

Decision Pathway – Report Template



PURPOSE: Key decision

MEETING: Cabinet

DATE: 02 June 2020

TITLE	Bristol Is Open Update		
Ward(s)	N/A		
Author: Penny Fell		Job title: Director: Commercialisation, Citizens and Shareholder Liaison	
Cabinet lead: Cllr Craig Cheney, Cabinet Member for Finance, Governance, Performance and Shareholder		Executive Director lead: Mike Jackson, Executive Director: Resources	
Proposal origin: BCC Staff			
Decision maker: Cabinet Member Decision forum: Cabinet			
Timescales: Cabinet Member Briefing: 4 May 2020; Resources EDM: 6 May, 2020; Shareholder Group: 11 May 2020; Cabinet: 2 June 2020			
Purpose of Report: The purpose of this Report is to agree the next phase for the Bristol Is Open programme and delivery of the current projects, which are related to smart city research and development. This Report seeks approval to: <ul style="list-style-type: none"> • Take direct control over the OPCR (Open Programmable City Region) project, and the transfer of BRISTOLISOPEN LTD's responsibilities under the REPLICATE project • Commence the process to transfer (under TUPE) the employment of the BRISTOLISOPEN LTD staff to BCC (subject to BRISTOLISOPEN LTD following an appropriate period of formal consultation); • Delegate authority to the BCC S151 Officer, in consultation with the Deputy Mayor with responsibility for finance, governance and performance, to identify within the Council's 20/21 budget up to £359k p.a. for staff payroll costs arising from the delivery of OPCR. 			
Evidence Base: A 'smart city' can be described as an urban area that uses different electronic, and internet enabled sensors (Internet of Things) to collect data, and then uses insights from that data to manage assets, resources and services efficiently. Bristol is Open, formerly known as the Open Programmable City Region project, was established using central government grant funding to develop a research and development network which would act as a test bed for smart city experimentation. The network would benefit Bristol and other urban environments by giving companies of all sizes the opportunity to explore the practical uses of working in new ways in the real world. The Bristol Is Open project commenced in 2015 with the installation of a fibre network in Bristol City Centre. The network itself is built on fibre (laid in the ground) and software platform, which hosts multiple communications technologies installed around the City. For example, these technologies include sensors on lamp posts and traffic lights, and other wireless transmitters which help to send and receive data. BRISTOLISOPEN LTD (company number 9302408) was established in April 2015 as an ICT network development and			

management company to design and manage the network and the activities that took place on it. The company was a joint venture between Bristol City Council and the University of Bristol, bringing together the Council owned network with the expertise in network engineering from the University. This programme has resulted in:

- Partnerships with many organisations to test and trial new technologies.
- Development of use-cases in areas such as Harbour safety, smart home and energy usage, and smart mobility and Digital Skills.
- Helping to raise Bristol's profile as a leader in smart city experimentation and innovation.

Following three years of operation, Bristol Is Open was moving out of its research and development phase, and in order to support the Council to focus on the citizen facing benefits of the Smart city agenda, in April 2019, Cabinet approved a revised ownership structure for the Company, which involved the Council's acquisition of the University of Bristol's shares in BRISTOLISOPEN LTD. This led to the Council becoming the sole shareholder of the company, owning 2 ordinary shares and 700,000 redeemable preferences shares.

At this time Cabinet also approved an allocation from the Council's risk reserve of up to £500k in respect of future business in/with BRISTOLISOPEN LTD. This was intended to ensure the effective delivery of the OPCR (Open Programmable City Region network) to the extent required by the Council in line with its strategic objectives.

Since becoming the sole Shareholder of the Company the Council has carried out an options analysis and technical assessment in order to make recommendations to support the next phase of the Bristol Is Open project, in particular assessing the options in relation to the future of the BRISTOLISOPEN LTD. This review has considered the commercial opportunities currently available to the company, and the financial and technical requirements for the delivery of the remaining grant obligations, as well as the underpinning network that remains under the ownership of the Council.

The review has concluded that, given that Replicate and OPCR are nearing the end of their delivery phase (March 2021), the best value delivery mechanism for the remaining maintenance activities is to transfer the responsibility for completing those obligations to Bristol City Council, as this will enable overhead costs associated with running the company to be reduced. It should be noted that the transfer (of Replicate obligations) will require the agreement of the Replicate partners.

As part of this process, there is a proposed transfer of five technical staff from BRISTOLISOPEN LTD to Bristol City Council as their particular skills are required for the completion of the technical activities and for the maintenance of the infrastructure in business as usual. BRISTOLISOPEN LTD will be responsible for appropriate consultation with the staff affected. In the immediate term the staff would move into the ICT and Digital Transformation Division.

The benefits of BCC taking on taking direct control over the BRISTOLISOPEN LTD staff under the TUPE regulations are the following:

- Greater control over cash flows, to ensure that the cost of spending on the programmes do not exceed stated budgets.
- Improved BCC oversight over the achievement of the OCPR deliverables
- Improved strategic planning capacity in relation to the future of the Bristol Is Open network (owned by BCC)
- Improved management support and supervision for the 5 remaining technical staff who deliver and maintain the network.
- Enhanced collaboration between the Connected City Service and ICT Service in relation to smart city ambitions.

