

Decision Pathway Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 02 April 2019

TITLE	Bristol Is Open: Assessment of Next steps	
Ward(s)	All.	
Author: David Lawrence	Job title: Interim Shareholder Liaison Director	
Cabinet lead: Cllr Cheney	Executive Director lead: Executive Director Resources	
Proposal origin: <i>City Partner</i>		
Decision maker: Cabinet Member Decision forum: <i>Cabinet</i>		
Purpose of Report: To consider and agree the proposals laid out in this report for the future ownership of Bristol Is Open Limited and the supporting business plan for the period 2019/2020.		
Evidence Base: Bristol is Open (registered as BRISTOLISOPEN LIMITED company number 9302408) was established in April 2015 as a joint venture between Bristol City Council and Bristol University. This programme has resulted in a Smart City Research and Development network platform of multiple communications technologies installed around the city. This platform is allowing companies of all sizes to come and test new technology in a real-world environment rather than just inside a laboratory. Following its first three years of operation, now that the company has established itself and grown its own body of knowledge and experience, and in the light of other technology developments such as 5G, the joint venture partners, Bristol City Council and Bristol University have undertaken a joint assessment of its business model to determine where it should be positioned going forward. Following this review proposals for a revised ownership structure are being put forward, by both the Council and University of Bristol. This revised structure will support propositions such as the extension of the current city network out to the south of Bristol. It should be noted that in June 2018, Cabinet agreed to accept funding for the extension of the network from the Local Enterprise Partnership, and that in March 2018, under delegated authority, officers awarded a contract to BIO to provide the service necessary to do this. The OPCR programme objectives, when fully realised, are to create the following impacts for both Bristol, associated communities, businesses and institutions:		
<ul style="list-style-type: none"> • Connect areas to the South of Bristol that are not benefiting for market supplied high bandwidth connectivity, to enable a level playing field by creating a facility to develop skills and education development. • Increase the capability and impact of Bristol's Living Lab at Knowle West Media Centre, leading to the development of the most appropriate technology solutions addressing real community issues. • Support health and social care change research to provide better care and services through the use of digital connectivity 		

- Enable the creation of jobs directly attributable to the roll out and operations of the network
- Attract companies to accelerate development of applications and products where access to the BiO network will reduce the time to market.
- Attract companies that will benefit from hyper fast connection to other network attached resources, such as Cloud based data and application hosting
- Develop an R&D network to explore the potential of ultrafast broadband in a collaborative, creative digital environment
- Increase the attractiveness of the connected Enterprise Zone in Bristol and surrounding Enterprise Areas

The financial success will be measured via the number of jobs, number of start ups, company growth, inward investment and increased GVA over the next 2 years as the project is developed, and over the subsequent 5 to 10 years as the grant investment is realised.

This project, in addition to the other live/confirmed projects (Replicate, 5G Smart Tourism project, and Big ClouT) will provide a platform for Bristol Is Open, whilst in parallel the business will explore further opportunities to generate income and support further development in the field of Smart Cities. Overall, this will support the city in our bid to meet the ambitions of the One City Plan.

Cabinet Member / Officer Recommendations:

1. To approve the Council’s acquisition of the University of Bristol’s shares in Bristol Is Open Limited (**BIO**), so that the Council becomes the sole shareholder of BIO, owning 2 ordinary shares and 700,000 redeemable preferences shares of BIO.
2. To delegate authority to the Service Director – Finance, in consultation with the Deputy Mayor for Finance, Governance and Performance, to approve the terms of such acquisition (taking into account the outputs of the further legal and financial review of BIO) and to enter into all such documents as are necessary to give effect to this decision.
3. To approve the high-level business plan 2019/2020 in Appendix A2 and Exempt Appendix J2, subject to approval being given to Recommendation 2.
4. To approve an allocation from the Council’s risk reserve of up to £500k in respect of future business in/with BIO (following the share purchase), as set out in this report, and to delegate authority to the Service Director – Finance in consultation with Deputy Mayor for Finance, Governance and Performance to agree the details of how this funding should be used, and to conclude the necessary contracts and/or appropriate legal arrangements.
5. To note that BCC has awarded BIO a contract for the delivery of the ‘Open Programmable City Region’.

Corporate Strategy alignment:

The proposal will support the Council to continue to deliver on its commitment to make progress towards being the UK’s best digitally connected city.

City Benefits:

The proposal will support propositions such as the extension of the current city network out to the south of Bristol and will provide a platform for further work in the field of Smart Cities and supporting the city in our bid to meet the ambitions of the One City Plan.

Consultation Details: Bristol Is Open Board, University of Bristol and Shareholder Group – October- March

2018/2019,
OSMB – 1st April 2019. Cabinet members - 12th March 2019.

Revenue Cost	See Exempt Appendix	Source of Revenue Funding	See Exempt Appendix
Capital Cost	See Exempt Appendix	Source of Capital Funding	See Exempt Appendix
One off cost <input type="checkbox"/>	Ongoing cost <input checked="" type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:

BCC currently owns 1 ordinary share of £1 and 350,000 redeemable preference shares of £1 each in BIO. The University of Bristol (UoB) also owns the same number of shares, and is the only other shareholder in the company. BIO is therefore a 50:50 JV between the University of Bristol and BCC.

