

## **TRAFFORD COUNCIL**

**Report to: Executive**  
**Date: 20<sup>th</sup> January 2016**  
**Report for: Decision**  
**Report of: The Leader of the Council**

### **Report Title**

**Trafford Youth Trust (Trust Youth, Trafford)**

### **Summary**

This report sets out a proposal to create a community interest company (CIC) to establish a partnership against which youth provision for 11-18 year olds (up to 25 years for young people with learning difficulties) will be commissioned and funded. The proposed CIC will work to grow investment into youth services within Trafford through innovative approaches to accessing funding, investment and other resources from across the sectors. It will provide a network for all providers working with or on behalf of young people in Trafford in order to improve co-ordination of services, collaborative working and the development and sharing of knowledge, skills and resources. It will provide support to Third Sector providers and develop volunteering and improve community resilience.

### **Recommendation(s)**

1. That a Community Interest Company be formed to establish a partnership against which youth provision for 11-18 year olds (up to 25 years for young people with learning difficulties) will be commissioned and funded.
2. Delegate responsibility to the Chief Executive in consultation with the Leader of the Council to appoint appropriately experienced Company Directors to assume legal responsibility for administering the company.
3. Approve the allocation of £280,000 11-18 Early Help Commissioning funds to the CIC for 2016-17 subject to the CIC developing a robust business plan.
4. Delegate authority to the Corporate Director Resources and the Director of Legal and Democratic Services to take all necessary steps to constitute the Community Interest Company including the appointment of Directors and to complete all other ancillary legal documentation including any loan agreement.

Contact person for access to background papers and further information:

Name: Joanne Hyde  
Extension: 0161 912 4009

Background Papers: 'Trust Youth, Trafford' Position Statement October 2015

*Implications:*

Relationship to Corporate Priorities	
Financial	The main financial considerations are set out in the body of the report.
Legal Implications:	<p>Under Section 111 of the Local Government Act 1972, the Council has the power: <i>"to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions."</i> This power permits authorities to participate in and even establish separate entities, provided the particular action is not prohibited in any other enactment, and the authority is of the opinion that doing so will improve the discharge of the particular function.</p> <p>Section 1 of the Localism Act 2011 contains a general power of competence and provides that <i>"A local authority has power to do anything that individuals generally may do"</i>.</p> <p>Section 95 of the Local Government Act 2003 permits local authorities to do, for a commercial purpose, anything that they are empowered to do by statute, as long as they do so through a company. The section contains an implied power to establish and participate in a company.</p> <p>The 2009 Trading Order England requires the Council to prepare a business case supporting the exercise of its power under Section 95 before trading starts.</p> <p>The CIC will be subject to rules on controlled, influenced, regulated and minority interest companies in Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order</p> <p>The main consequences of the CIC being controlled or influenced are contained in the 1995 Order:-</p> <p>(a) All relevant documents must state that the CIC is controlled or influenced by the Council and the Council must be named.</p> <p>(b) There will be limits on the allowances payable</p>

	<p>to directors of the CIC.</p> <p>(c) Regulated companies are bound by the restrictions on publication of information imposed by Section 2 of the Local Government Act 1986. This means that they are prohibited from publishing party political material.</p> <p>(d) Directors of regulated companies must be removed if they become disqualified from membership of a local authority.</p> <p>(e) Requirements would be imposed relating to the provision of information to the Council's auditor and members and of financial information to the Council.</p> <p>(f) Controlled companies that are not arms' length companies must allow for public inspection of the minutes of any general meeting for four years after the meeting, unless disclosure would be in breach of any statutory requirement or obligation owed to any individual.</p> <p>(g) Any financial commitments entered into by the CIC, will have to be included in any assessment of the Council's finances under the prudential framework for capital investment by local government.</p> <p>The directors will be subject to the directors' duties as set out in the Companies Act 2006:</p> <p>(a) Act within powers  (b) Promote the success of the company  (c) Exercise independent judgement  (d) Exercise reasonable skill, care and diligence  (e) Avoid conflicts of interest  (f) Not accept benefits from third parties  (g) Declare interest in any proposed transaction or arrangement with the company</p>
Equality/Diversity Implications	None
Sustainability Implications	None
Resource Implications e.g. Staffing / ICT / Assets	The Council will need to formally appoint directors to oversee the business.
Risk Management Implications	<p>The CIC will need to develop a business plan that provides the assurance to the Council.</p> <p>There will need to be due diligence carried out in respect of the obligations that CIC will assume. As the CIC does not have a trading history, any third parties dealings with the CIC may require performance guarantees from the Council.</p>
Health & Wellbeing Implications	There are significant opportunities to deliver health and wellbeing outcomes through the activities and providers that the Youth Trust commissions, fund and otherwise supports. These form part of the emerging priorities for the Trust developed in conjunction with young people and providers.