Following the transfer of responsibilities, Bristol City Council will take forward all future development activities in relation to the Bristol Is Open network: this move will enable the strategic management and development of the network to be more closely aligned with the Council's emerging Smart and Digital agendas. It is proposed that the BRISTOLISOPEN LIMITED company is retained with no staff members in an inactive form. By retaining the BRISTOLISOPEN LIMITED company, the council retains the flexibility of keeping the name, brand, and any intellectual property associated with the company in a form which can quickly and easily be utilised as we explore the next phase of Bristol's smart city ambitions. The benefits of this may include for example being able to build on the strong reputation the project has developed internationally, to explore future funding or partnership opportunities.

The remaining live projects being delivered in this phase of the Bristol Is Open programme that will be transferred to the Council to delivery include:

- The Replicate Programme (ending March 2021): this a European project, in which BCC and BRISTOLISOPEN LTD have been working closely with six local partners, and two European partner cities - Florence (in Italy) and San Sebastian (in Spain). These cities are testing different smart solutions, and Bristol will learn from them and share with them our City's experiences. This will help us understand which of the smart approaches could be scaled up in Bristol, and in other European and world cities.
- The types of solutions tested have included:
 - Smart Homes data and control
 - Active control of charging points
 - Smart lighting control
 - Air quality sensors
 - District Heating.
- The OPCR programme (ending in March 2023), has involved the extension of the original Bristol Is Open network, focussed in the City Centre, to South Bristol, connecting to Knowle West Media Centre. The project includes objectives that - when fully realised – will create the following outcomes for Bristol and its associated communities, businesses and institutions:
 - Connect physical infrastructure (duct and fibre) to areas of South Bristol to enable the use of new technologies to help develop skills and education opportunities for local residents and businesses.
 - Increase the capability of Bristol's 'Living Lab' located at Knowle West Media Centre, leading to the development of technology solutions addressing real community issues.
 - Enable the creation of jobs directly attributable to the roll out and operations of the new network.
 - Attract companies to accelerate development of applications and products where access to the Bristol Is Open network will reduce the time to market.
 - Attract companies through the access to hyperfast connections and the availability such as Cloud based data and application hosting.
 - Increase the attractiveness of the connected Enterprise Zone in Bristol and surrounding Enterprise Areas.

Cabinet Member / Officer Recommendations:

That Cabinet

1. Approves the proposal that the Council completes the delivery of the OPCR (Open Programmable City Region) and Replicate projects
2. Authorises the Executive Director: Resources, in consultation with the Cabinet Member for Finance, Governance and Performance, to take all steps necessary for the transfer of relevant staff into the Council (subject to appropriate consultation by BRISTOLISOPEN LTD.)
3. Notes that approximately £250k is expected to be drawn down from the previously approved £500k earmarked reserve in order to fund the write-off of monies previously advanced to BRISTOLISOPEN LTD or to fund low level running costs for BRISTOLISOPEN LTD as an inactive company.
4. Notes that up to £359k revenue expenditure for new staff payroll costs, and contracts arising in the delivery of OPCR will be incurred. This will be funded first from the residual £250k remaining in the original £500k earmarked reserve once the Recommendation 3 has been met. Thereafter the balance (expected to be £109k) is to be absorbed within the existing Digital Transformation or the OPCR budgets.
5. Notes that the Redeemable Preference Shares (book value £350,001 prior to the close of 19/20) will be fully impaired for the 19/20 statutory reporting purposes.

Corporate Strategy alignment:

1. The proposal allows the Council to continue act in line with its principle to use our assets wisely, and in the longer

term, by repositioning the company and Bristol Is Open network appropriately, will better support the Council to deliver on its commitment to make progress towards being the UK's best digitally connected city.

City Benefits:

1. The proposal will support propositions such as the extension of the current City network out to the south of Bristol, will provide a platform for Bristol City Council to continue further work in the field of Smart Cities, and support the City in our bid to meet the ambitions of the One City Plan – that include ensuring that there is a world class urban communication infrastructure and services - that underpin all we do.

Consultation Details:

BRISTOLISOPEN LTD Board, Shareholder Group January – April 2020
Cabinet Member – 4 May 2020.

