

LONDON BOROUGH OF NEWHAM

CABINET

Is it a key decision?	Yes
Is it in the Forward Plan?	Yes
Date report published	16/05/12
Date of meeting	24/05/12

Subject: The Future of Schools Traded Services – Business Case

Source: Operations

Wards affected: All

Exempt Information

Appendix B is exempt as it contains legal advice which is subject to legal privilege and it is not in the public interest to publish that information as it could affect the Council's position with regard to future procurements and matters arising out of this report.

Purpose of Report

This report sets out the business case for the transfer of Schools Traded Services to the co-operative education trust, Newham Partnership Working (NPW), which has been set up and developed by Newham education leaders, working closely with LBN.

The purpose of this report is to request Council's agreement to the transfer on 30 July 2012.

Recommendations

The Mayor in consultation with Cabinet is asked to:

1. Agree to the transfer of Schools Traded Services to Newham Partnership Working on 30th July 2012
2. Agree to delegate to (1) Director of Finance in Consultation with Director of Legal, People and Change sign-off on the business case immediately prior to the proposed transfer; and (2) to the Executive Director – Operations in conjunction with the Director of Finance and the Director of Legal, People and Change due diligence on

the NPW business plan, in each case as being both compliant with legislation and commercially sustainable in light of the final position reached on the transfer documentation.

3. Delegation to the Executive Director Operations in consultation with the Executive Member for Children & Young People and Directors for Legal and Finance to agree the final form of the agreements required for this proposal. The agreements will deal with (a) the transfer of staff and assets (b) novation of or access to contracts let by the Council including ICT licenses (c) buy back of services by Newham Partnership Working from the Council (d) buy back of services by London Borough of Newham from Newham Partnership Working (e) admission agreement for pensions (subject to possible Secretary of State consent, provision of any required bond and Investment Committee approval) and (f) a loan agreement for the set up/working capital costs as set out in the finance comments

4. Authorise the Director of Finance to conclude satisfactory arrangements relating to the pensions of transferring employees in accordance with any decision of the Investment and Accounts Committee with regard to admitted body status

5. Nominate the following 3 London Borough of Newham representatives to Newham Partnership Working's Board Linzi Roberts-Egan Director of Children's Services, Steve Cameron Head of Employability and Skills and a Member to be selected by Cabinet.

6. Agree to the principle of a payment in advance up to a maximum of £100k to Newham Partnership Working to cover set up costs that fall due prior to the 30th July transfer date. Advance to be charged at a commercial rate of interest. The Director of Finance to agree the final form of the agreement.

Reasons for the Recommendations

The future delivery of Schools Traded Services (STS) has been under review as part of the Council Services to Small Business programme. This report sets out the business case for transferring STS to Newham Partnership Working (NPW), this fits with the Council's strategic direction of improving the way services are delivered through the exploration of small business models, has wide support from schools and is a means to maintain collaborative working of Newham's 'family of schools' ensuring they take collective responsibility for school improvement. The recommendations will allow the provisional transfer date of 30th July 2012 to be achieved by ensuring that the necessary transitional arrangements are put into place.

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Local Government (Access to Information) Act 1985

Background papers used in preparing this report:

Actions and minutes Schools Traded Services Project Group meetings

Future Schools Traded Services – Consultation Results

Future of Schools Traded Services – Options Appraisal

Future of Schools Traded Services - Business Case

Actions and minutes of NPW Negotiating Group meetings

NPW draft business plan

NPW Articles of incorporation

NPW transfer risk register

List of enclosures / Appendices:

- **Appendix A** – Equalities Impact Assessment for Schools Traded Services to transfer to Newham Partnership Working to part B of the report
- **Appendix B** – Exempt legal comments

Report - Part A

1. Introduction and Background

- 1.1 Schools Traded Services (STS) is part of Children's Services and provides a range of support services to schools encompassing the following:
- Schools ICT (ITASS)
 - Schools HR
 - School Support
 - Governor Services
 - Pupil Services
- 1.2 The idea of transferring the responsibility for STS to schools has been under consideration for some time – as a way of giving schools greater ownership and responsibility for educational development within the borough. Over the last nine months, this idea has been pursued under the umbrella of the Council Services to Small Businesses (CSSB) programme.
- 1.3 An options appraisal, including a consultation with schools, was conducted in autumn 2011. The appraisal was presented to the Mayor and Councillors, before a business case was developed for the preferred option: transferring STS to Newham Partnership Working (NPW), a co-operative education trust being developed by Newham education leaders. **This report provides a summary of the business case and requests the Mayor's agreement in consultation with cabinet to the transfer on 30th July 2012.**

