's Social Care and Education outside the operational control of the local authority.***

- 37.1 This option is to commission/create a not-for-profit Trust for the alternative delivery and governance arrangements for children's social care and education, outside of the operational control of the local authority.

- 37.2 In May 2014, the Children and Young Persons Act 2008 was amended to allow the majority of children's services to be delegated to not-for-profit third parties. The Isle of Wight Council could commission a not-for-profit organisation for the alternative delivery and governance arrangements for children's social care and education, outside of the operational control of the local authority. This could be an existing organisation or involve the creation of a new organisation such as a Trust. The following are examples of local authorities that have (or will have) established alternative commissioning arrangements for children's services. These are either under statutory direction from the Department for Education because they received an 'inadequate' rating from Ofsted or have been entered into voluntarily.

37.3 **Achieving for Children**

Kingston upon Thames was rated as inadequate by Ofsted in July 2012. Richmond was rated as good by Ofsted in May 2012. Kingston upon Thames was subsequently rated as good by Ofsted in August 2016 as Achieving for Children (AfC). Both local authorities voluntarily delegated child protection functions to a third party provider AfC. AfC is a community interest company owned by the Royal Borough of Kingston upon Thames and the London Borough of Richmond and is commissioned by the two local authorities to provide children and family services.

#### 37.4 **Doncaster**

Doncaster has been twice rated as inadequate by Ofsted (November 2012 and November 2015). The Doncaster Trust was established in October 2014 and was the first children's social care organisation in the country to be run independently from a local authority. The Doncaster Trust is constituted as a private company not as a community interest company or mutual. A monitoring visit in August 2016 found that the local authority and the Trust were making significant progress from a low baseline to improve services for children and young people in need of help and protection.

#### 37.5 **Slough**

Slough was rated inadequate by Ofsted in November 2013. Following the 2013 inspection, the Department for Education commissioned an independent review, published in July 2014, to advise on how best to deliver children's social care services in Slough. In October 2014, the Secretary of State intervened under section 497A of the Education Act 1996 and directed that an independent trust should be appointed to deliver children's services in Slough. The Slough Trust was set up in October 2015 as a not for profit company. Slough was rated inadequate again by Ofsted in February 2016 (these are the publication dates the actual date of the inspection was November 2015 to December 2015). Ofsted stated in the 2016 inspection that the decision to establish an alternative delivery model and the process of establishing the trust took too long and that some arrangements, such as who is to take the lead on commissioning, had yet to be agreed.

37.6 If all or part of children's social care and education is to be commissioned from a not-for-profit organisation outside of the operational control of the local authority then the transfer will need to be planned, managed and resourced. The following are lessons from outsourcing adult social care.

[http://www.local.gov.uk/c/document\\_library/get\\_file?uuid=f4316bcf-5e88-4cc4-ab32-1a2bcf587894&groupId=10180](http://www.local.gov.uk/c/document_library/get_file?uuid=f4316bcf-5e88-4cc4-ab32-1a2bcf587894&groupId=10180)

- carefully manage the transfer – involve staff
- consider the whole financial impact - consider the knock on effects for other services/partners
- strengthen strategic and operational partnerships - involve providers in service design and process mapping to encourage commitment to partnership working
- consider the impact of commissioning on the workforce- avoid rigid, task-orientated commissioning and contracting which can have a negative impact on service quality and staff morale
- value and invest in the whole workforce – forecast trends
- involve service users - involve them in monitoring performance of outsourced services

#### **Pros and cons:**

37.7 This option could, if successful and in the fullness of time, generate income by selling children's social care and education support services to other local authorities, schools and partners in the education, health, social care and criminal justice sectors.

- 37.8 There is a perception that creating a new organisation can 'free' it from the past allowing for a new culture to develop. National charities could provide relevant alternative delivery and governance arrangements for children's social care with their expertise and resources.
- 37.9 This option aligns with the intention of the local authority to become a commissioning/enabling organisation that manages the local market.
- 37.10 Effective commissioning and performance management by the local authority of the trust could drive further service improvement.
- 37.11 This option offers less control of the direction of service delivery, quality of provision and reduced ability to intervene to prevent failure.
- 37.12 There is potential for increased costs in terms of set up and procurement and any surplus would not be available to the Isle of Wight Council under a trust arrangement.
- 37.13 The local market is limited as is the potential for attracting new providers be they start ups or existing national charities.
- 37.14 The existing trusts are very new organisations with as yet an unproven, sustained track record of improvement.
- 37.15 Creating such organisations takes time, resources and a period of instability. As noted earlier, instability is a risk factor in terms of children's services drawing the focus away from management oversight of social work practice and educational improvement.
- 37.16 There is a lack of independent organisations willing or able to take on failing children's services from councils and a poorly developed market in outsourcing options for children's services. This has left the independent trust model as the main, if not sole vehicle for third party provision when councils are rated inadequate.
- 37.17 Non-profit trusts or other partnerships place the delivery of children's services under the control of democratically unaccountable independent trusts.
- 37.18 As a business transfer, existing Isle of Wight Council staff would transfer to the appointed Trust under the requirements of the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014, commonly referred to as TUPE. Some employees may decide to leave to work for another local authority rather than a Trust and may also present a challenge to industrial relations.

