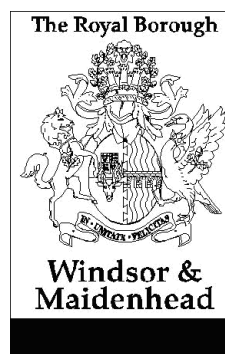


Report for: ACTION



Contains Confidential or Exempt Information	Yes – Appendix 3 only. Not for publication by virtue of paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972.
Title	Delivery of Children’s Services
Responsible Officer(s)	Alison Alexander, Managing Director/Strategic Director Adult, Children and Health Services
Contact officer, job title and phone number	Hilary Hall, Head of Commissioning Adults, Children and Health, 01628 683893
Member reporting	Cllr Natasha Airey, Lead Member for Children’s Services
For Consideration By	Cabinet
Date to be Considered	15 December 2016
Implementation date if not called In	29 December 2016
Affected Wards	All

REPORT SUMMARY

1. On 29 September 2016, Cabinet approved officers to negotiate an Inter-Authority and Members Agreement including reserved matters, with London Borough of Richmond-upon-Thames and The Royal Borough of Kingston-upon-Thames, the co-owners of Achieving for Children.
2. The formal Inter-Authority and Members’ Agreement confirms that the Royal Borough becomes an owner and shareholder in Achieving for Children.
3. This report details the progress of the workstreams, including identification of support service functions as per recommendation vi of the September 2016 Cabinet report and the high-level implementation plan. It also details the Inter-Authority agreement which covers reserved matters and volume and value of shares.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates residents can expect to notice a difference
Delivering through an existing community interest company that’s rated Good will increase quality with the ability to secure higher levels of experience at all tiers of the workforce.	April 2017
Delivering through a shared community interest company should increase the likelihood of greater financial efficiencies, enabling more to be delivered for the same investment.	April 2017

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Cabinet:

- i. Notes the progress on workstreams and high level implementation plan.**
- ii. Notes the progress on identification of the level of resource required for support functions to support Children's Services within Achieving for Children.**
- iii. Approves the reserved matters in the Inter-Authority and Members' Agreement with London Borough of Richmond-upon-Thames and The Royal Borough of Kingston-upon-Thames, the co-owners of Achieving for Children.**
- iv. Approves the consideration for purchase of shareholding a 20% stake in Achieving for Children and recommends to Council that this is funded from the 2016/17 capital programme, delegating authority to the Leader, Lead Member for Finance and Managing Director/Strategic Director Adult Children and Health Services to negotiate and agree the value of the shares.**
- v. Confirms that the current Managing Director/Strategic Director Adult, Children & Health Services will continue to deliver the statutory function of Director of Children's Services for a three month period to 30 June 2017.**
- vi. Approves the recruitment of a Director of Children's Services to take effect from 1 July 2017 from the internal pool of Deputy Director Health, Early Help and Safeguarding and Head of Schools and Educational Services.**

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 On 29 September 2016, Cabinet considered an update report on the proposed partnership for delivering children's services in the borough and:
- Approved the substantive business case that set out that the potential risks of delivering differently are outweighed by the benefits.
 - Confirmed that due diligence had been concluded and that there were no 'red lines' in terms of entering into an agreement with the two councils, London Borough of Richmond-upon-Thames and the Royal Borough of Kingston-upon-Thames to deliver children's services through Achieving for Children.
 - Recognised that stakeholder engagement would be crucial to the success of the transfer and work with Achieving for Children.
 - Approved the transfer of children's services and services for young adults with a learning disability under 25 years of age to Achieving for Children effective 1 April 2017, in line with the business case, on the basis that the Royal Borough becomes an owner and equal shareholder in Achieving for Children.
 - Approved officers negotiate an Inter-Authority and Members' Agreement including reserved matters, with London Borough of Richmond-upon-Thames

and The Royal Borough of Kingston-upon-Thames, the co-owners of Achieving for Children. Delegation was also given to the Managing Director/Strategic Director of Adult, Children and Health Services and the Lead Member for Finance to agree the level of resource required for support functions.