2. Key Considerations and Sustainability

Strategic Case

- 2.1 The strategic case for the transfer has considered the impact it will have on the following 3 criteria:
- a) Strategic direction of the council**
- 2.2 The Council is committed to improving the way services are delivered in future through exploration of a range of different models for service delivery, principally small businesses led as far as possible by the current staff group. The transfer of STS to NPW is consistent with this direction. It will allow for more effective and innovative service delivery e.g. teacher recruitment, that will directly enhance the quality of education in LBN. NPW has the potential to generate additional resources from grant funding and expanding services to schools in neighbouring boroughs, which will be safeguarded for the benefit of Newham's Children in line with the NPW articles of association.
- b) Education within Newham**
- 2.3 Children's Services are developing an Education Guarantee, delivery of which will require headteachers to take on a greater collective responsibility for

educational improvement. NPW provides a vehicle for this, whilst also maintaining the tradition of Newham’s “family of schools” working together. In addition, it could act as counterbalance to schools opting for academy status by providing schools with greater authority over their resources and services delivered to them e.g. STS, without the need to change their own status.

- 2.4 Schools want to see STS delivered through NPW, this was clearly demonstrated by the consultation, 61% of Newham’s schools choosing this as their preferred option (1% chose an alternative, 38% did not respond). By agreeing the transfer we can cement our relationship with schools and secure our influence with the trust going forward – in formal terms this will be through 3 LBN representatives on NPW’s board (further details provided in the Comments of the Legal Officer, paragraph 5.5)

c) Quality of service delivery

- 2.5 The transfer of STS to NPW will allow the service to benefit from the smaller organisations greater flexibility and quicker decision making; this and its exposure to market forces will ensure the efficiency of the organisation as it will need its prices to remain competitive to retain its customer base. It also be free to expand its customer base to other LAs ensuring future sustainability of the organisation.

Commercial Case

- 2.6 The commercial case explains the financial implications for the transfer and how any negative impacts on LBN can be mitigated. The financial implications are as follows:
- 2.7 **Loss of income from schools** - some elements of STS (Schools HR & ITASS) are budgeted to generate a surplus of £676k, before overheads are taken into account. Transfer of STS to NPW will result in a loss of income from schools resulting in a budget shortfall equivalent to the surplus of £676k. This shortfall is increased by LBN buying back NPW to deliver some of STS statutory functions, offset by the support services NPW will buy back from LBN e.g. payroll, internal audit, resulting in a full year budget shortfall of £772k – see table 1 below.

Table 1 – Budget Shortfall created by transfer

Description	Full Year Effect (£000's)
Budget Shortfall	676
LBN Buy from NPW	169
NPW Buy Back from LBN	(73)
Full year budget shortfall	772

This will be mitigated by an offset arrangement where by Dedicated Schools Grant (DSG) funding will replace Council General Fund in the funding of educational priorities e.g. the Education Guarantee. Headroom Group/Schools Forum recognise the financial impact the proposed transfer will have on LBN and agreed the offset arrangement at an extraordinary meeting on 14th May 2012, to be tapered over 3 years, and reviewed annually – see table 2 below. This will provide Children Services with sufficient time to address the shortfall, through a reduction in corporate overheads, and securing arrangements for DSG to part fund School Improvement work. In future any surplus that NPW generates will be re-invested into educational improvement initiatives to improve outcomes for Newham’s children as per their articles – therefore NPW will be directing funding to areas that CYPS would have used the surplus for had STS remained part of LBN.

Table 2 – DSG offset arrangement

Year	Taper (%)	Headroom Allocation (£000's)	LBN Loss to be met	Comments
12/13	100%	515	0	Due to 30th Jul transfer this represents a part year effect i.e. 2/3 of budget shortfall of £772k
13/14	60%	464	308	
14/15	30%	232	540	

2.8 **Transfer risk of changes in customer demand** – STS is reliant on SLA income it receives from schools. If schools chose to use alternative providers, STS would become unsustainable and there is a risk of redundancies with associated costs estimated at £1.1m. By transferring STS to NPW, LBN transfers this risk, whilst as an education controlled provider of services, NPW should be able to secure future custom and loyalty of schools ensuring the sustainability of the business.

2.9 **Transfer of pensions liability** – staff terms and conditions will be protected by TUPE regulations. In order to fulfil their obligations NPW will be seeking the agreement of the Investment and Accounts Committee for admitted body status. To ensure LBN is protected from liability if NPW fails, an actuary’s report has been produced setting out the employer contribution rates and bond level requirements.

