

9 December 2013**Agenda Item: 11****REPORT OF THE SERVICE DIRECTOR, YOUTH, FAMILIES AND CULTURE****NOTTINGHAM AND NOTTINGHAMSHIRE FUTURES GOVERNANCE
ARRANGEMENTS****Purpose of the Report**

1. To seek Committee approval for the amendment of the current Members Agreement for Nottingham and Nottinghamshire Futures (NNF) so that the Council is enabled to have direct control over its proposed subsidiary company, Nottinghamshire NEET Reduction Service, and to seek approval for the appointment of the Vice Chairman of the Children and Young People's Committee, the Chairman of the Economic Development Committee and the Service Director for Youth, Families and Culture to the Board of the proposed subsidiary company.

Information and Advice**Company Context**

2. NNF was originally established in 2001 as Nottingham and Nottinghamshire Connexions, as part of a governmental initiative to deliver information, advice, guidance and support services for young people aged thirteen to nineteen (up to 25 for young people with learning difficulties and/or disabilities).
3. In 2008 responsibility for providing Connexions Services was transferred from government to local authorities in each area. From this time the Company become jointly owned and controlled by Nottinghamshire County Council and Nottingham City Council as a company limited by guarantee. Following the "Machinery of Government" changes in 2009/10, the Company took on further responsibilities and changed its name to Nottingham and Nottinghamshire Futures Limited.
4. The Company has been, as from 1 April 2008, controlled in a manner designed to ensure it would be treated as an "in house" entity, with close control over its management and direction by the Councils. This allows the Councils to receive services from NNF without going through a procurement exercise (required pursuant to the Public Contracts Regulations 2006), as allowed for in the so called 'Teckal exemption'. The circumstances which must exist for this exemption to apply occur when the third party which will provide the services:
 - is controlled by the contracting authorities in a similar way to which the contracting authorities control their own in-house departments; and
 - provides the essential part of its services back to the contracting authorities.

5. As a result of changes in education and children's social policy at central governmental level, and Council budgetary constraints, NNF as it is currently structured no longer meets the requirements of the exemption. In particular, NNF has broadened its business base and currently provides a varied range of skills/employment related services to a number of other bodies. This means that the majority of NNF income is now derived from non-Council sources. In the longer term, if NNF is to continue to successfully operate, it is likely that the percentage of work for external bodies will increase.
6. The Council is represented on the board of NNF by the Vice Chairman of the Children and Young People's Committee, the Chairman of the Economic Development Committee and the Service Director for Youth, Families and Culture. This representation reflects the increasing role of the Company in wider skills and economic development activity. In the current year, it is anticipated that NNF will have a turnover of approximately £14million. As a not for profit company, any surpluses it makes on its contracted activities will be reinvested proportionately in its Nottingham and Nottinghamshire activities.

Value for Money Considerations

7. The funding that the Council currently awards to NNF (£2.1million in 2013/14) is governed by a contract that sets out the Council's performance requirements as the commissioner of advice, information and guidance provision for vulnerable teenagers. The contract requires NNF to support the Council's Early Help offer by seconding its 50+ delivery staff into the Council's Targeted Support and Youth Justice Service. As such, NNF staff form a key component of this multi-agency service. The Council requires NNF to lead on its 16-18 year old NEET (not in education, employment or training) reduction activity; in this respect the Company has a long track record of success. Current NEET levels in Nottinghamshire are around 3%, which are lower than both statistical neighbours and the national average.
8. Similarly, NNF has a strong track record in respect of external inspection. Most recently, Ofsted inspected the Company's National Careers Service provision (the Company holds the East Midlands contract for this service) in August 2013 and awarded an overall "good" grade. Previous Ofsted inspections of the Company's advice, information and guidance provision have also resulted in "good" grades.
9. For these reasons, officers are satisfied that there is reasonable assurance that Futures offers an effective and efficient service.

Maintaining the Teckal Exemption

10. In view of the close levels of integrated service delivery between NNF and County Council staff, the Company's high quality performance and its external inspection ratings, as set out in paragraphs 6-9, officers are of the view that it is appropriate to seek to maintain the current 'Teckal exemption', and award future contracts for this work without undergoing formal procurement processes. This approach would also save the significant costs usually associated with formal procurement routes. To enable this, NNF has begun the process of establishing a new subsidiary company to be the vehicle through which the Council will deliver those services that it wishes to secure from NNF. As with the NNF parent company, the subsidiary - to be known as Nottinghamshire NEET

Reduction Service - will remain in the ownership and control of Nottingham City and the County Council on a 50:50 basis.

11. Legal advice received by the Council confirms that subject to the structure of the subsidiary company being properly established, including the maintenance of sufficient levels of control by both Councils to ensure the delivery of their objectives, the 'Teckal exemption' will be maintained and the Authority will not be obliged to run a procurement exercise. This will require the current Members Agreement for NNF to be revised to provide for the direct control by both Councils over the subsidiary company in the same manner that it is exercised for the main company. The subsidiary will carry out the principle part of its activities with both the Nottinghamshire County and the Nottingham City Councils.

Other Options Considered

12. Other options considered by officers have included the establishment of a formal procurement process for the work currently undertaken by NNF. The main body of this report outlines why this option is not recommended to be pursued.

Reason/s for Recommendation/s

13. The maintenance of the 'Teckal exemption' will enable the Council to continue its current effective NEET reduction and integrated support work for vulnerable young people through arrangements that have a long track record of success.

Statutory and Policy Implications

14. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users/Safeguarding Implications

15. The maintenance of the current service delivery arrangements will secure continuing access to important support services for vulnerable teenagers and their families which constitute a significant component of Nottinghamshire's Early Help offer.

Financial Implications

16. Committee approval for this report's recommendations will result in the saving of the costs associated with formal procurement processes.

RECOMMENDATION/S

That the Committee:

- 1) approves the amendment of the current Members Agreement for Nottingham and Nottinghamshire Futures to provide for the direct control by the Council over its proposed subsidiary company, Nottinghamshire NEET Reduction Service.
- 2) approves the appointment of the Vice Chairman of the Children and Young People's Committee, the Chairman of the Economic Development Committee and the Service Director for Youth, Families and Culture to the Board of the proposed subsidiary company.

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Constitutional Comments (NAB 22/11/13)

17. The Children and Young People's Committee has authority to approve the recommendations set out in this report by virtue of its terms of reference.

Financial Comments (KLA 22/11/13)

18. The financial implications of the report are set out in paragraph 16 above.

Background Papers and Published Documents

Outside bodies report: Futures - report to Children's and Young People's Committee on 14 October 2013.

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Electoral Division(s) and Member(s) Affected

All.

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