Progress on workstreams

- 2.2 Seven operational and two strategic workstreams with senior officer sponsors, see appendix 1, are undertaking the work to secure a successful transfer of the service. Each workstream has identified milestones and interdependencies, and drawn up a project plan. All plans are feeding into an overall implementation plan, see appendix 2. Progress to date on the operational workstreams includes:
- **Human Resources:** Staff briefings completed with ongoing drop-in sessions with the Managing Director in locations across the borough. Timetable for formal consultation in place, written notifications covering 'staff measures' has been drafted which identifies potential changes, such as pay date.
 - **Finance:** Approach to asset leases and stamp duty work commenced with property lists provided. Options work completed and provided to Councils on pension.
 - **Business Infrastructure and ICT:** Detailed work concluded on the support services to remain in the council to provide services to Achieving for Children.
 - **ICT:** Solutions for email and access to drives being developed.
 - **Service Delivery:** Business plans for Education, Early Help and Safeguarding are being assessed to identify if any changes will be required.
 - **Communications:** Presentations prepared for staff and partners, stakeholder lists produced and bi-weekly newsletter for staff developed.
 - **Transport:** Analysis of tasks around home to school transport underway.
- 2.3 The workstream leads meet fortnightly to review progress, update risks and identify decisions to be taken to the monthly Joint Strategic Programme Board.

Progress on identification of the level of resource required for support functions to support Children's Service in Achieving for Children.

- 2.4 Heads of Service for support functions have applied the methodology developed by the Head of Finance, Section 151 Officer, which identifies time spent by officers supporting Children's Services and the associated cost, see section 11.
- 2.5 Achieving for Children has requested to buy back some support services for the first 12 months, including finance and human resources. Therefore TUPE transfers for these services will not be fully implemented until April 2018. However, these services will be structured to ensure once the transfer takes place, the remaining service supporting the Royal Borough is fit for purpose.

Reserved matters

- 2.6 There are 16 matters which are reserved to the members, owners of the Company, of Achieving for Children:
1. Permit the registration of any New Member of the Company
 2. Vary, in any respect, these Articles or the rights attaching to any shares in the Company
 3. a Enter into any arrangement, contract or transaction resulting in expenditure either with a capital value greater than £10,000 or revenue value greater than £10 million. Any expenditure of such revenue by the company being less than £10 million shall be subject to the Company's own Financial Regulations and shall be subject to prior approval within the Business Plan and operating

revenue budget, which shall be approved by the members in accordance with the Reserved Matters.

b Enter into any arrangement, contract or transaction where the company is providing services to third parties without following the Trading Opportunity Evaluation Process as produced by the members. Such arrangements, contracts or transactions shall also be subject to prior approval within the Business Plan, which shall be approved by the members in accordance with the Reserved Matters.

4. Enter into any borrowing, credit facility or investment arrangement (other than trade credit in the ordinary course of business) that has not been approved by the members under the Financial Plan.
 5. Deal with any surpluses of the Company.
 6. Appoint or remove any Company Directors.¹
 7. Agree any terms for any Directors (but for the avoidance of doubt this does not include the terms and conditions of employment of Executive Directors as defined in the Articles of Association of the Company).
 8. Appoint or remove any auditor of the Company
 9. Adopt or amend the Business Plan in respect of each financial year, which for the avoidance of doubt shall include the adoption and amendment of an operating revenue budget for the financial year to which it relates.
 10. Adopt or amend the Financial Plan.
 11. Agree any change in employment terms and conditions which would be inconsistent with the National Joint Council National Agreement on Pay and Conditions of Service and any changes to the pay and grading structure of the chief executive post of the Company.
 12. Form any subsidiary of the Company or acquire shares in any other company or participate in any partnership or joint venture with a view to providing services to third parties without being subject to the Trading Opportunity Evaluation Process as prescribed by the members.
 13. Amalgamate or merge with any other company or business undertaking.
 14. Sell or dispose in any way whatsoever, any part of the business of the Company.
 15. Enter into any agreement, contract or transaction within, ancillary or incidental to the ordinary course of the Company's business or is otherwise than on arm's length terms.
 16. Pass any resolution for the winding up of the Company or present any petition for the administration of the Company, other than where the Company is insolvent.
- 2.7 In addition, the Royal Borough has requested additions to the reserved matters around any developments which may impact on existing pan-Berkshire or East Berkshire arrangements and decisions significantly affecting two or more wards.

