

**CABINET – 31 October 2013 EXECUTIVE SUMMARY OF AGENDA ITEM 6**

**Report title:** Learning Partnership West – cessation of agreement  
**Wards affected:** Citywide  
**Strategic Director:** Isobel Cattermole  
**Report Author:** Craig Bolt

**RECOMMENDATION for the Mayor’s approval:**

1. That the Mayor agrees LPW should cease to be controlled by the four local authorities, Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire Councils.
2. That the Mayor supports a restructuring of LPW to a staff mutual community interest company.
3. That the Mayor agrees LPW take all necessary steps and conclude all necessary documentation to effect these objectives including amendment of the Articles to reflect the change to a staff mutual community interest company, arranging for the four local authorities to retire as members and for the local authority directors to resign and for new directors and members to be appointed.
4. Subject to LPW transferring to a staff mutual community interest company, the Mayor agrees to Bristol City Council entering into a Deficit Liability Agreement in relation to LPW on the basis of the financial contributions and apportionment of each local authority as set out in the Financial Implications section of this report.

**Key background / detail:**

**a. Purpose of report:**

The four West of England Local Authorities (Bath and North East Somerset, City of Bristol, North Somerset and South Gloucestershire) currently control the Learning Partnership West Company. All four authorities have already or plan to withdraw funding for this activity and therefore it is proposed to remove the local authorities from the Board of LPW and allow the company to become a Staff Mutual Community Interest Company.

**b. Key details:**

This report proposes a way forward which involves the Council entering into a Deficit Liability Agreement to address the pension issues and supporting the move of LPW into a staff mutual.

The recommendations remove the local authorities from ownership of a ‘Teckal’ Company which is no longer required as a result of a change in Government policy.

The recommendations recognise that the LPW company is a ‘going concern’ and it is free to operate within the market without the four local authorities.

**BRISTOL CITY COUNCIL**

**Cabinet**

**31 October 2013**

**Report of:** Strategic Director – Children, Young People & Skills

**Title:** Learning Partnership West – Cessation of Agreement

**Ward:** City wide

**Officer Presenting Report:** Strategic Director – Children, Young People & Skills

**Contact Telephone Number:** 0117 9037950

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**Summary**

The four West of England Local Authorities (Bath and North East Somerset, City of Bristol, North Somerset and South Gloucestershire) currently control the Learning Partnership West Company which has provided Information, Advice and Guidance services for young people aged 13 to 25 years of age. All four authorities have already or plan to withdraw funding for this activity and therefore it is proposed to remove the local authorities from the Board of LPW and allow the company to become a Staff Mutual Community Interest Company.

**The significant issues in the report are:**

This report proposes a way forward which involves the Council entering into a Deficit Liability Agreement to address the pension issues and supporting the move of LPW into a staff mutual.

The recommendations remove the local authorities from ownership of a 'Teckal' Company which is no longer required as a result of a change in Government policy.

The recommendations recognise that the LPW company is a 'going concern' and it is free to operate within the market without the four local authorities.

## **Policy**

Not applicable

## **Consultation**

Cabinet Members; Section 151 Finance Officer; Chief Legal Officer; Chief Executive; Other local authorities (West of England). Avon Pension Fund

## **Context**

LPW was formed in 1994 as an ordinary company limited by guarantee. This was done as a result of legislative change which removed the provision of Careers Education/Advice from local authorities. Avon County Council transferred these responsibilities to LPW. In 2008, responsibility for the Connexions Services was transferred back from central government to local authorities. This meant that the four West of England local authorities could now commission services directly. In response to this transfer of statutory commissioning powers, LPW converted to a local authority controlled company (otherwise known as a "Teckal company", named after the key legal case in this area). The four local authorities became the sole members of LPW and so gained control of the company. Such an arrangement is exempt from the EU Public Procurement rules and in addition, significant VAT liabilities that Independent Connexions Companies are subject to, were not incurred

LPW is the vehicle through which the Council, along with its ex-Avon neighbours delivers Information, Advice, Guidance and support for Young people in danger of becoming NEET, learning/work destination tracking duties for young people aged 13 to 19 years (age 25 for young people with Learning Difficulties and Disabilities); assessment of learning needs of 16 year olds with Statements of Special Educational Needs as they transfer to post 16. The Board Membership includes the four Directors of Children's Services and the four Cabinet Members who hold the Children's Portfolio across the West of England. The bloc forms the majority of Directorships on the Board.