This proposal seeks approval for the Council to acquire the full ownership of BIO. Various Options had been explored with UOB, the current Joint shareholder of BIO, details of which are set out in the exempt appendix. Both organisations have agreed in principle for the share purchase and on the positioning of BIO going forward. By acquiring the other 50% of the shareholding in BIO, the Company would retain all past, current and future liabilities and income, meanwhile enabling the Council to shape the strategic direction of BIO to more closely align with the Council's strategic vision including the smart city agenda.

This report requests approval to earmark an allocation of up to £500k from the Council's risk reserve in respect of future business in/with BIO (following the share purchase). It is envisaged that this may be used in a number of ways, including potential new contractual arrangements with BIO for the delivery of additional services, or as consideration for any amendments to existing contracts, or by additional investment in the company; in each case to ensure the effective delivery of the Open Programmable City Region network to the extent required by the Council in line with its strategic objectives.

Additional financial fact-finding questions have been submitted to BIO since the issue of report under Exempt Appendix J4, particularly in respect of its tax and VAT position and any potential related outstanding liabilities which may present a risk to the Council upon the share transfer. This work will be submitted to the s 151 officer once completed, for their consideration in relation to Recommendation 2 (if approved).

Financial risks include:

- Liabilities may be uncovered following the completion of further inquiries.
- Some estimated income may not be realised which will create larger funding gaps in the business plan;
- Other obligations under existing grant commitments may also present a risk to the Council after taking full ownership of BIO.

BCC has instructed BIO to present an outline business plan to illustrate how it would achieve fulfilment of the existing grant and contractual commitments including delivery of the OPCR Project. This has been included Appendix A2 and Exempt Appendix J2.

Please see exempt appendix J2 and J3 for detailed financial information and commentary.

Finance Business Partner: Tian Ze Hao

Date: 15/03/2019

2. Legal Advice:

BCC Legal Services has provided advice on a range of proposals, including the proposal being considered in this

report, for the future of BIO and this advice is included in Exempt Appendix J4. Additional advice is currently being prepared by BCC Legal Services, based on further information provided by the Company, and will be provided to the s 151 officer once complete, for their consideration in relation to Recommendation 2 (if approved).

In brief (in relation to the specific proposal being put forward in this report, and information received to date), if the Council acquires the University’s shares in BIO, it will become the sole shareholder of the Company. Following a share purchase, the Company retains all past, current and future liabilities and these will have to be effectively managed. However, as a result of becoming sole shareholder of the Company, BCC will be able to make decisions about the future of the Company, including how best to align the Company with BCC’s own strategic objectives.

If the share purchase proceeds a number of governance changes will need to be considered, including revising the articles, and appointing additional directors to the Board. The Mayor (or his representative) has been authorised to approve these changes with the support of the Shareholder group.

If the £500k earmarked allocation is approved, legal advice will need to be obtained before any use of this allocation, to ensure that it complies with appropriate legal requirements, and is adequately documented.

Legal advice has been provided on any employment implications arising from the Council acquiring the University’s shares in BIO. Where BIO is an associated employer (i.e. BCC holds the majority of voting power at shareholders’ meetings), if an employee leaves their job with BiO and is employed by the Council, continuity of employment is preserved.

Legal Team Leader: *Eric Andrews and Husinara Jones, 14 March 2019*

3. Implications on ICT:

There are no direct or immediate IT implications arising from this proposal should it be approved. In the longer term, or should it not be approved, then there are a number of implications regarding BiO activity and infrastructure that would need to be addressed.

ICT Team Leader: Ian Gale, Service Manager: ICT Service Delivery and Integration – 19 March 2019

4. HR Advice:

As the report highlights it is proposed that Bristol City Council will become the sole shareholder of Bristol is Open. This has no implications to the employment contracts of current employees of Bristol is Open. There will be a need for the company to review its organisational structure to meet the requirements of the new business plan. The company will need to consult its workforce on any changes.

HR Partner: Mark Williams, Head of Human Resources – 7 March 2019.

EDM Sign-off	Mike Jackson	27/02/2019
Cabinet Member sign-off	CLlr Cheney	11/03/2019
CLB Sign-off	Mike Jackson	05/03/2019
For Key Decisions - Mayor’s Office sign-off	Mayors Office	04/03/2019

Appendix A – Further essential background / detail on the proposal	YES
<ul style="list-style-type: none"> - Appendix A1. Context of the proposal - Appendix A2. Bristol Is Open Business Plan 	

Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	NO
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice - See Exempt Appendix J3	NO
Appendix H – Legal Advice - See Exempt Appendix J4	NO
Appendix I – Combined Background papers	
Appendix J – Exempt Information - Exempt Appendix J1: Overview of Process - Exempt Appendix J2. Appendix to Bristol Is Open Business Plan - Exempt Appendix J3: Financial Commentary - Exempt Appendix J4: SHG report from 2 February 2019	YES
Appendix K – HR advice	NO
Appendix L – ICT	NO