Background Documents:

1. Cabinet Report 2nd April 2019 - Bristol Is Open: Assessment of Next Steps
Available at: <https://democracy.bristol.gov.uk/ieDecisionDetails.aspx?ID=505>
2. Cabinet Report 5 June 2018 - Open Programmable City Region initiative
Available at: <https://democracy.bristol.gov.uk/ieDecisionDetails.aspx?AllId=11529>
3. Cabinet report 24 November 2015 – REPLICATE Project Grant Agreement sign off
Available at: https://democracy.bristol.gov.uk/Data/Cabinet/201511241400/Agenda/1124_12b.pdf
4. Cabinet report 3 February 2015 – Bristol Is Open – The Open Programmable City
Available at: https://democracy.bristol.gov.uk/Data/Cabinet/201502031800/Agenda/0203_7.pdf

Revenue Cost	£219k to support BRISTOLISOPEN LTD to 30/06/2020 Approx £31k to run BRISTOLISOPEN LTD as an inactive company from 1/7/20-31/3/21 £359k for Bristol Is Open project deliverables 20/21	Source of Revenue Funding	Cabinet approved (2/4/19) £500k earmarked reserve. Cabinet approved (2/4/19) £500k earmarked reserve. The balance remaining in the £500k Cabinet approved (2/4/19) earmarked reserve after £250k costs above have been met plus £109k within Digital Transformation and OPCR Revenue Budgets.
Capital Cost	-	Source of Capital Funding	-
One off cost <input checked="" 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: As sole shareholder of BRISTOLISOPEN LTD, Bristol City Council has assessed a number of options for the future of the company and concluded that the best value mechanism to deliver Replicate and OPCR as per contractual obligations entails the transfer of responsibility for delivery from BRISTOLISOPEN LTD to BCC.

It is proposed that BRISTOLISOPEN LTD is reduced to an inactive company and that the company's existing commitments are absorbed in to BCC.

At the same time it will be necessary to impair £219k currently held on BCC's Balance Sheet (details per Appendix G).

Some low-level costs will continue to arise within BRISTOLISOPEN LTD once it is reduced to a inactive form. These are assessed to total £31k (details per Appendix G).

It is proposed that these costs, which total £250k, are funded from the £500k earmarked reserve as approved by Cabinet 2/4/19.

The cost to BCC in 20/21 to deliver BRISTOLISOPEN LTD's responsibility is assessed as a total of £359k (details in Appendix G).

It is proposed that this cost is funded from the £250k unutilised balance remaining in the earmarked reserve and from £109k within in the Digital Transformation and OPCR approved Revenue Budgets. There will be no consequent budget pressure.

Finance Business Partner: Jemma Prince, Finance Business Partner, 6 May 2020

2. Legal Advice: The Council's assumption of BRISTOLISOPEN LTD's responsibilities under the Replicate Project will necessitate BRISTOLISOPEN LTD's withdrawal from the Replicate Consortium Agreement, and involve discussions with, and agreement of, the partners to the Replicate Project. This is a process that may take several months. The Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply to the transfer of staff from BRISTOLISOPEN LTD to Bristol City Council. BRISTOLISOPEN LTD is responsible for ensuring appropriate consultation takes place with those staff affected. The Council is required to consult with transferees in relation to any proposed changes to terms and conditions of employment following the transfer.

Legal Team Leader: Husinara Jones, Team Leader/Solicitor, 28 April 2020

3. Implications for IT: IT Services recognise the need to bring all technology delivery/strategy into a single service and welcome the opportunity to bring the Council's governance and assurance approach to the BRISTOLISOPEN LTD team. Concern remains that the wider strategy and project obligations that the Council has entered into may not be deliverable by the BRISTOLISOPEN LTD technical team but they are actively working to mitigate these risks in collaboration with internal teams and delivery partners/customers.

IT Team Leader: Simon Oliver, Director - Digital Transformation, Resources Directorate: 4 May 2020

4. HR Advice: The transfer of employees from BRISTOLISOPEN LTD to BCC will be undertaken in accordance with the TUPE Regulations 2006, and the Company's and Council's policies as applicable. Where redundancy situations arise, redeployment to other BCC roles will be considered (as BRISTOLISOPEN LTD is an associated employer) and redundancy notice/pay will be calculated in accordance with the employees' contractual terms.

HR Partner: James Brereton (People & Culture Manager), 7 May 2020

4. Procurement Advice: As this is a Council owned Company, in effect there are no procurement implications around both the proposed transfer of the staff and leaving BRISTOLISOPEN LTD as a dormant company.

It should be noted that, where existing contracts exist currently with the Company, if these are required to maintain existing infrastructure etc. then these would have to be novated to the Council. In doing so, any future requirements that would otherwise be required to deliver BRISTOLISOPEN LTD would be subject to Public Sector procurement.

Any associated or residual liabilities would also transfer to the Council direct as opposed to directly owned by the Company, although ultimately would reside with the Council as Shareholder.

Category Manager: Steve Sandercock, Interim Head of Procurement, Resources: 4 May 2020

EDM Sign-off	Executive Director Resources	6 May 2020
Cabinet Member sign-off	Cabinet Member for Finance, Governance, Performance and Shareholder	7 May 2020
For Key Decisions - Mayor's Office sign-off	Mayors Office	13 May 2020

Appendix A – Further essential background / detail on the proposal Appendix A1 – Bristol Is Open Update: Further Information Appendix A2 - Open Programmable City Region (OPCR) Project - reference slides	YES
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	NO
Appendix F – Eco-impact screening/ impact assessment of proposal	NO
Appendix G – Financial Advice Appendix G: BRISTOL IS OPEN Financial considerations	YES
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO