

SURREY COUNTY COUNCIL**CABINET****DATE: TUESDAY 24 APRIL 2018****REPORT OF: MRS MARY LEWIS, CABINET MEMBER FOR EDUCATION**

**LEAD OFFICERS: GARATH SYMONDS, ASSISTANT DIRECTOR,
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**SUBJECT: FUTURE COMMISSIONING OF SERVICES TO SURREY
COUNTY COUNCIL FOR SCHOOL SUPPORT SERVICES
WHICH ARE CURRENTLY PROVIDED BY B4S**

SUMMARY OF ISSUE:

Schools providing high quality inclusive education support our Corporate Strategy 2018-21, particularly in relation to Wellbeing and Economic Prosperity. Schools are a critical part of the whole education system which drives improved outcomes for children, particularly children from vulnerable and disadvantaged groups, and help future growth of the Surrey economy.

Surrey County Council (SCC) formed a joint venture in 2004 for the delivery of school support, both for the local authority and to trade directly with schools. The joint venture, now with Babcock, works under the operating title of B4S and provides services under contract to SCC as well as trading directly with Surrey schools and beyond Surrey. At the time, this was an innovative development, anticipating increasing school autonomy and a shift in purchasing power for school support from the Local Authority to schools.

Since 2004 the Local Authority's direct purchasing has declined significantly; the value of the first service delivery agreement was £9.1m, this rose to its highest value of £12.4m in 2008/9 and it is now £2.54m in 2018/19. Trading with schools now accounts for over 80% of the joint venture's Surrey based turnover. The direct trading with schools will continue but the Local Authority's contract cannot be extended beyond 31 March 2019 (the end date specified within the original procurement process.)

This report therefore puts forward recommendations for how the Council will continue to meet its statutory and strategic responsibilities in the future. Traded support services will continue to be available to all schools and academies in Surrey through B4S and other market providers.

RECOMMENDATIONS:

It is recommended that Cabinet agrees to the future commissioning approach for the LA/school support services funded by the Council and set out in paragraphs 14 a - c (financial details in part 2).

REASON FOR RECOMMENDATIONS:

The recommended approach best fits the County Council's strategic direction, financial position and enables the Council to meet its legal responsibilities. The recommendations for statutory and strategic school support services for SCC, alongside the development of schools led support and challenge for school effectiveness, will help drive improvement to achieve a high quality education for all children in Surrey. An analysis of each statutory or key strategic activity has been undertaken and an assessment of all possible future delivery mechanisms has been made.

BACKGROUND DETAILS:

1. Surrey's Corporate Strategy 2018-21 and the Child First Commissioning Intentions 2017-22 set clear priorities for good outcomes through high quality education for all children and in particular children from vulnerable or disadvantaged groups. The specific priorities are:
 - Champion the educational achievement, progress and engagement of vulnerable children and young people
 - Deliver inclusive provision in Surrey that meets the education, health and care needs of children with special educational needs and disabilities
 - Develop a positive experience of special educational needs and disabilities services and support for children, young people and families
2. Surrey County Council (SCC) formed a joint venture for schools' support in April 2004, (initially with Vosper Thornycroft, then with Babcock International, trading as B4S), which has proven to be successful. Over the past 14 years SCC has worked in partnership with B4S to deliver a range of support services to Surrey schools and to the Council. In this period we have seen the performance of schools, as judged by OFSTED, rise to 95% Good or Outstanding. Surrey is now top of the South East counties in terms of its primary and secondary schools' OFSTED judgements and is top of all shire counties in England by the same measure.
3. B4S has delivered a range of new staffing policies in schools on behalf of the Council, there has been robust monitoring of schools' budgets, ensuring that the financial risk to the Council is minimised, and schools have been well supported across the breadth of their operations. Health and Safety issues and other key strategic risks have been addressed and B4S staff have delivered key strategic projects supporting the health, wellbeing and attainment of Surrey children and young people, particularly vulnerable and disadvantaged groups. Their staff know our schools well and are generally trusted as reliable providers of services.
4. The Council's contract with B4S (not the traded service with schools) is scheduled to end on 31 March 2019 and cannot be significantly extended without a retendering process. The Council spend on the service delivery agreement with B4S in 2017/18 financial year was £3.16m and this declined to £2.54m in 2018/19. The budget has decreased every year as government policy has directed money to schools, rather than the Local Authority, and as Surrey maintained schools convert to academy status. This spend figure may be compared to Babcock's reported income from trading with Surrey schools being in excess of £10m per annum; i.e. the Council's spend represents only about 20% of the overall turnover of the B4S business.