Viability NPW

- 2.10 This section of the business case considered the viability of NPW as a business and whether the necessary governance, controls and operational structures been put in place to be able to deliver STS effectively.
- 2.11 NPW has appointed the headteacher of Sheringham Primary school as an Interim Operations Director on secondment to oversee the development of the trust. He has been working with the trustees to develop a business plan, governance arrangements and ensure the practicalities required for running a business are in place e.g. bank account, payroll, financial systems, insurance, accountants, legal etc. NPW's business planning and financial modelling indicates that they have a viable and sustainable business model, on the assumption that it is accurate, the forecast income is sufficient to both cover their costs and generate enough of a surplus to secure the future of the business and target school improvement initiatives.

3. Service Delivery and Performance Issues

- 3.1 NPW offers greater flexibility due to its smaller size, which provides opportunities for more effective, innovative service delivery e.g. headteacher and teacher recruitment which will directly enhance the quality of education in Newham.
- 3.2 43FTE of the staff affected by this proposal are based at the Credon Centre, which is to be converted back to a school on 27th July 2012. If this proposal is not agreed these staff will need to be found alternative council premises, at present there is no contingency plan in place for this eventuality.

4. Comments of the Finance Officer

- 4.1 The main financial implication of the transfer is the £772k pa budget shortfall created due to the loss of income from schools and the impact this could have on the overall Council Budget Strategy. The reduction in income is £2.1m over the period of the current budget strategy (2012/13-2014/15), but £1.2m will be recovered from the schools headroom budget in the short term and the remaining £0.9m will need to be addressed by Childrens Services. The proposed mitigations are sufficient to manage this for the current financial year, however Children Services need to start planning to identify a long term solution to this issue. The responsibility to meet the shortfall lies with Children Services and their intention to seek additional DSG allocations to part fund school improvement work, should form an integral part of the 2013-14 budget setting process.
- 4.2 One of the main driving forces behind this proposal has been schools wanting to see STS delivered by NPW. If LBN were to reject this proposal there is a risk that schools would seek alternative providers of the services, which if TUPE did not apply, would leave council with a redundancy liability estimated

at £1.1m, in addition to the budget shortfall created by the loss of schools income - on the basis of the cost benefit analysis, the transfer to NPW therefore represents a more cost effective option.

- 4.3 In order to fulfil its TUPE obligations with regard to staff pensions NPW intends to seek Admitted Body Status and will require a decision by the Council's Investment and Accounts committee at the next meeting on 20th June 2012. There are implications for the council for this decision, if NPW become a fully funded body (i.e. no deficit is transferred across to NPW), then the deficit would remain with LBN. The effect of this would be a 0.1% increase in council contribution to reflect fewer members contributing to the deficit recovery plan, this equates to £140k per year. In order to ensure sufficient protection for the LBN pension fund the full LGPS deficit of the transferring staff should be transferred to NPW and a shorter deficit recovery period should be set to take account of the increased risk of failure faced by the new organisation. To protect the fund against costs in the event of NPW failure, the trust should be required to take out a bond at a level set by the actuary which should be revalued each year.
- 4.4 Schools pay their annual SLA fee at the start of the financial year; NPW's business plan indicates this provides sufficient working capital for the business including covering their initial set up costs and that they will not require any support in this regard from LBN. Some set up costs e.g. accommodation deposit and fit out are required before the proposed transfer date of the 30th July 2012, NPW will therefore require access to the income received from schools and held by LBN. The amount required is not expected to exceed £100k. In order to facilitate this and to avoid state aid complications a short term working capital loan agreement between LBN and NPW, charging a commercial rate of interest, will be required in order to advance the necessary funds. In order for NPW to complete the accommodation fit out ahead of the 30th July transfer date, access to the building will be required from the 28th May – it is anticipated that the loan will need to be in place from this date, for a 2 month period up until the transfer date. On the 30th July, LBN will transfer to NPW the income from schools it currently holds that relate to the period 30th July-31st March 2013, less the loan amount already transferred and the interest charged for the two month period.
- 4.5 NPW is a separate legal entity; in the event of its failure the Council will face no financial liability. Schools as NPW's main customers will be forced to find alternative providers of the services.
- 4.6 STS transferring to an external organisation will have an impact on those services currently providing support to the service. NPW will use some Council services but will withdraw from others. This will require services to adjust their operations to reduce costs and generate savings where appropriate. This will be factored into future savings reviews with budgets and recharges being adjusted to reflect this.
- 4.7 The financial elements of NPW's draft business plan have been produced by Finance and are now being challenged and reviewed in more detail to ensure

income and expenditure projections are prudent and achievable, that NPW has sufficient working capital available to run the business and that it represents a robust business model. This process of due diligence will continue as the business plan is finalised, with the Director of Finance only signing off the plan once they are satisfied NPW is a commercially sustainable organisation.

