

Appendix A2 – Education Update Cabinet Report Finance, Legal and PR Comments

FINANCE ADVICE

The proposals relate to two capital projects

- **Bristol Brunel Academy £1.700m** This project is designed to facilitate 80 more pupils being admitted to the school (16 per year group over 5 years) by ensuring that communal areas are sufficient to accommodate that larger intake. Bristol Brunel Academy is one of the schools that is part of the Phase 1A PFI contract, so the delivery of this project will be by way of an Authority Notice of Change (ANC) (ie a contract variation with the PFI provider). The £1.7m cost estimate includes sums to meet the one-off cost of the capital works and to commute the future lifecycle costs of replacing the new facilities over the remaining life of the PFI contract. There will be a revenue implication to this ANC because the on-going operating costs of the new facilities will need to be met by the Council for the remainder of the contract. These revenue costs (unconfirmed to be less than £5k each year at current prices), however, would be much smaller than the additional stakeholder contributions which the school would pay for having 80 additional pupils on roll (c£38k each year at current prices). There are risks that the pupil numbers may not fully materialise, but the additional costs are modest in the context of the other risks facing the long-term impact of the PFI contract.
- **Trinity Academy £25m.** This project is a brand new secondary free school and sixth form in North Bristol for 6 forms of entry. While it is the LA's responsibility to ensure sufficiency of school places, in this instance, the ESFA has decided that the new capacity should be provided by a Free School. The ESFA could have managed this exercise itself but it has chosen to ask the LA to manage this on its behalf. So, there may be advantages in having some control over the provision that is made available locally and there may be capacity and expertise to share, but this project is about delivering a project that has been commissioned by the ESFA. The focus for the financial position is what risks transfer to the LA in taking on this project. The terms and conditions of the grant provided are particularly relevant eg cost overruns, delays, accounting arrangements, unforeseen events. The business case should be clear about whether the LA has the capacity and expertise to deliver it and whether it is clear about the risks it is taking on in managing this £25m project.

LEGAL ADVICE

Procurement

Whenever the Council procure works over certain thresholds it must comply with the Council's internal procurement rules and the Public Contracts Regulations 2015. Provided the strategic partnering agreement with Bristol LEP Limited was procured in compliance with the Regulations and the project falls under the scope of that procurement, this will be lawful.

EFSA Grant Agreement and Building Contract

The Council will need to ensure that it can and does comply with all conditions included in the grant agreement with EFSA to ensure this funding is forthcoming. The building contract should as far as possible be 'back to back' with the grant agreement (i.e. the obligation to pay BLEP only arises if the conditions under the grant agreement for releasing the funding are met). Legal advice will need to be sought to ensure this happens.

Public Sector Equality Duty

The decision maker must also comply with the Public Sector Equality duty to consider the need to promote equality for persons with "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and have due regard to the need to

i) eliminate discrimination, harassment, and victimisation

ii) advance equality of opportunity

iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it.

In order to do this Cabinet will need to have sufficient information about the effects of the proposed changes to the provision of school places on the aims of the Equality Duty. The Equalities impact assessment is designed to assist with compliance with this duty and so the decision maker must take in to consideration the assessment and the Public sector equality duty before taking the decision

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