5. There are now only a small number of statutory and key strategic duties commissioned from B4S but in delivering these, B4S is providing a key assurance function that minimises risk to the Council. As well as making suitable arrangements for this work to continue in some form, arrangements are also being explored for future provision that schools may purchase directly, as this forms the majority of B4S's business in Surrey. The future arrangements for the traded services which schools purchase directly are not considered in this paper as a number of long-term options are being explored however these do not impact upon the ability of schools to continue to purchase their services from B4S.
6. Surrey's education system is large and now much more diverse with academies and Free Schools constituting 34% of the county's 392 publicly funded education settings. The proportion of academies varies across the phases: approximately 30% of Surrey's primary schools are now academies, whereas 75% of the 53 secondary schools are academies. As schools convert to academy status the funding for them returns to central government and resources to the Council decrease.
7. There is a need for a new approach to the role of the local authority in education as a result of increasing school autonomy, a shifting emphasis to a schools' led system with funding increasingly being directed to schools, and changes to local patterns of school governance and operating models with the introduction of Free Schools and academies (directly funded by the Education and Skills Funding Agency and accountable to the Regional schools Commissioner). Therefore re-tendering for a large education support services contract with an external provider is not a viable response to the current situation and the future needs of the County.
8. While local authorities continue to hold a range of statutory duties with respect to education, funding changes and national policy mean that the way they discharge those responsibilities will have to change further. For example, previous central grant funding for local authorities for school improvement has ceased and been replaced by a Monitoring and Brokering grant for 2018-19. This too has an uncertain future. The government has made it clear that direct support for school improvement activities will come from schools themselves with local authorities retaining a more limited role.
9. A cross-sector partnership is developing a new school improvement system for Surrey, drawing on capacity from within the schools system – e.g. teaching schools, National Leaders in Education, school improvement leads in Multi-Academy Trusts and Dioceses. The Council is supporting this transition as part of the Education in Partnership work (EiP) which will include a schools led universal offer. Within this new 'mixed economy' schools and academies are working together in a range of partnerships which offer sustainability and capacity to improve standards through mutual support.
10. Although the Council's funding to provide, or commission, targeted school improvement services to individual schools has ceased, it still has an important role to play in the future school improvement system as set out in the recent DfE Guidance on Schools Causing Concern: this involves monitoring and analysing performance, brokering support for targeted interventions and supporting work bidding for funding. In line with this role the Council is considering developing a small team within Schools and Learning for these functions.
11. The following service areas currently provided through the B4S contract are in scope and will require new delivery arrangements:
 - a. statutory assessment

- b. support for newly qualified teachers
- c. strategic Financial Processes and Monitoring of schools' and LA budgets'
- d. schools' data collection
- e. support for the implementation of the Council's staffing policies and employer's responsibilities in maintained schools
- f. maintenance of the school governor database and Local Authority governor appointment support
- g. health and safety advice to schools
- h. professional support for the Standing Advisory Council for RE (SACRE)
- i. Special Educational Needs and Disabilities quality assurance monitoring in a cross section of Independent special schools with Surrey pupils on roll
- j. other Special Educational Needs and Disabilities support for the Local Authority in maintained schools and specialist centres
- k. regular tree inspections on maintained school sites
- l. the implementation and support for Public Health funded priorities in schools.

More detail on each area is provided in Annex A.

12. Respondents to the stakeholder surveys, (referred to below under paragraphs 15-17 headed 'Consultation'), made a number of helpful and insightful comments that emphasised their views and concerns about the future provision of these services. These comments have helped shape the recommendations for each service area. The survey also generated many general remarks about the future direction of travel. Overall there was a stronger preference for in-house solutions; this was especially expressed by Community schools.