Inter-Authority and Members' Agreement

- 2.8 Achieving for Children launched in April 2014 and has built significant brand value since then. To that end, it has successfully supported a number of other local authorities, including Sunderland, Doncaster, Wandsworth and Reading, as well as delivering children's services to children, young people and families of Richmond and Kingston.

¹ The DCS is the Chief Executive of AfC and as such automatically a member of the Board. He/she can be removed as a Company Director as a result of this RM, but this will not affect the employment status of the DCS. Any change in this is covered by terms and conditions of their employment.

- 2.9 The two current shareholders have agreed that the Royal Borough can join the partnership taking a 20% shareholding, see appendix 3. This is on the basis that the two founding councils want to grow the company to include five local authorities. Therefore, the stated intention is that each new partner will take a 20% shareholding until all five partners, including the founding councils, own 20% each. The timeframe for this expansion is likely to be over the next three to five years. Should the founding councils not be successful in growing the company to five local authorities, the Royal Borough will be given the opportunity to increase their shareholding to 33%.
- 2.10 Cabinet is requested to delegate authority to the Leader, Lead Member for Finance and Managing Director/Strategic Director Adult, Children and Health Services to negotiate and agree the value of the shares. In arriving at the share price, recognition will be made of:
- The expertise that Achieving for Children has built up and its significant brand value.
 - The work that Achieving for Children will undertake to ensure the successful formation of the larger company across geographical boundaries.
 - The ability to develop and compete in a wider market to attract and retain the best staff, delivering the highest quality of service to our residents.
 - The opportunity for the Royal Borough to share in current and future additional profits and savings.
 - The time, cost and risks avoided by the Royal Borough compared to setting up its own community interest company.
- 2.11 The council will also have a contractual relationship with Achieving for Children through a Service Contract that provides them with rights and powers that can be enforced if breached. This contract will be the similar to any other the Royal Borough enters into with a third party supplier. The specification for this contract is agreed through the joint Children’s Commissioning Board and monitored and managed through the operational commissioning groups.
- 2.12 In Richmond and Kingston, the jointly appointed Director of Children’s Services for both local authorities is also a director of Achieving for Children and an employee of Richmond Council. Both councils are able to direct the post holder as its Director of Children’s Services but also in the capacity as owners/recipient of services. In the Royal Borough from 1 July 2017, either the Deputy Director Health, Early Help and Safeguarding or the Head of Schools and Educational Services will hold the function of Director of Children’s Services and the Royal Borough will be able to direct the activity of that postholder.
- 2.13 Between 1 April 2017 and 30 June 2017, recruitment of the Director of Children’s Services will take place and the Managing Director/Strategic Director Adult, Children and Health Services will continue to deliver the statutory function of Director of Children’s Services for a three month period to 30 June 2017.

Table 1: Options

Option	Comments
Approve the reserved matters and shareholding consideration for the Inter-Authority and Members’ Agreement with London Borough of Richmond-upon-Thames and the Royal Borough of	The Inter-Authority and Members’ Agreement, including reserved matters, will clarify and confirm the arrangements for ownership and shareholding in Achieving for

Option	Comments
Kingston-upon-Thames, thereby agreeing the Royal Borough becomes an owner and shareholder in Achieving for Children and approve the internal recruitment of the Director of Children's Services. RECOMMENDED	Children. Appointing an internal Director of Children's Services will ensure continuity of service for residents.
Not approve the Inter-Authority agreement or the internal recruitment of Director of Children's Services.	Without the formal agreement, the transfer of services to Achieving for Children cannot take place.