## **Risks**

- 37.19 Charities and not-for-profit organisations running child protection services will not be regulated or registered. Additionally, they will not have to be rated or inspected by Ofsted in their own right. The Isle of Wight Council however remains accountable for its statutory duties and responsibilities.



- 37.20 No outsourced provider would be allowed to make direct profits from safeguarding work. Private companies will be able to circumvent these rules by creating non-profit subsidiaries which then sell services back to their profit-making owners.
- 37.21 Government have said that a formalised academy style system will be put in place so that any local authority judged as inadequate by Ofsted has to show significant improvement within 6 months or be taken over.
- 37.22 The time, complexity and resources to commission, procure, contract and performance manage an existing organisation or to develop a new organisation should not be underestimated. Whilst it may be possible to identify an existing trust that the council could join, it is also likely that given the geography of the Island, that a new Trust would need to be created.
- 37.23 Existing corporate, organisational and/or political reasons for an 'inadequate' or not achieving 'good' or 'outstanding judgement' remain within the local authority and are not addressed.

### **Financial considerations**

- 37.24 The Lead Member for Children's Services and Director of Children's Services are required by law to hold direct local accountability for the effectiveness, availability and value for money of the local authority's children's services, particularly education and children's social care. The functions of the Lead Member for Children's Services and Director of Children's Services are set out in section 18(2) of the Children Act 2004.
- 37.25 Corporate services would need to be bought back from the local authority or another organisation (IT, HR, data, property services, pensions and performance management) or provided by the trust at an increased commissioning cost to the local authority. There would also be an additional cost of a commissioning unit to manage contracts and performance. Some of these costs are also fixed in the short term and so any corresponding reductions in costs may not be achievable if services are not bought back from the local authority.
- 37.26 Commissioning out is not necessarily less cost. In 2015, the Personal Social Services Research Unit revealed that the cost of one placement in a private children's home was £4000 per week. In contrast to this, local authority care costs £3000 (and a foster care placement costs £637). Despite receiving more funding, one quarter of private sector homes do not provide adequate levels of care. <http://www.pssru.ac.uk>. The evidence from Trusts such as Slough and Doncaster indicate a range of increased cost on items such as VAT. However, unless the council determined that it would embark on this option, it is not possible to evaluate the likely overall costs and a trust still could only be established within the existing budget envelope.

## RISK MANAGEMENT

38. The entering into a strategic partnership with Hampshire County Council under ministerial direction brought with it some significant benefits, including the ability to:
- access effective leadership and management from a high performing children's services management team;
  - access the capacity required to make significant improvements from a local authority with a large scale children's services operation;
  - share in best practice, training and staff development;
  - achieve economies of scale through the joint delivery of processes and activities needed to deliver required outcomes;
  - retain overall political and financial control of children's Services
39. It has been evident from subsequent Ofsted inspections that the council has indeed benefited from the partnership, with significant progress having been made to improve outcomes for children and young people on the Island and which are becoming embedded to provide assurance of continued improvement capable of being evidenced.
40. Key risk factors that need to be taken into account therefore in determining the future arrangements for the leadership and management of children's services on the Isle of Wight (as evidenced by the inadequate rating by Ofsted in 2012) include the necessity to:
- minimise disruption to the improved practice standards secured through workforce stability in leadership direction and operational management
  - minimise the potential for professional isolation through loss of access to wider expertise and opportunities for development
  - minimise the loss of access to the range of professional expertise necessary to secure improvements in educational attainment
  - maximise the potential for confidence that there is evidence to substantiate a means for continued improvements to be secured in pursuit of an Ofsted rating of 'good' then 'outstanding' following inspection.