In August 2011 LPW was converted to a Community Interest Company ("CIC"). CICs are companies dedicated to serving their communities, as such; CICs are prevented from using any of their profits or assets to benefit their shareholders / members. LPW operates on a not-for-profit basis and the conversion to CIC status formalised the company's altruistic business model. The conversion to a CIC did not affect the existing membership structure and the four local authorities are still the controlling members of LPW as a "Teckal" company.

Because Connexions West of England (LPW) had been a highly successful endeavour the four LA's agreed to collaborate and therefore developed the LA controlled company model. The company is an admitted body in the Avon Pension Fund.

The Connexions grant was incorporated into the then Area Based Grant (ABG). The Coalition Government imposed a 27% in-year reduction in ABG in June 2010. In response the four LA's made a co-ordinated reduction of 30% in their funding of Connexions (LPW). This resulted in the loss of 52 posts and a complete re-structuring of the company. The company met the redundancy/early retirements costs from within its financial reserves.

In 2011-12 Bristol City Council announced that it was to re-commission all services provided to children and young people aged 8 – 24 years. This commission would be on a geographical basis rather than broadly grouped by age/phase. The re-commissioning was also to deliver significant savings. This meant that LPW faced the potential loss of all work for and income from Bristol. A revised commissioning process resulted with LPW eventually securing significant contracts with Bristol City Council (Youth Links).

In March 2012 South Gloucestershire Council served notice on LPW of its intention to fully withdraw from the LPW contract. This formed part of its budget strategy and LPW ceased all work in South Gloucestershire on 31 March 2013.

In autumn 2012 Bath and North East Somerset indicated that it intended to make another reduction in its funding to LPW as part of its 2013-16 financial planning. In February 2013 Bath and North East Somerset served notice on LPW and will fully withdraw from 31 March 2014.

In March 2013 North Somerset Council served notice on LPW of its intention to withdraw from 1 September 2014. This will mean that those remaining Information, Advice, Guidance and destination duties that fall to LA's in Bath and North East Somerset, North Somerset and South Gloucestershire will be lost to LPW and provided by each Council directly.

The current position regarding Learning Partnership West is summarised below;

- LPW remains a strong company and brand and it continues to be a 'going concern'. However, because of the factors outlined above the company must be enabled to respond to the market and to expand into new areas of work where its core skills set would be applicable. The fact that the company is local authority controlled limits its ability to move into new fields of operation.
- Local authority control acts as a 'break' in two main regards. Firstly, the four authorities can block expansion because of the potential impact on their liabilities as owners. To illustrate this, the local authorities could block new work requiring LPW to appoint more staff as such expansion could add to the pension costs and liabilities of the company which would fall to the local authorities if the company closed down or ceased to be a 'going concern'. Secondly, LPW find it difficult to bid for new contracts or to enter into collaborative contract bids with other providers because of their LA-controlled status.
- If LPW is allowed to remove local authority control it would be able to expand. However, in return for this freedom the four local authorities must be able to contain any future liabilities. The most significant liability is the historic deficit carried by LPW as an admitted body within the Avon Pension Fund (APF). This deficit relates to the valuation of the assets and liabilities relating to LPW current and former members within the APF and in this regard the position of LPW is no

different to that of other employing bodies including the four local authorities themselves within the Fund.

- On 9 May 2013 the LPW Board agreed to close access to the Avon Pension Fund for all new appointments and to replace this with a Stakeholder Pension. This limited the liabilities within APF to existing and former employees of the Company. In addition to this, significant changes to overall terms and conditions were implemented in 2011 and this has reduced overall liabilities moving forward.