3. KEY IMPLICATIONS

3.1 The key implications of the recommendations are detailed in table 2.

Table 2: Defined outcomes

Defined outcomes	Unmet	Met	Exceeded	Significantly exceeded	Date they should be delivered by
Agreement in place	Post April 2017	1 April 2017	Mid March 2017	1 March 2017	1 April 2017
Timely recruitment of a Director of Children's Services	Post July 2017	1 July 2017	1 June 2017	1 May 2017	1 July 2017

4. FINANCIAL DETAILS

Financial impact of the recommendations on the budget

4.1 The value of the shares will be funded from the Royal Borough's 2016/17 Capital programme. Depending on the outcome of the negotiations, it is anticipated to be in the region the minimum amount is likely to be in the region of £580K.

Table 3: Finance

Finance	2016/17	2017/18	2018/19
	Capital	Capital	Capital
Addition	£580K	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 The recommendations in this report are in line with changes under the Children and Young Persons Act 2008 (Relevant Care Functions) (England) Regulations

2014, allowing local authorities to delegate delivery of almost all of their social services functions relating to children on a not-for-profit basis.

- 5.2 The position of Director of Children’s Services is a statutory role and cannot, as yet, be delegated. The recommendation set out in this report in relation to the appointment of the Director of Children’s Services is that it will be recruited from an internal pool of the Deputy Director Health, Early Help and Safeguarding or Head of Schools and Educational Services. The successful candidate will then be seconded to Achieving for Children.
- 5.3 Legal advice has been secured from Trowers & Hamlins, who are leading experts in public sector delivering services through different delivery models. In summary, the advice states that joining an existing community interest company is legal, achievable and complies with Procurement Contract Regulations 2015 and State Aid.
- 5.4 The Best Value Duty requires the Royal Borough to undertake a consultation exercise with service users and residents on any impacts of changes to delivery of services. This will form a key part of the project between September and November, subject to Cabinet approval.

6. VALUE FOR MONEY

- 6.1 The business case approved by Cabinet in September 2016 used best value considerations to ensure the option recommended provides best value for the council.

7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 Not applicable

8. RISK MANAGEMENT

- 8.1 Risk associated with the recommendations have been identified, see table 4.

Table 4: Risks and controls

Risks	Uncontrolled Risk	Controls	Controlled Risk
Decline in service performance of support staff during implementation.	Medium	Focus of senior managers on service performance.	Low
Loss of staff during the implementation	High	Robust staff engagement strategy involving Royal Borough managers and Achieving for Children. Clear communications throughout the process.	Medium

9. LINKS TO STRATEGIC OBJECTIVES

- 9.1 The recommended approach, if adopted, strongly supports all four of the council's strategic objectives; putting residents' first, value for money, delivering together and equipping ourselves for the future. Focusing on the need to sustain improved outcomes puts residents first, and collaborating with other boroughs to deliver services through a new model demonstrates commitment to deliver with others and enable staff and key partners to deliver more innovative and integrated services to residents.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

- 10.1 An Equality Impact Assessment has been completed.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

- 11.1 Total support staffing numbers directly affected by this proposal and the adult proposal are 50fte.
- 11.2 Legal opinion has been received regarding the transfer of staff under Transfer of Undertakings (Protection of Employment) regulations (TUPE), in relation to those directly employed within the service and also those employed in a support service function, providing a support service to Children's services, see box 1.