- 4.8 The practical management arrangements required to run business have been put in place by NPW's Interim Operations Director, who has been working closely with the Head of Traded Services and the STS project group. NPW now have their own bank account, using the same bank and relationship manager as LBN, but entirely separate accounts. They have purchased the SAGE accounting software package and have appointed accountants who are advising on the set up of the business, financial systems and controls, tax arrangements and returns as well as providing the external audit function. NPW intends to purchase both payroll and internal audit functions from LBN.

5. Comments of the Legal Officer

- 5.1 This proposal, whilst linked to the Council's small business programme is slightly different as the body set up and decision to transfer services has been made by the schools that are part of the Newham Partnership Working Ltd (NPW). The Company has been established as an organisation limited by guarantee with co-operative principles and whilst it will not immediately be charitable (this is under consideration) its purposes and objects are to advance the education of children and young people and improve the lives of all members of the community of Newham and all profits and assets are to be directed to this aim. The proposal is that the Company shall be entitled to trade outside of Newham and so its objects will also need to include an ability to apply surpluses and to work outside of the Newham boundary.
- 5.2 As LEA the Council has a range of Statutory duties principally (a) those linked to its functions and responsibilities for the protection of Children as contained in the Children Acts 1989, 2005 and 2006 and the Children and Adoption Act 2002; (b) securing the provision of education under the provisions of the Education Acts 1996, 2002, 2005, 2006 and 2011, School Standards and Framework Act 1998, Learning and Skills Act 2000 Apprenticeships, Skills, Children and Learning Act (2009); (c) regulatory functions as provided for in the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002, The Consistent Financial Reporting (England) Regulations 2003, The Education (School Teacher Performance Management) (England) Regulations 2006 and the Education and Inspections Act and finally (d) staffing provisions such as those provided for in the School Staffing (England) Regulations 2009 and Teachers Pension Regulations 2010. Nothing in these proposals will affect the Council's provision of these statutory services as the proposal affect the services provided to help support these functions rather than the provision of the functions themselves. The only Statutory service which maybe affected relates to the Council's Health and Safety obligations which are currently carried out by staff within the schools traded services. The

Council must maintain a health and safety policy, provide training where necessary, monitor/audit to ensure schools are complying with policy/legal requirements and if necessary intervene to ensure statutory duties are discharged. Although the employer (the Council) may delegate specific health and safety tasks to schools, as it will retain the ultimate responsibility no matter who carries out those tasks, i.e. the Council will remain vicariously liable for any failure of that company under criminal H&S legislation. Therefore discussions are on-going as to who and how these tasks will be undertaken and will form part of the consideration of the final proposals and business case and plan to which regard will be had before services are transferred.

- 5.3 Since the introduction of Section 95 of the Local Government Act 2003 Local Authorities have been permitted to set up trading entities of this nature to provide services and to charge for services under S93 of the same Act. These powers are now superseded by the provisions of Section 1 - 4 of the Localism Act 2011. That provides for a general power of competence to do anything “that individuals generally may do” however there are restrictions on the use provided for in sections 2-4 and where the Council exercises the general power of competence and does things for a commercial purpose it must do them through a company or co-operative / mutual.
- 5.4 In order to be satisfied that NPW is an appropriate body to establish and to provide these services to Newham schools and potentially elsewhere it is necessary to be satisfied with (a) the objectives of the business (b) the investment and other resources required; any risks the business might face and how significant these risks are; and (c) the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve. These are provided for in the detailed business plan for NPW which has formed part of the background paperwork to this report and has been made available to finance officer in LBN as it has developed and are satisfied with the proposals and sustainability of the business plan. More detailed due diligence on the business plan will now be undertaken by Finance.
- 5.5 The schools within Newham have decided that they wish to commission certain of their services, currently commissioned from the Council, from NPW. The value of the services commissioned by each school is relatively low (a total of 89 schools commissioning services worth a total of £4.4m each year) and below the EU threshold for the purposes of EU procurement rules. Schools spend does not have to be aggregated as each school budget is independent of others.
- 5.6 The Members of NPW from the outset shall be the initial founding schools, the Council and the Co-operative College. In the future other schools, post-16 education providers or other providers of education in Newham may join. The Directors shall comprise a total 12 nominated head teachers of primary, secondary, special and nursery state funded schools in Newham, plus 3 Directors appointed by Newham Council, 2 Directors who are members of a governing body of state funded schools in Newham and 1 employee of the Company and 1 Director appointed by the Co-operative College. The proposal

is to widen this beyond Newham to enable the Company to look for business beyond Newham.