## EVALUATION

41. As a result of an Ofsted inspection into the children's safeguarding service in 2012, the council was judged to be inadequate with regards to the effectiveness of its arrangements to protect children on the Isle of Wight. As a result, the Department for Education issued a Ministerial Direction requiring the council to enter into a strategic partnership with Hampshire County Council for a period of five years to deliver the necessary improvements for both children's safeguarding and education services.
42. The five-year term of the strategic partnership determined by the Ministerial Direction will

conclude in June 2018 and the council must now determine the most appropriate route for the longer term leadership and management of children's services on the Isle of Wight. There are three options that are considered to be open to the council and each of those options have been considered with regards to the potential pros and cons for securing continued and sustained improvements in outcomes for children and young people on the Isle of Wight, in accordance with the statutory duties placed upon the local authority. Whilst each has its own unique offer, of priority consideration is that the significant improvements secured thus far should not be disrupted as far as is reasonably practicable and that the necessary safeguards are in place to avoid the factors that led to an inadequate judgement re-appearing. There is a strong track record of improvements, as evidenced by Ofsted inspections since 2012, thus demonstrating the success of the strategic partnership with Hampshire County Council. In conclusion therefore, having explored each of the options open to the council, it is considered that entering into a longer term strategic partnership agreement with Hampshire County Council will afford the necessary confidence and assurance that the council's statutory duties can be fully discharged.

#### RECOMMENDATION

43. **Option 2:** To extend the current strategic partnership with Hampshire County Council into the longer term, with break clauses in the agreement to review after each substantive Ofsted inspection/every five years, and
44. To delegate to the Chief Executive in consultation with the Cabinet Member for Children's Services and Cabinet Member for Resources to determine the partnership outcomes; required performance outputs and resource requirements, for integration to the new partnership agreement together with any amendments required to the partnership agreement so that it reflects the current position and not the position at the time of the direction.

#### APPENDICES ATTACHED

45. [Appendix A](#): Draft Heads of Terms

#### BACKGROUND PAPERS

46. Full Council and Cabinet -19 June 2013: Paper C - Children's Services – Strategic Partnership with Hampshire County Council  
<https://www.iwight.com/Meetings/committees/mod-council/19-6-13/Paper%20C.pdf>
47. Cabinet – 8 October 2013: Paper G – Children's Safeguarding Improvement Programme: Update on Progress against the Improvement Plan  
<https://www.iwight.com/Meetings/committees/cabinet/8-10-13/PAPER%20G.pdf>
48. Cabinet – 9 January 2014: Paper D – Improving Education on the Isle of Wight  
<https://www.iwight.com/Meetings/committees/cabinet/9-1-14/PAPER%20D.pdf>

49. Cabinet – 9 January 2014: paper F – Children’s Safeguarding Improvement Programme: Update on Progress against the Improvement Plan  
<https://www.iwight.com/Meetings/committees/cabinet/9-1-14/PAPER%20F.pdf>
50. Executive – 8 April 2014: Paper D: Update on Children’s Services Improvement Plan  
<https://www.iwight.com/Meetings/committees/Executive/8-4-14/PAPER%20D.pdf>
51. Executive – 10 June 2014: Paper B: Update on Children’s Services Improvement Plan  
<https://www.iwight.com/Meetings/committees/Executive/10-6-14/Paper%20B.pdf>
52. Executive – 9 September 2014: paper C: Ofsted Inspection of School Improvement Arrangements on Isle of Wight  
<https://www.iwight.com/Meetings/committees/Executive/9-9-14/PAPER%20C.pdf>
53. Executive – 13 January 2015: Paper D: Children’s Social Care Performance Update Including Ofsted Inspection Outcome Services  
<https://www.iwight.com/Meetings/committees/Executive/13-1-15/PAPER%20D.pdf>
54. Executive – 14 May 2015: Paper D: Children’s social Care Performance Update Including Department for Education Review of Services  
<https://www.iwight.com/Meetings/committees/Executive/14-5-15/PAPER%20D.pdf>
55. Internal Audit Report July 2017: Hampshire County Council Partnership for Children’s Services.
56. Executive – 8 September 2016: Paper C: Improving Children’s Services  
<https://www.iwight.com/Meetings/committees/Executive/8-9-16/PAPER%20C.pdf>
57. Cabinet – 14 September 2017: Paper F: Delivering Educational Excellence Strategic Plan for School Improvement – 1 June 2017 – 31 July 2017  
<https://www.iwight.com/Meetings/committees/cabinet/14-9-17/PAPER%20F.pdf>

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