Box 1: Staff employed in a support function, not within Children's Services: Those staff employed in a central support function and not directly within Children's Services are not generally in scope to transfer as they are not there primarily to provide the services which will be transferring. An example would be finance staff. However, where a central support employee can be directly linked to the services being carried out, in this case a Finance Partner solely supporting Children's Services, it is likely the employee will be in scope for transferring to the new employer. In such situations, a detailed analysis of each specific role, and a decision on each individual case, will need to be undertaken.

- 11.3 Accordingly, dependent on the scope of activity/duties of each employee within support function, will determine whether the employee would transfer to the company. Where TUPE does not apply, then an equivalent budget transfer could occur or transfer can occur with agreement of the parties. Principles have been developed on qualifying criteria for TUPE transfer and Employment Panel will consider on 29 November 2016. The principles are:
- Do they spend the majority of their time (75% or more) carrying out the work or supporting the work that will be transferring and are they organised in such a way that they are deliberately assigned to the grouping of employees carrying out the work for that service? If yes, they are in scope, subject to final confirmation from the Head of Service and HR.
 - Where a number of employees spend some of their time (less than 75%) carrying out the work or supporting work that will be transferring volunteers will be sought to combine duties to make up the required FTE to transfer. Transfer will be subject to agreement with the receiving organisation and final confirmation from the Head of Service and HR.

- If suitable arrangements cannot be agreed the equivalent budget will be transferred and the remaining team reduced accordingly which may result in redundancies although every effort will be made to keep these to a minimum.

11.4 Given the new delivery model, the Royal Borough will continue to develop the remaining workforce's capability in strong contract management as part of the annual organisational development programme and calendar.

12. PROPERTY AND ASSETS

12.1 Given the outline indications regarding the workforce as well as the frontline nature of some of the services being considered, impacts on the Royal Borough's property and assets could include:

- Changes in the patterns of static/non-static staff working bases and the effects on existing council offices – including the opportunity to relocate children's services workforce into York House, Windsor to facilitate greater cross-authority working.
- Negotiation of lease agreements with Achieving for Children on existing council properties where Children's Services are currently delivered.

13. ANY OTHER IMPLICATIONS

13.1 None.

14. CONSULTATION

14.1 Consultation has taken place with:

- The Lead Member for Children's Services and Lead Member for Adult Services, Health and Sustainability at fortnightly Lead Member briefings.
- Children's Services Overview and Scrutiny Panel on 8 December 2016.
- Workstream leads and sponsors – fortnightly from 1 October 2016.
- Joint Strategic Programme Board – monthly from 1 October 2016.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
27 December 2016 – 31 March 2016	Implementation phase
1 April 2017	Children's Services delivered through Achieving for Children

16. APPENDICES

- Appendix 1 – Implementation workstreams.
- Appendix 2 – Overall implementation plan.
- Appendix 3 – **Part II**

17. BACKGROUND INFORMATION

- The future delivery of health services, RBWM Cabinet Paper, November 2015 (Part II)
- Cabinet Office Public Sector Mutuals Programme.
- Children's social care reform: a vision for change, January 2016, Department for Education.
- Delivery of Children's Services, RBWM Cabinet Paper, March 2016 (Part II)
- Delivery of Children's Services, RBWM Cabinet Paper, September 2016 (Appendix 2 – Part II)

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	Comments
Internal				
Cllr Airey	Lead Member for Children's Services	16/11/16	17/11/16	Comments throughout
Russell O'Keefe	Strategic Director Corporate and Community Services	15/11/16		
Alison Alexander	Managing Director/ Strategic Director Adults, Children and Health	15/11/16	20/11/16	Comments throughout
Simon Fletcher	Strategic Director Operations and Customer Services	15/11/16		
Sean O'Connor	Shared Legal Solutions	15/11/16	17/11/16	Section 5
Terry Baldwin	Head of HR	15/11/16	21/11/16	Point 11.3
Rob Stubbs	Head of Finance	15/11/16	17/11/16	Comments throughout