<p>Future Options for the Council and recommendations:</p>

13. The key options for these services are firstly whether to provide in-house or commission externally. In-house includes both provision by Schools & Learning and also provision by Orbis, which includes partnership arrangements with East Sussex and Brighton & Hove. External options include: another local authority; schools, through Multi-academy Trusts (MATs) or other partnerships; independent consultants; or private sector organisations.
14. External delivery options would require a tendering process to enable either another local authority to provide the service on behalf of Surrey County Council; Surrey schools, through MATs or similar partnerships, delivering the service on behalf of the Council; individual contracts with consultants for specific services; or private sector organisations, like Babcock, re-tendering for the work. Officers have considered which tasks best lend themselves to which method of delivery i.e. in house or a re-tendering process. The future delivery mechanism may include a mix of the above. The broad options and recommendation for each task are set out in the following section.

a. Services recommended to come back 'in house' to SCC/Orbis

Service description	Market/provider assessment	Recommended option	Reasons for recommendation
Statutory Assessment of Reception, 7 and 11 year old pupils	Number of outsourcing opportunities; in-house also possible	In-house with Schools and Learning staff coordinating/managing service using qualified teachers to deliver training and moderation tasks	Schools say they want confidence in single provider and consistency of approach. Schools and local authority can provide experienced teachers as moderators
Strategic SEND and Additional Needs – monitoring quality of provision in NMI and maintained SEN schools and centres	Bring in-house or outsource to another LA partner or commercial provider; market analysis suggest risks associated with external provider	In-house in Children, Schools & Families	Opportunity to integrate and improve current service. Links to Closer to Home policy. SCC retains strategic risk and statutory responsibility for safeguarding and entitlement curriculum
Strategic Financial Processes and Monitoring of schools' and LA budgets	Existing in-house expertise. Other external providers also available	In-house/Orbis	SCC needs to retain control of delegated finance; clarity over financial regs and accountancy systems. Synergy with in-house finance functions. Communications with schools already established
Statutory duties of the employer of staff in maintained schools	In-house – existing HR team has expertise or could re-tender to agent delivering service on behalf of SCC – strong market	In-house/Orbis HR Team	LA responsible for its staff, policy development and implementation and good employment practices. Synergy with in-house HR functions. Fits with strategy to develop Orbis services across partner authorities
Strategic Health and Safety Support to schools	Existing in-house expertise. No wider market analysis undertaken given strategic importance of the task	In-house (Strategic Risk Management Team in S and L)	Schools value in house team; SCC retains risk even if service outsourced. Experienced In house teams already established and delivering this function in other service areas.

Surveying of trees on SCC Maintained school sites	Existing in-house expertise. No wider market analysis undertaken given strategic importance of the task	In-house/Orbis (Property Team)	SCC retains risk even if it outsources service. Experienced In-house teams already established and delivering this function in other service areas.
Statutory technical support for ICT systems between schools, LA and DfE	In-house via Orbis or re-tender contract Re-tendering not considered given strategic importance of integrated data systems	In-house/Orbis IMT Digital	Strategically important to unify ICT systems in-house to improve access to a single children's data hub in Surrey. Also affords opportunity to make savings in future through more integrated approach
Statutory data collection and analysis	Existing in-house expertise. No wider market analysis undertaken given strategic importance of the task	In-house – Insight and Innovation team (Commissioning and Prevention)	Single point for accessing all data relating to children and young people; opportunity to control data accuracy which will guide future SCC policy development. Synergy with wider data analysis for children in Surrey.
Strategic school meals entitlement checks	In-house. NB Schools cannot obtain service anywhere else	In-house (Surrey Commercial Services)	Opportunity for SCC to network with Districts and Boroughs and improve income for schools
Strategic Children's Centre Support for ICT, Finance and HR,	Other providers available but strategically important as argued above for schools. Also important to provide stability through potential changes to be subject of public consultation this summer	Statutory support delivered in house/Orbis through relevant teams. Other support purchased as traded service	Aligns approach with schools for ICT, financial HR. Also provides stability through period of potential change following consultation in the summer.

b. Services recommended for re-tendering

Service description	Market/provider assessment	Recommended option	Reasons for recommendation
Statutory Governance support:(governor database, access to training ;LA Governor appointments and provision of ASGs)	External provider market and could bring in house or outsource to partner LA or to external company specialising in this provision	Re-tender as single package of specialist support	Existing expertise in external market is strong and varied. Outsourcing likely to offer better value if all tasks combined into a single tender
Statutory SACRE support – includes RE consultancy plus administrative support	Various options to outsource with reasonably strong market. No suitably qualified RE advisor in-house	Re-tender as single package of specialist support	Opportunity for some savings as this is aligned with similar functions in other LAs as provided by a consultant.