Health and Safety Implications

The Trust's commissioning framework will ensure that any providers and/or activities commissioned, funded or otherwise supported will be health and safety compliant.

## 1.0 Background

- 1.1 Trafford Council gave commitment to support the development of a Youth Trust during the Council's 2015-16 budget process in February 2015 to mitigate changes to the way universal youth provision was offered in Trafford and in recognition of the significant delivery of youth services by the Voluntary and Community Sector.
- 1.2 The programme of work to support the Trust's development has been underway since late 2014 and has been overseen by the Trafford Partnership Executive, with the Strong Communities Board as the accountable body within the Partnership. A Steering Group was formed in March 2015 comprising Trafford Council, THT, the then Leisure Trust, Thrive Trafford, Man United Foundation, the Altrincham Hub, Trafford Sports Partnership and the Youth Parliament, chaired by Rev. Roger Sutton.
- 1.3 Multi-agency work stream task groups were established in March to look at Governance & Infrastructure, Commissioning & Communications and Engagement. This led, in July, to a young people's engagement event held at Man United to discuss purpose and vision, outcomes for young people and what young people understand as the current offer (what they do and don't access and why) and a similar event aimed at providers.
- 1.4 Partners agreed the purpose of the Trust to be:
  - **Commissioning:** To establish a partnership commissioning framework against which youth provision for 11-18 year olds (up to 25 years for young people with learning difficulties) will be funded.
  - **Investment:** To grow investment into youth services within Trafford, through innovative approaches to accessing funding and other resources.
  - **Collaboration and Co-operation:** To provide a network for all providers working with or on behalf of young people in Trafford in order to improve co-ordination of services, collaborative working and the development and sharing of knowledge, skills and resources. To strengthen and sustain Third Sector providers, develop volunteering and improve community resilience.

These purposes form part of the charitable objects for the proposed Trust.

- 1.5 Governance models and options were presented to the Steering Group and considerable work has been undertaken to secure partnership funding and other resource commitments to the development of the Trust. To date as well as key statutory partners, 8 VCS partners have been involved, over 35 providers are involved in a provider forum and over 150 young people have been consulted.
- 1.6 As part of our engagement with young people one of the objectives was to agree a name and a logo for the organisation. The final brand agreed is 'Trust Youth, Trafford'.
- 1.7 A full Position Statement detailing all work undertaken so far has been drafted and will be finalised as a handover document for the CIC Board once appointed.
- 1.8 To date we have commitment from 7 Board members including 2 Exec Members, one Corporate Director, 4 independent professionals with an array of necessary skills and experience. We are also in discussions to secure a young person representative on the Board.

