

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Date: 4th February 2015

Title: Development of Locality Commissioning

Submitted by: Head of Business Improvement, Central Services & Partnerships

Portfolio: Communications, Policy and Partnerships

Ward(s) affected: All

Purpose of the Report

To seek Cabinet approval for the in principle appointment of NULBC as the accountable body for locality commissioning in the Borough, involving a number of commissioning organisations from the public sector. The report also requests Cabinet approval for the development of a Memorandum of Understanding with commissioning partners setting out the details of the accountable body role in this context, pending a full risk assessment of the role. Finally, the report seeks authorisation for the Chief Executive to agree to the transfer of Public Health funding from Staffordshire County Council under the terms of this in principle agreement.

Recommendations

Cabinet is asked to:

- a) Approve the in principle appointment of NULBC as the accountable body for the purposes of locality commissioning as set out in this report, pending the development of a Memorandum of Understanding between partners and the completion of a risk assessment into the implications of assuming the role of accountable body in this context
- b) Authorise the Chief Executive, on behalf of NULBC, to sign the letter dated 1st December 2014 from Staffordshire County Council (found at Appendix A), thereby authorising the transfer of £226,789 from SCC to NULBC for the purposes of locality commissioning, and adding to the other funding areas dedicated to locality commissioning (see Appendix B)
- c) Agree to the presentation of a further report at the Cabinet meeting of 25th March 2015 setting out the results of the risk assessment and proposals based on these results around NULBC becoming the accountable body for locality commissioning in the Borough. This will include a process for the review of locality commissioning before the end of the 2015/16 financial year to understand lessons learnt.

Reason

To establish the necessary arrangements in order to facilitate the use of public sector pooled funds dedicated for locality commissioning in the Borough focused on key areas of need.

1. Background

- 1.1 Members will recall that a report was presented to Cabinet in October 2014, setting out the results of a review of the Newcastle Partnership and the reasons for the changes proposed as a result of that review.

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- 1.2 One of the main changes set out in that report to the Partnership's work was to accept the findings of the review of locality commissioning led by the CEO of Tamworth BC (Tony Goodwin) and establish a joint approach to 'locality' (meaning, in this context, within the Borough's boundaries) commissioning across the public sector.
- 1.3 This review advocated establishing a locality commissioning board in each area which would oversee, on a joint basis, previously separate commissioning processes on behalf of partners within each Local Strategic Partnership (in the case of Newcastle, the Newcastle Partnership).
- 1.4 In the case of the Newcastle Partnership, it was agreed by the Newcastle Partnership Strategic Board in September 2014 to change the existing Partnership Delivery Group to the Partnership Commissioning and Delivery Group (PCDG) to reflect these changes.
- 1.5 Membership of the PCDG is now made up of the major public sector commissioning organisations including NULBC, Staffordshire County Council, Staffordshire Police and the North Staffordshire Clinical Commissioning Group. A number of provider organisations also have non-commissioning membership of the PCDG including Aspire Housing, the Stoke on Trent and Staffordshire NHS Partnership Trust and VAST.
- 1.6 In addition to the changes in governance already outlined, the Partnership's Strategic Board also agreed to pool a number of existing separate funding streams and commissioning processes into a single process, reflecting the ethos behind locality commissioning as a concept.
- 1.7 These different commissioning/funding processes/streams included the following:
 - Police and Crime Commissioner funding (Office of the Police and Crime Commissioner)
 - Building Resilient Communities and Families funding (via Payment by Results) (Staffordshire County Council)
 - Public Health funding (Staffordshire County Council)
 - Third Sector Commissioning funding (NULBC)
- 1.8 Having reviewed these areas of funding/commissioning, partners agreed to pool these resources using Staffordshire County Council's Commissioning Model whilst taking into account other approaches (including that used by NULBC) where appropriate.
- 1.9 Following the Partnership's agreement to develop this approach to public sector commissioning in the Borough, work has proceeded in developing a Commissioning Prospectus which sets out the areas (in the form of 'lots') which potential providers have been invited to bid for. This prospectus was issued in December 2014 and can be found at Appendix C. The areas included in the Prospectus are based on a review of needs in the Borough and reflects the information included in the Cabinet report of October 2014.
- 1.10 Having completed this aspect of the development of locality commissioning, Cabinet is asked to approve the next steps in the implementation process.

2. Issues

- 2.1 Changes have been made to the governance of the Newcastle Partnership which focuses mainly on expanding the scope of the existing Partnership Delivery Group (PDG) to include the commissioning role. The Group, therefore, has been re-named the Partnership Commissioning and Delivery Group (PCDG) following agreement by

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the Newcastle Partnership Strategic Board in September 2014 (chaired by the Leader of the Borough Council) and endorsed by Cabinet in October 2014.