c. Services to be de-commissioned or significantly re-designed

Service description	Market/provider assessment	Recommended option	Reasons for recommendation
School Improvement and Effectiveness Support	Number of independent providers available as well as high performing schools with capacity to support	De-commission this service at the end of the contract and work with schools to co-design future system	Change in role of LA - schools to broker and deliver peer support and bidding system in place to obtain grants. Uncertainty of future grant funding which is likely to be increasingly directed to schools.
Support for Newly Qualified Teachers	Alternative strong providers. LA need not retain 'Accountable Authority' role	LA relinquishes the role – all schools to rely on existing Accountable Bodies - School Centred Initial Teacher Training centres and Surrey Teaching Schools	Many schools already using other providers with good track record and experience of being the 'Accountable Authority'
Strategic Promotion of Health and Wellbeing projects in schools	No obvious provider in market, although MATs, groups of schools or private sector/consultant (s) could possibly deliver.	Outsource/redesign service delivery method	Public Health fund the majority of this task and some funding streams not available post 2018/19. Opportunity to reconsider how to progress priorities and what part schools might play in this

CONSULTATION:

15. The SCC/B4S partnership ran a series of school manager and governor briefings, followed by an online survey, to seek service user views on the future delivery of the statutory and strategic tasks commissioned and funded by Surrey County Council. Schools were not, however, surveyed on the traded services or on School Improvement support as the latter service is no longer going to be a statutory requirement of the Local Authority and, as explained above, it will not be a service funded by SCC in the future. It should be noted that Babcock regularly surveys schools on the quality of the traded services it provides.
16. An analysis of the stakeholder survey draws on 46 responses from Multi Academy trusts, Federations, individual schools and academies. This is representative of around 15 -20% of all Surrey publicly maintained schools and academies, although a much greater number attended the briefings. The views of schools were taken into account when framing the recommendations to Cabinet. A summary report on the responses from the schools' survey is available in the Members' Reading Room.
17. Officers also consulted with SCC staff teams that work in partnership with B4S staff and a similar survey was carried out seeking their views. (Summary of responses also available in the Reading Room). B4S staff have been briefed by managers in B4S. The various Dioceses operating within Surrey have been invited to comment and the unions and the relevant professional associations are aware of the impending changes. Finally the schools' Phase Councils have also been consulted and all these views have been taken into account in considering whether services would be best suited to in house or external or partnership delivery in future.
18. A report outlining the background and recommendations was taken to the Education and Children's Select Committee on 20 February. The report was well received and members of the committee supported the recommendations. However the Committee also requested that the service provided a business case for the statutory and strategic services currently commissioned from B4S, and paid for by the Local Authority, and any options for delivery upon contract conclusion for analysis by the Performance Member Reference Group. This information is covered in the Part Two report to Cabinet and has been subsequently sent to Members of the Select Committee and Policy Review Group at the Select Committee's request.

RISK MANAGEMENT AND IMPLICATIONS:

Risk Description	Mitigation Activity
Changes in school support arrangements could risk delaying work with schools to develop the future model for schools led sector support and challenge. Delay in key decisions e.g. future of the Joint Venture creates uncertainty among staff and stakeholders	Close work with schools on Education in Partnership to support developments of schools led system. Close management of change with Babcock for smooth transition. Close review of progress by Steering Group and frequent communications with all parties
B4S staff have a lot of knowledge of schools that we will lose	Making provision for effective and detailed exchange of intellectual property. Some TUPE of staff will mitigate impact

<p>Small or isolated schools struggle with increasing autonomy and misunderstand impact of SCC contract end</p>	<p>Communications with all schools to enable them to prepare for SCC meeting its statutory duties in a different way. Procurement offering advice to enable schools to become more confident in purchasing services themselves. B4S marketing their continued trading of school support services for schools wishing to retain them</p>
<p>Time remaining will be insufficient to make smooth transition and re-procure services where necessary</p>	<p>Majority of tasks are recommended to return in house so procurement risk is limited. Work already begun to prepare for transfer of services ; TUPE of some B4S staff will help to facilitate smooth transfer</p>