## **Proposal**

The four Directors of Children's Services in liaison with their section 151 Officers, Chief Legal Officers and Avon Pension Fund have been considering how to move this position forward. All four local authorities are ceasing to use LPW for the purpose for which it was originally established i.e. as a 'Teckal' company they were able to straightforwardly allocate funding and duties to. In future any work done by LPW for any of the local authorities would result from properly commissioned processes and competitive tendering. Therefore, there is no need for the four local authorities to retain control of LPW.

By removing local authority control the four local authorities can free LPW's to compete more effectively and efficiently and through their majority on the LPW Board they have been able to make changes to both company structure and terms and conditions of employment which strengthen the competitiveness of the company and limit the liabilities of the LA's as current owners and as the bodies responsible within Avon Pension Fund for the LPW pension deficit.

The proposed way forward working in collaboration the four local authorities suggest the following;

- That LPW is removed from local authority control and becomes a staff mutual community interest company. This would allow profit to be retained for the benefit of the company's community aims and objectives. It also continues the 'asset lock' which prevents future removal of current physical and other assets.
- To facilitate this, the four local authorities accept back the historic pension deficit of LPW. This will require each local authority to adjust its Deficit Recovery Agreement with Avon Pension Fund to accommodate this addition into their agreed repayments.
- In return the LPW Board, in collaboration with the four local authorities and Avon Pension Fund, has put in place an arrangement through which it meets any future pension fund deficit which arises as a result of fund performance for those staff that are retained within the company. This arrangement will take effect from the point at which the company ceases to be local authority controlled.

The above proposals secure the future of LPW as a successful and independent Community Interest Company. They constrain the liabilities of the four local authorities and can be achieved without the need for a one-off case payment from each LA to the Avon Pension Fund. It also removes the local authorities from the ownership of a company for which the original purpose no longer exists.

## **Other Options Considered**

Not applicable

## **Risk Assessment**

The Strategic Director and Lead Cabinet member in liaison with The Section 151 Officer and Chief Legal Officer have fully reviewed the risk assessment to the issue and recommendations in compliance with the Councils decision making risk management guidance.

## **Public Sector Equality Duties**

A full EqIA has not been completed for the following reasons: the change in status of LPW would not impact upon existing service activity.

## **Legal and Resource Implications**

### **Legal**

LPW should make arrangements to restructure the company in line with the recommendations set out in this report. This should include arrangements to conclude all necessary steps for Bristol City Council to retire as a member of the company and for Bristol City Council Director/s to resign from the company. This will limit future liability of Bristol City Council with LPW.

As far as the pension deficit is concerned referred to in this report, this can be dealt with by way of a Deficit Liability Agreement as proposed and necessary financial provision will need to be made by Bristol City Council to cover the liability.

Penny Wilford – Team Leader, Legal

### **Financial (a) Revenue**

Whilst LPW remains a strong company as detailed in the body of the report, it does currently have a pension deficit in line with each of the authorities and admitted bodies as members of the Avon Pension Fund. The current estimate of the historic past service deficit is £7.730m, which relates to its activities since it became a local authority controlled company. Therefore, it is proposed to split this deficit between the four authorities based on activity undertaken with the partnership over the last four years, which is considered to be the most appropriate data available on which to base the allocation. The outcome of this apportionment is set out in the table below:

Authority	£
Bath and North East Somerset	1,302,116
Bristol	3,288,195
North Somerset	1,299,020
South Gloucestershire	1,840,669
<b>TOTAL</b>	<b>7,730,000</b>

Following agreement with the Avon Pension Fund, it is proposed that this additional deficit is added to the existing deficit that each Authority faces, and is repaid over the deficit recovery period already established for each authority of c. 20 – 25 years, as opposed to a one off cash repayment.

On 9 May 2013, the LPW Board agreed to close access to the Avon Pension Fund for all new appointments, thus limiting the liabilities within the APF to existing and former employees of the company.

Megan Lumsdaine – Finance Business Partner

**(b) Capital**

Not applicable

**Land**

Not applicable

**Personnel**

Not applicable

**Appendices:**

None

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**Background Papers:**

None