- 2.2 Cabinet are now asked to formally approve that the Borough Council, in principle, becomes the accountable body for the purposes of locality commissioning as set out in this report. This in principle decision is predicated on the development of a Memorandum of Understanding between those partners involved in locality commissioning and prior to a full risk assessment being carried out into the implications of NULBC becoming the accountable body for the purposes of this area of work.
- 2.3 Those officers attending the PCDG and making decisions regarding commissioning on behalf of the Partnership will do so according to the existing NULBC Scheme of Delegation and according to the Council's Constitution, Financial Regulations and Contract Procedure Rules.
- 2.4 Cabinet is also requested to authorise the Chief Executive to agree to the transfer of funds into the Borough Council from Newcastle Partnership partners (specifically funds from the Public Health section of Staffordshire County Council as set out in Appendix A) and generally to pool funding in support of joint commissioning activity as and when appropriate in line with the Council's Constitution, Financial Regulations and Contract Procedure Rules, resulting in the collation of pooled budgets to the cost centres established.
- 2.5 It is further proposed that a follow-up report is presented to Cabinet at its meeting of 25th March 2015 which sets out the terms of the Memorandum of Understanding (following development with partners) and the accompanying risk assessment into the implications of NULBC becoming the accountable body for locality commissioning in the Borough. This report will include a review of the locality commissioning process, likely to take place before the end of the 2015/16 (which will be the end of the initial 12 month period for each of the contracts).

3. Options for Cabinet

- 3.1 Cabinet is therefore asked to approve the in principle appointment of NULBC as the accountable body for locality commission, pending further work as set out in this report; to authorise the Chief Executive to approve the transfer of funds from other organisations as set out in this report; and to receive a further report on the outcome of these decisions at the next meeting of the Cabinet on 25th March 2015.
- 3.2 Cabinet can decide not to approve any or all of these recommendations, but Cabinet should be advised that this would risk not completing the implementation of this work and therefore potentially endangering future funding streams and future co-operation with partners.

4. Outcomes Linked to Corporate Priorities

- 4.1 The recommendations set out in this report support all of the Borough Council's corporate priorities.

5. Legal and Statutory Implications

- 5.1 The notion of an 'accountable body' in this context is relatively unclear (many organisations seem to rely on the dictionary definition¹), although it appears that most

¹ One such definition is "the organisation responsible in a contractual sense for the intervention, with the key responsibilities of ensuring that the programme is managed in accordance with required standards of financial probity, and in line with the agreed action plan"

local authorities have also relied on Sections 4(1) and (2) of the Local Government Act 2000 (the fact that central government requires all LSPs to identify an organisation to take on the role of an accountable body – usually the relevant district/borough council in two-tier non-metropolitan areas) and Section 1 of the Localism Act 2012 (the power to do anything that individuals generally may do, so that a council may assume accountable body status for specific projects). Many local authorities, prior to agreeing to become an accountable body have drafted a Memorandum of Understanding with partners setting out the arrangements by which any one organisation acts as an accountable body. Following this, a full risk assessment can be conducted, including assessing the levels of risk exposure and the costs of conducting the accountable body role.

- 5.3 Any delegations to NULBC officers as part of this process will be covered by the Council's existing Scheme of Delegation and also by the Council's Constitution; Financial Regulations; and Contract Procedure Rules.
- 5.4 A Newcastle Partnership Commissioning Prospectus has been produced, setting out the areas for potential providers to submit tenders in the form of a number of 'lots'. A copy of the Prospectus can be found at Appendix C. The deadline for tenders to be submitted is 4th February 2015, after which an evaluation panel will meet to determine the award of the relevant contracts. Contracts will be awarded from April 2015 onwards, initially for a period of 12 months (with a further option to extend for 12 months).
- 5.5 A key part of the role being undertaken by the Borough Council in this area of work relates to the separation of roles between commissioner and provider. This will need to be considered carefully within this process. Legal advice will be sought to ensure an appropriate segregation of duties where there may be a potential conflict of interest within NULBC or other partners in the commissioning and delivery of the Commissioning Prospectus or any future commissioning activity. A complaints procedure will also be implemented, whereby any organisation or individual is able to respond to the process following award of contracts.
- 5.6 There may also be TUPE and employment related issues (e.g. redundancy) which will need to be managed. Partner support and advice will be sought to manage any HR type issues that may arise. At present, advice is being provided on TUPE issues by SCC Legal, and some areas are seeking to avoid TUPE issues through the creation of 'lots' as part of locality commissioning. In the case of Newcastle-under-Lyme, some of the 'lots' set out in the Prospectus could have TUPE implications, namely:
- 1d Homelessness Prevention for Young People
 - 1e DV Programme – some of the elements of this such as; Early Intervention, IDVA are currently delivered similar service currently being delivered
 - 2b Specialist Debt and Money Advice to Prevent Homelessness

The issue of TUPE will therefore be considered in more detail as part of the overall risk assessment process for locality commissioning.