- 5.7 From the outset therefore the proposals are for the Company to be directed by the schools and the Council which will commission services from NPW. In essence the Company will be acting in a way similar to a department of the Council/schools in that it will be directing the services and be the sole purchaser of them. Therefore whilst the threshold value for the service to be provided to the schools is below the EU threshold it is also considered that those commissioning services at the outset from NPW can rely on the exemption identified in the European Court case of Teckal Srl v Comune di Viano and AGAC (the “Teckal” exemption). The Brent (Local Authorities Mutual’s Case) case in the Supreme Court provides for the ability for a number of public bodies to establish a Teckal exempt trading entity. These considerations are important in determining whether a commercial arrangement is subject to EU procurement rules. From the outset the schools and the Council should be able to rely on the Teckal exemption whilst the new entity is controlled by them and the new company provides an essential part of its activities to Newham. However as stated above the intention is to grow the business and this will be critical to its business case. Therefore it will be necessary to keep this exemption under review as new business and membership is taken on. NPW will need to regularly review its arrangement to establish if the exemption continues to apply in the future. Therefore the schools will need to ensure that their agreements with NPW for the provision of services allow for such review and deals with the possibility in the future of needing to tender the work if the exemption does not continue to apply.
- 5.8 As set out above it is proposed that there maybe some level of Council buy back of services from NPW. The exact level and nature of that is still under review and will be determined by the officer delegations proposed in the recommendations. From the outset the Council will be relying on the Teckal exemption as outlined above for any services it purchases back from NPW. But will need to keep this under review. The provision of those services will be subject to an agreement between NPW and LBN and we will ensure that the agreement provides for the Council to take necessary steps to re-procure the provision should it consider it necessary to do so in the future to be EU compliant.
- 5.9 NPW will be a body governed by public law due to the make up of the Board and its funding sources and so will be subject to EU procurement rules under the provisions of Reg 3 (w) of the Public contracts Regulations 2006. In so far as NPW will require contracts to be in place to enable it to operate from the outset the Council is working with them to establish what contracts procured by the Authority they will be able to access.
- 5.10 The HR comments of this report set out the current position with regard to the applicability of the Transfer of Undertakings (Protection of Employment)

Regulations 2006 (TUPE). Had schools chosen to individually exercise their ability to purchase these services elsewhere it may have been difficult for the Council to establish that TUPE applied to any particular person? As the schools have collectively decided to purchase their services from NPW TUPE will apply as it is possible to identify a number of posts which are providing services to the schools wishing to purchase services from NPW. The Council will need to enter into a TUPE agreement with NPW setting out the terms of the TUPE transfer of staff and providing for respective liabilities with regard to any claims made pre and post the transfer. All staff subject to TUPE transfer must be consulted with as soon as practicable after a decision has been made which may involve a transfer of their functions to another. The Council has therefore already commenced this consultation with the Trade Unions and staff involved.

- 5.11 Where a staff transfer takes place the council would normally require that the new employer has a broadly comparable pension scheme available for the transferring employees. The Council will also consider whether it is able to admit the organisation to which staff are transferring as admitted bodies to its own pension scheme. Under the Local Government Pension Scheme (Administration) Regulations.2008 (the Regulations) there are two routes available for a body to become an admitted body to the Council's LGPS, namely under Regulation 5 as a community admissions body and under regulation 6 as transferee admissions body. Both routes allow the administering authority to decide whether it is right in all the circumstances to allow a body to become a member of the Scheme and enter into an admissions agreement. However there are restrictions applicable to both and bodies need to fall within the definition to be admitted. Whether or not to admit an organisation to the LGPS is a decision for the Council's Investment and Accounts committee. The decision will set out contribution rates and determine if a bond is required and will be guided by an actuaries report. The Council is currently seeking Secretary of State approval to enable it to admit NPW into its pension scheme should the Investment and Accounts committee decide that it wishes to do so. The Secretary of State consent is being sought just in case the current arrangements for NPW do not entirely provide for 'a sufficient link with us' to permit admission direct. Such consent would ensure the council decision to admit is permitted. In the event that Secretary of State Consent is not obtained the Council will take specialist pensions legal advice on whether it can safely consider itself that there is a sufficient link to permit admission. In the event this causes any delay to the transfer of services and staff it maybe necessary to consider seconding staff to NPW pending the pension's position being determined. This would fall within the proposed delegation to the Executive Director.
- 5.12 The finance comments set out the corporate financial impact and highlight the on-going regard that will be had to that. Any costs will be kept within the agreed Council's budget framework. As set out in the finance comments NPW will require a small set up loan following this decision to enable it to complete the necessary steps to take on this work from the proposed transfer date of the 30th July. The proposed sum is £100k. The Council will rely on its general