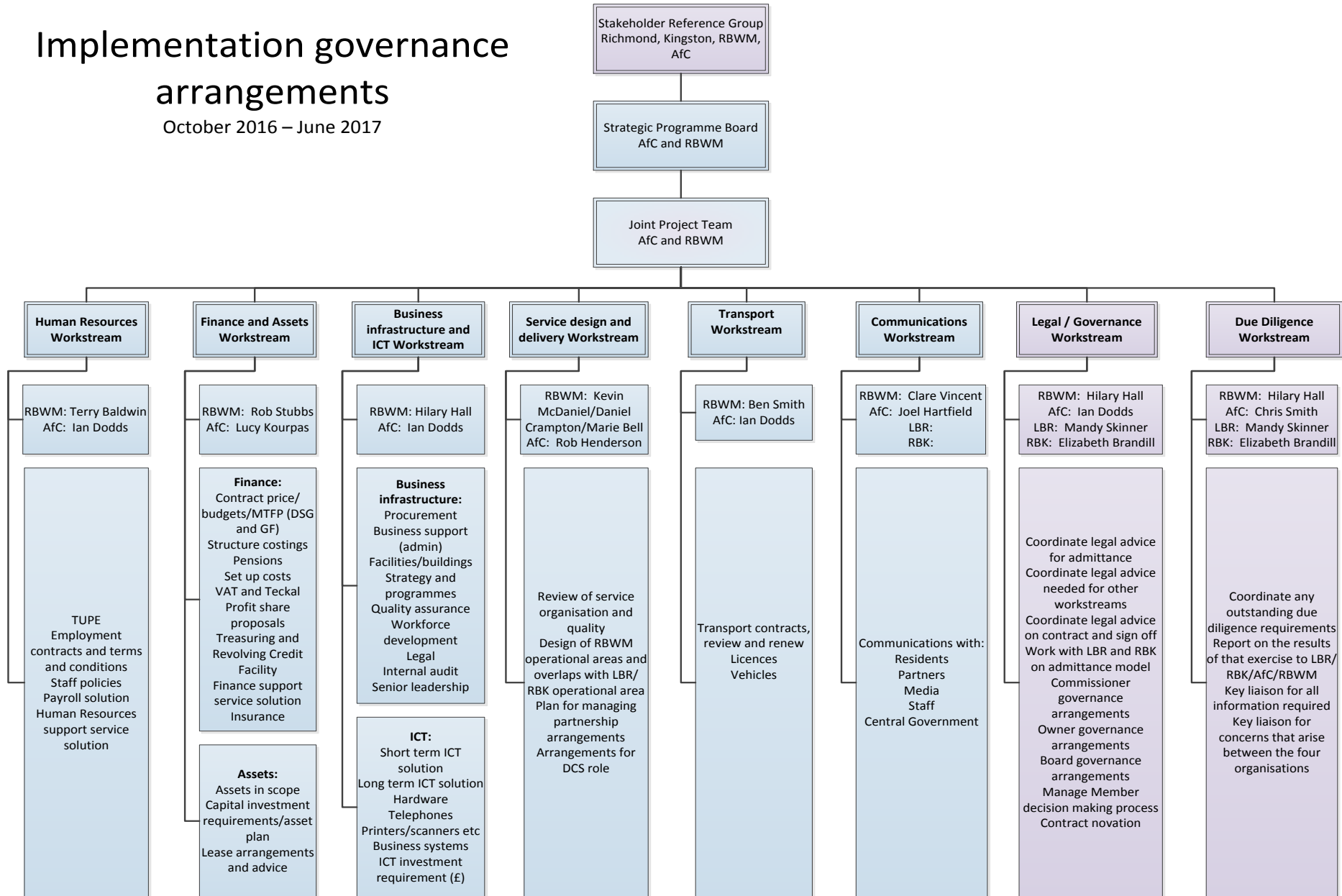
REPORT HISTORY

Decision type:	Urgency item
Key decision: 30 September 2016	No

Full name of report author	Job title	Full contact no:
Hilary Hall	Head of Commissioning – Adults, Children and Health	01628 683893