6. **Equality Impact Assessment**

- 6.1 An Equality Impact Assessment is being developed for this area of work.

7. **Financial and Resource Implications**

- 7.1 This report sets out a series of proposals for the Borough Council to assume the role of the accountable body for this area of work in principle pending further analysis of

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the role. A key part of this role will be in relation to the managing of the Partnerships' finances relating to commissioning.

- 7.2 The principles underpinning the locality commissioning approach is to enable public sector partners to better co-ordinate decisions on commissioning priorities and how to collectively use their resources to achieve them.
- 7.3 The approximate funding identified to meet the two priorities of the Newcastle Partnership is as follows:

Police & Crime Commissioner funding	£68,000
Building Resilient Families and Communities (SCC)	£101,000
Youth Services	£40,000
Public Health funding	£226,789
NULBC Third Sector Commissioning funding	£59,000
Total	£494,789

It should be noted that, in some cases, the transfer of these funds will be relatively straightforward – for example, the Public Health funding from SCC is being transferred en bloc as per the arrangements set out in Appendix A. In the case of the Building Resilient Families and Communities funding, this comes to the Borough in the form of Payment by Results funding from central government. This funding is on the basis of multi-agency work, although the funds themselves are held by SCC. It is proposed by SCC that this funding is not transferred en bloc, but is transferred as commissions are agreed, so that the sum above represents a total figure for BRFC funding, but will not be held by NULBC all in one go. The 'Youth Services' funding is that which has been given to each of the county's District Commissioning Leads in order to 'seed fund' third sector based work as a replacement for the loss of some Youth Services following a review by SCC. Finally, the NULBC figure is made up of a number of existing funding streams under the Third Sector Commissioning heading, but excludes funding which is currently contributing to countywide contracts for debt/benefit advice and third sector infrastructure support which are with the CAB and VAST respectively.

- 7.4 It is proposed that new cost centres are established by the Borough Council to hold this pooled partnership funding.
- 7.5 It should also be noted that additional NULBC officer time in Partnerships, Business Improvement, Housing & Regeneration Services and Finance will be required to support the commissioning process and to support contract and performance management requirements. This requirement will be met using existing officer time, but these commitments are difficult to evaluate at this time as this is the first such exercise. It should be noted that staff resources have been provided as part of the development of this area of work from Staffordshire County Council (in the form of performance/analysis work and also support around Public Health) and also in the form of commissioning work, including the District Commissioning Lead and the Borough Commissioner for Families.
- 7.6 As stated in this report, for any future single commissioning exercise, this will be undertaken in accordance with the Council's Constitution/Financial Regulations/Contract Procedure Rules. At this point in time it is expected that the value of the pooled budget will be around £500,000 for 2015/16 (offered in the form of a series of 12 months plus a further 12 month option contracts or 'lots') as set out in the Commissioning Prospectus (see Appendix C).

8. **Major Risks**

- 8.1 Significant risks include the following:

- Availability of future funding to meet commissioning commitments could be a significant risk to the Council as all contracts will effectively be between the provider and NULBC. However, in order to mitigate this risk and subject to the procurement process, break clauses have been included within the contracts/tenders, as outlined in the previous section of this report (12 months + 12 months)
- In relation to the previous point, partners will be expected to engage fully in the process and inform the Borough Council of any funding changes in sufficient time (6-12 months prior) to enable NULBC to notify contractors accordingly and action the appropriate break clauses
- As said, there may be TUPE and employment related issues (e.g. redundancy) which will need to be managed. Partner support and advice will be sought to manage any HR type issues that may arise.
- Given that all organisations from all sectors are able to bid for these commissioning opportunities, the issue of commissioner/provider splits, as set out earlier in this report, need to be addressed as there could be a risk of unsuccessful providers challenging decisions, for example, if the Borough Council becomes a successful provider

8.2 It is suggested that a risk register is kept for this work, which NULBC officers can manage and seek to mitigate risks. A risk assessment is also to be carried out, as per the proposals set out in this report.

9. **Key Decision Information**

9.1 This report can be considered a key decision in the following ways: -

- It requires the Borough Council to commit existing and additional resources for the function to which the decision relates and;
- It impacts on communities living or working in an area comprising two or more electoral wards in the Borough.

10. **Earlier Cabinet/Committee Resolutions**

10.1 Newcastle Partnership Review (October 2014)

11. **List of Appendices**

11.1 Appendix A – Letter from Staffordshire County Council (Public Health) to NULBC, 1st December 2014
Appendix B – Map of Locality Commissioning Projects and Funding 2015/16
Appendix C – Newcastle Partnership Commissioning Prospectus 2015-17

12. **Background Papers**

12.1 *Achieving Strategic Outcomes through Locally-Based Delivery* (Report from Staffordshire Health and Well-Being Board, July 2014)

Strategy for a Sustainable Community 2014-2020 (Newcastle Partnership, October 2014)