power of competence under the Localism Act 2011 for the provision of this loan together with the provisions of S111 of the Local Government Act 1972 which provides the Council with ancillary powers to do anything (whether or not involving the expenditure, borrowing or lending of) which is calculated to facilitate, or is conducive or incidental to, the discharge of our functions. Section 111 may not be relied on as a primary power but provides additional comfort in relation to the entry into the any loan agreement for the purposes of facilitating the provision of the services in the way as set out. When the Council is exercising its powers of general competence it can only do so for Commercial purposes when acting through a Company. In the giving of the loan it is unlikely that the Council would be held to be acting for a commercial purpose in this case. Whilst the concept of a commercial purpose is not defined by the Localism Act (nor can any assistance be found in the predecessor provisions in S95 of the 2003 Act) arguably the meaning of the restriction would require the Council to be acting for the purposes of financial gain, with a view to, or part of, an activity pursued for profit. The very short term loan at the rate proposed (whilst commercial) is not considered to be an activity proposed for the purposes of a profit.

- 5.13 This loan will be subject to a loan agreement between the Council and NPW and will be provided at a full market rate of interest. Such assistance gives rise to potential State Aid issues. However the State Aid rules do provide for a de minimus level of 200,000 euro's (over a 3 year period). The Council is not intending to provide any other form of assistance as any contracts and assets to which NPW will have access will be at a full market rate. Likewise in requiring the assistance to be by way of a loan provided at a comparable market rate If the Council is acting in a way that a private funder/investor would in a market economy, for example, by providing a loan on terms and with an interest rate similar to that which a notional private funder/investor might apply then this is unlikely to constitute unlawful State Aid within the meaning of Article 107. The risk of receiving State Aid rests with the recipient. Therefore the Council will be liaising with NPW's solicitors to ensure that they too have considered this matter and advised NPW accordingly. NPW will need to likewise be satisfied that it is compliant with Competition rules and have regard to the OFT guidance in this regard. To this end NPW have their own solicitors acting and have recently engaged accountants to advise as well.
- 5.14 It will be necessary for the Council to enter into a number of agreements relating to these proposals. The recommendation provides for a delegation to the relevant Executive Director in consultation with the Lead Member and Directors for Legal and Finance to agree the final form of those agreements. The agreements will deal with (a) the transfer of staff and assets (b) novation of or access to contracts let by the Council including ICT licenses (c) buy back of services by NPW from the Council (d) buy back of services by LBN from NPW (e) an admitted body agreement (if approved by the Council's Investment and Accounts Committee) and (e) a loan agreement for the set up/working capital costs as set out in the finance comments. If the position

with the pensions and admitted body status has not been finalised by the time of the transfer date (30 July) it will be necessary to consider seconding the staff to NPW whilst this pension's situation is resolved. However at this present time this is considered to be unlikely in view of the time available to resolve this issue. However this is flagged up as the Council is currently relying on the Secretary of State considering our application in time for the transfer on the 30th July.

- 5.15 NPW are discussing with LBN legal services the ability to buy back legal services to support NPW in certain areas and the Director of Legal People and Change will make any necessary checks with the law society to ensure that practicing certificates would cover such work.

6. Risk Management

- 6.1 A risk register has been produced with support from the Corporate Risk Management Team. Risks were identified by the STS Project Group which is made up of representatives from Children's Services, Legal, Finance, HR and Local Market & Procurement. The risk register is reviewed as a standing item on the agenda at the fortnightly project group meeting. Key risks include the budget shortfall, NPW failure and TUPE arrangements, these are being managed through identification of alternative funding, due diligence of NPW business plan and detailed project planning.

7. Consultation

- 7.1 Because STS does not deliver services to the public, there has been no consultation with the public.