Implementation governance arrangements

October 2016 – June 2017



Appendix 2

Milestone Plan - DCSD - Childrens Services Partnership

Due Date	Project Manager:					Author/Date:					Approved by/Date:					Milestones															
	HR	Finance & Assets	Business Infrastructure	ICT	Service Design	Transport	Communication	Time Schedule															Description								
								E	B	M	E	B	M	E	B	M	E	B	M	E	B	M	E	B	M	E	B	M	E	B	
30/11							C1	[Green bar from E1 to E2]															Protocols and approvals for joint sign off agreed								
30/11		F1						[Grey bar from E1 to M2]															Support service resources and Transfers agreed with members RBWM & AFC								
07/12	H1							[Green bar from E1 to E2]															Preparation for Consultation Period								
30/12		F2						[Grey bar from E1 to M2]															Value (£) of the services being transferred has been confirmed - Agreed MTFP savings growth.								
30/12		F3						[Grey bar from E1 to M2]															Approach to asset leases and Stamp Duty agreed								
30/12		F4						[Grey bar from E2 to E3]															Financial Governance for revolving credit facilities agreed								
30/12					S1			[Grey bar from E1 to E2]															Assess Business Plans								
03/01		F5						[Grey bar from E1 to M2]															Project budget agreed.								
06/01			B1					[Grey bar from E1 to M2]															Agree contract specifications, performance management and reporting								
16/01	H2							[Grey bar from E2 to E3]															Consultation Period								
20/01						C2		[Green bar from E2 to E3]															Website/Intranet changes agreed								
30/01		F6						[Grey bar from E1 to M2]															VAT - HMRC agreement treat to supply of services								
30/01		F13						[Grey bar from E2 to E3]															Legality of Financial processes confirmed								
03/02		F7						[Grey bar from E1 to M2]															AFC Insurance cover in place for services Staff and Assets								
16/02			B2					[Grey bar from E1 to M2]															Business Infrastructure Operational								
20/02			B3					[Grey bar from E1 to M2]															Novation of contracts to AFC								
27/02						C3		[Green bar from E2 to E3]															Launch event planning and implementation								
28/02						C4		[Green bar from E2 to E3]															Branding changes implemented								
28/02		F8						[Grey bar from E2 to E3]															TUPE'd staff records set up on AFC payroll								
28/02		F9						[Grey bar from E1 to M2]															Rules for Admission to Pension schemes agreed								
28/02		F10						[Grey bar from E1 to M2]															Processes for controlling Finances agreed								
03/03			B4					[Grey bar from E1 to M2]															Operational strategies for 2017/18								
10/03					S2			[Grey bar from E1 to M2]															Implement Business plan Changes								
15/03		F14						[Grey bar from E2 to E3]															TUPE'd staff are trained on AFC Finance Systems and can access them successfully								
20/03			B5					[Grey bar from E1 to M2]															Transition Plan 2017/18								
24/03			B6					[Grey bar from E1 to M2]															Buildings Lease/Licence Arrangements								
24/03		F11						[Grey bar from E1 to M2]															Agresso set-up complete and in use								
27/03		F12						[Grey bar from E1 to M2]															Invoice payments and income collection processes finalised								
31/03	H3							[Grey bar from E1 to M2]															Post Consultation Period (TUPE Transfer)								
31/03						C5		[Grey bar from E2 to E3]															Post April comms protocols finalised								
14/04					S3			[Grey bar from E2 to E3]															Pilot new Business Processes								
08/05						C6		[Green bar from E1 to M2]															Joint communications plan agreed & implemented								
					T1			[Grey bar from E2 to E3]															Agree options for Long and Short term Transport Strategy								
					T2			[Grey bar from E2 to E3]															Implement Transport Strategy								