Financial and Value for Money Implications

- 19. Services commissioned by the Council from Babcock 4S in 2018/19 total £2.54m, some of which are recommended for future delivery in house once the contract comes to an end in March 2019. This figure will undoubtedly change year on year as it is largely subject to a grant from the government, which may or may not continue, and also relates to the number of maintained schools in Surrey. A more detailed financial breakdown is set out in the Part 2 report.
- 20. B4S has benefitted from the synergy of operating both traded and commissioned services together. Once the contract for commissioned services ends there could be cost pressures on the Council to deliver the statutory and strategic services without the benefit of trading. The Council will not be able to trade in these and other specified areas as while the Joint Venture is in place, the Council is subject to non-compete clauses around trading which are set out in the Shareholder Agreement. This could yet present unexpected cost pressures but the aim is to deliver all statutory and strategic services within the current budget for 2019/20.
- 21. More robust costings will be developed after the option to consider in house provision has been approved. This will require more detailed liaison with Babcock 4S to ensure full consideration of TUPE implications and all other potential costs and risks.
- 22. Funding for Babcock commissioned services for 2018-19 derives from the following sources: (subject to some final confirmations)

<p>SCC maintained schools: Annual levy on maintained schools for statutory LA services plus agreed de-delegation from schools' budgets De-delegated DSG</p>
<p>Grants: Dedicated Schools Grant DfE Monitoring & Brokerage Grant</p>
<p>Surrey County Council</p>

23. Following the Government's withdrawal of the Education Services Grant which previously funded the local authority's statutory services for maintained schools, the Council has been obliged to place a levy on maintained schools, as permitted by the DfE. Dedicated Schools Grant (DSG) funds responsibilities relating to data collection. The Council funds approximately 40% of service costs, predominantly those supporting SEN monitoring, Early Years assessment and some ICT functions.

Section 151 Officer Commentary

24. By bringing some services in-house the Council can benefit from closer alignment of tasks to corporate objectives and in many instances benefit from the expertise of Orbis colleagues operating in the area of schools support. However as almost half the funding for commissioned activities is provided by maintained schools, available funds will reduce as schools convert to academy status and the Local Authority's responsibilities reduce. Additionally, ongoing pressures in schools' budgets creates challenging financial discussions with schools. SCC Services would be needed to manage reductions in funding on an ongoing basis as schools convert to academy status. Any future service reductions could have redundancy cost implications for the Council.

LEGAL IMPLICATIONS – MONITORING OFFICER

25. The Council is subject to a general statutory duty under s13(a) of the Education Act 1996 to "...contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education and secondary education are available to meet the needs of the population of [its] area." In addition to the Council's general obligations as the local education authority, the Council acts as the employer and landowner for the majority of maintained schools. The legal structures of schools are particularly complex and the rise of academies and free schools has further complicated the overall arrangements.
26. Since 2004, Babcock 4S Ltd (B4S) – a joint venture company owned by Babcock Education Holdings Ltd and the Council - has been discharging the duties set out in paragraph 11 of the report on behalf of the Council under a commissioned arrangement. Cabinet should note that the end of the commissioning contract does not result in the winding-up of joint venture; B4S will continue in existence.
27. The Council is subject to an obligation in s3(1) of the Local Government Act 1999 to achieve best value and "...secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". In reviewing the recommended options in paragraph 14 of the report Cabinet must take this duty into account, together with the results of the consultation exercises and the Equality Impact Assessment that have been undertaken.

EQUALITIES AND DIVERISTY

28. A programme Equality Impact Assessment (Annex B) has been drafted which includes all the key areas of the programme and their potential impacts on children, schools and staff. Evidence will be gathered to develop this draft during the change process.

OTHER IMPLICATIONS:

Corporate Parenting/Looked After Children

29. Quality assurance of residential settings in both the maintained and independent sector that have Surrey pupils on roll, including those designated as LAC, should improve under new in house SEND system design

Safeguarding responsibilities for vulnerable children and adults

30. With minimal outsourcing of services Safeguarding arrangements and advice will be more consistent and robust across services. Where services are outsourced SCC's safeguarding procedures and policy will be clearly communicated to the service provider and will be subject to frequent monitoring as part of the contract

Public Health

31. Reduction in grant funding has led to the need for a change in service delivery model. Likely to include a mixture of self-service and targeted support to schools and wider services.

WHAT HAPPENS NEXT:

Once the Cabinet has made its decision on the future commissioning approach for each service area the Programme Management Team will move into the implementation phase of the programme which will seek to facilitate a smooth transition of each service to the new provider. Officers will also begin TUPE discussions with Babcock and put in place arrangements for the transfer of intellectual property back to the Council.

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Annexes - Attached with document:

1. Description of the services currently commissioned from B4S
2. Equalities Impact Assessment

Part 2 report

Sources/background papers:

1. Report to the Education and Children's Select Committee 20 February 2018
2. Summary of schools' responses to survey
3. Summary of SCC staff's responses to survey