## 2.0 Proposal

- 2.1 In order to establish an independent Youth Trust it is recommended that a Community Interest Company (CIC) is established that is initially controlled by the Council through the appointment of Company Directors, which allows a flexibility as the Trust develops and other organisations contribute financially, for the Trust to become more independent.
- 2.2 Community Interest Companies ("**CICs**") are limited companies, designed for social enterprises that want to use their profits and assets to benefit a defined community. Upon formation they have to satisfy a "community interest test" and continue to do so during their lifetime. Compliance with the test is overseen by the Regulator of Community Interest Companies.
- 2.3 The assets and profits of the CIC are protected by each CIC having an "asset lock" by virtue of the Community Interest Company Regulations 2005 (the "**Regulations**"). The Regulations provide that CICs cannot transfer their assets or profits for less than market value unless transferring to another CIC or charity, or if the transfer is for the benefit of the community. This ensures that the assets and profits will be devoted to the benefit of the community and not the shareholders or directors. Incentivisation arrangements are permitted within certain limits to allow for staff and third party participation in the company.
- 2.4 The proposed CIC would be initially controlled by the Council, as set out in 2.1 above, and the Council (at least initially) would be the sole member / shareholder and appoint the directors.
- 2.5 Along with complying with Regulations, the CIC will be required to adhere to the principles of company law.
- 2.6 There are five existing commissioned projects that have been extended for one month, until 30<sup>th</sup> April 2016, whilst the Trust Youth, Trafford Board is established and it considers whether a further extension is offered. This extension is recommended by the Council's Commissioning service so the Council and also the new CIC Board can be reassured there will be no gaps in the delivery of youth provision in Trafford.

### **3.0 Financial Considerations**

- 3.1 In setting up a CIC the Council will need to procure advice and support in respect of legal and financial matters, the latter with particular regard to taxation. The cost of this will initially be met from T&R reserves. When the CIC is created the new company will have a range of financial matters to consider and it will be for the Board of Directors to make decisions upon such issues. In this regard it can be anticipated that assistance from the Council will continue to be required in a number of areas.
- 3.2 Currently the Council commissions youth provision for 11-18 year olds at a cost of £280,000 p.a. It is proposed that this commissioning pot for 2016-17, minus the amount committed to extend existing contracts by one month to 30/4/16 is transferred from the Council to the Youth trust CIC once established.
- 3.3 Very recently the Board of Trafford Housing Trust have made a commitment of £50,000 to the Youth Trust for 2016-17.
- 3.4 In addition in November the Council applied for Cabinet Office funding under their Delivering Differently for Young People programme. The Council has successfully secured £35,000 which we are required to use to commission independent consultants.

A tender specification has been developed which will commission consultants between February and June 2016 to:

- provide support to the Board in its initial development;
- develop an operating agreement between the Trust and the Council;
- deliver market analysis to determine likely growth and a commercial strategy, including investment opportunities and the types of relationship between investors and the Trust;
- assess the different options for membership of the Trust that could be offered to both young people, providers and other stakeholders;
- develop options for a 'year one' business plan.

3.5 One of the key functions of the Youth trust will be to secure other forms of investment into the CIC in order to commission/fund additional youth provision across Trafford.

3.6 As the CIC does not have a trading history, any third parties dealings with the CIC may require performance guarantees from the Council.

3.7 The development of the Youth Trust has been a partnership undertaking but Council officer support has primarily been provided by Partnerships and Communities and Commissioning services. The CIC Board will need to decide for itself what infrastructure, including staff support, might be required as it develops. In the short term it is envisaged council officers will be required to manage the relationship between the CIC Board and the commissioned consultants and to support the further development and implementation of the framework that will be needed to commission/fund youth services.

#### **4.0 Timescales**

4.1 In order to ensure the CIC Board is in place to maximise the benefit of the consultant support being funded by the Cabinet Office and to ensure there are no gaps in the commissioning of youth services beyond April 2016, the new company needs to be in place by 1<sup>st</sup> March 2016.

4.2 In order to establish the company as a CIC it will have to receive approval from the Regulator of Community Interest Companies. This will be based on the 'Community Interest Test' and it will be important to ensure that the Memorandum and Articles of Association are set up in such a way that this test can be fully met.

4.3 To achieve all this within the available timescales the process for the formation of the company needs to commence as soon as this report has been considered and agreed.

**Key Decision** (as defined in the Constitution): No

**If Key Decision, has 28-day notice been given?** No

**Finance Officer Clearance** GB

**Legal Officer Clearance** HK

**Joanne Hyde – Corporate Director – Transformation and Resources:**

A handwritten signature in blue ink that reads "Joanne Hyde". The signature is written in a cursive, flowing style.

To confirm that the Financial and Legal Implications have been considered and the Corporate Director has cleared the report prior to issuing to the Executive Member for decision.