

DERBYSHIRE COUNTY COUNCIL

CABINET

26 March 2013

Report of the Strategic Director for Children & Younger Adults

SCHOOLS BROADBAND
(TECHNOLOGY and RECYCLING)

1. Purpose of the Report

To note an urgent decision taken by the Chief Executive approving the adoption of the emPSN Infrastructure Co (ICo) and emPSN Services Co (SCo) 5 Year Business Plans for 2013-18.

2. Information and Analysis

In 2000, a consortium to provide broadband and application services to schools in the East Midlands was created. This led to the creation of the company EMBC-PL (East Midlands Broadband Consortium Procurement Limited Company). The company awarded a series of contracts to deliver broadband and application services to schools. When the most recent contract awarded by EMBC-PL was coming to an end, a review of the company structure and the method of delivery was conducted, leading to a restructure into two companies, ICo and SCo.

The purpose of ICo is to focus on the core network and ensure the network adheres to appropriate connectivity and security standards. The purpose of SCo is to focus on the optional services such as e-mail, internet filtering and local network connectivity.

Cabinet approved Derbyshire's membership of SCo on 22nd November 2011 and ICo membership on 13th December 2011. Current ICo members are Derbyshire, Leicester City, Leicestershire, Lincolnshire, Northamptonshire, Nottingham City and Rutland Councils. In order for an emPSN customer to receive services, they must become a member of SCo. Membership of both companies is restricted to public bodies in order to ensure compliance with the Teckal exemption.

At the time of writing, 1094 schools have contracted to receiving connectivity via emPSN. In addition, Lincolnshire and Leicester City have moved their corporate networks to emPSN.

2.1. ICo and SCo Business Plans

The ICo Business Plan has three objectives for emPSN:

- to act on behalf of its members and the public good;
- to use its position and assets to develop the regional network;
- to operate the regional infrastructure in such a way as to protect its members and SCo from financial risk.

The SCo Business Plan has a number of objectives to maintain, improve and where necessary, expand the services available to its members. The Plan also includes the actions for SCo to act as the operational arm of ICo.

The Members' Agreement for both companies includes the requirement for a 5 Year Business Plan to be created annually by each company and to be approved by its members no more than 30 days before the beginning of each financial year. At the ICo and SCo Joint Board Meeting on 21st January 2013, it was unanimously agreed that the ICo and SCo 5 Year Business Plans for 2013-2018 be recommended for adoption by members.

The emPSN ICo and SCo Boards have requested that members should give their approval or otherwise by 28th February 2013 in order to comply with the deadline set out in both companies' constitutions.

2.2. Urgent Decision

It was necessary to approve the Business Plans by 28th February in order to ensure the company was able to have an approved Business Plan in place 30 days before the beginning of the Financial Year. The Business Plans provide a framework within which the company operates.

To have delayed taking the decision to approve the ICo and SCo Business Plans until this meeting of Cabinet would have meant that the company would not have a plan approved for the forthcoming financial year and resort to working to the previously approved Plan. Given the change in structure of the company from EMBC to the two companies EMPSN ICo and EMPSN SCo, the current approved plan would not provide an appropriate framework for the company to work within.

The Chief Executive, therefore, in exercise of his powers under the Council's Constitution, approved the County Council's approval for the ICo and SCo 5

Year Business Plans. A copy of the Strategic Director's report to the Chief Executive is attached as an Appendix.

3. Financial Considerations

The ICo and SCo funding method is solely from agency fees levied on each member contract. This represents a change in funding methodology compared to the EMBC-PL funding, where the company was funded by a combination of charges to schools and funds held centrally by each Council.

The change in funding leads to a shortfall in SCo income compared to company expenditure in 2013-14 and 2014-15. In 2013-14 this will be funded by using £313K from cash reserves and therefore not expose members to any additional financial risk during this period. In 2014-15 a smaller shortfall is predicted and again can be funded by cash reserves. The company will be working to increase sales and there will be enough time to take remedial action in preparation for the 2015-16 period if the cash reserves are exhausted and the sales income has not increased sufficiently. The SCo Business Plan contains a number of different income scenarios and actions to take to ensure the company remains solvent.

The ICo Business Plan shows a balanced financial forecast and no recourse to reserves are necessary.

As the Business Plan is an annual preparation, the Council will have a regular opportunity to review the progress of the business. The level of risk that the 2013-14 Business Plans expose the Council to are comparable with the previously agreed EMBC-PL Business Plans.

4. Legal Considerations

The Chief Executive's decision was taken in accordance with the Scheme of Delegation contained in the Council's Constitution which provides that "Notwithstanding any other provision of this Constitution, the Chief Executive shall have power, after discussion, if practicable, with the Leader of the Council or the relevant Cabinet Member or Chairman, to take such action deemed to be necessary and expedient in matters requiring urgent consideration and which, because of the timescale involved, or the need to safeguard the interests of the County Council, cannot be dealt with by submission to the next following meeting of the Council, Cabinet, Cabinet Member or Committee."

5. Other Considerations

In preparing this report the relevance of the following factors has been considered; prevention of crime & disorder, equality of opportunity; and environmental, health, human resources, property and transport considerations.

6. Key Decision

No.

7. Call-in

Is it required that call-in be waived in respect of the decisions proposed in the report? No.

8. Background Papers

Held by Deputy Head of CAYA Finance.

9. OFFICERS' RECOMMENDATIONS

That Cabinet notes the urgent decision taken by the Chief Executive to approve the Council's approval for the emPSN Infrastructure Co (ICo) and emPSN Services Co (SCo) Business Plans for 2013-18.

Ian Thomas
Strategic Director for Children & Younger Adults

DERBYSHIRE COUNTY COUNCIL

DECISION DELEGATED TO THE CHIEF EXECUTIVE

26 February 2013

Report of the Strategic Director for Children and Younger Adults

SCHOOLS BROADBAND
(EDUCATION)

1. Purpose of the Report

To seek approval of the emPSN Infrastructure Co (ICo) and emPSN Services Co (SCo) 5 Year Business Plans for 2013-2018.

2. Information and Analysis

In 2000, a consortium to provide broadband and application services to schools in the East Midlands was created. This led to the creation of the company EMBC-PL (East Midlands Broadband Consortium Procurement Limited Company). The company awarded a series of contracts to deliver broadband and application services to schools. When the most recent contract awarded by EMBC-PL was coming to an end, a review of the company structure and the method of delivery was conducted, leading to a restructure into two companies, ICo and SCo.

The purpose of ICo is to focus on the core network and ensure the network adheres to appropriate connectivity and security standards. The purpose of SCo is to focus on the optional services such as email, internet filtering and local network connectivity.

Cabinet approved Derbyshire's membership of SCo on 22nd November 2011 and ICo membership on 13th December 2011. Current ICo members are Derbyshire, Leicester City, Leicestershire, Lincolnshire, Northamptonshire, Nottingham City and Rutland Councils. In order for an emPSN customer to receive services, they must become a member of SCo. Membership of both companies is restricted to public bodies in order to ensure compliance with the Teckal exemption.

At the time of writing, 1094 schools have contracted to receiving connectivity via emPSN. In addition, Lincolnshire and Leicester City have moved their corporate networks to emPSN.

2.1. ICo and SCo Business Plans

The ICo Business Plan has three objectives for emPSN:

- to act on behalf of its members and the public good;
- to use its position and assets to develop the regional network;
- to operate the regional infrastructure in such a way as to protect its members and SCo from financial risk.

The SCo Business Plan has a number of objectives to maintain, improve and, where necessary, expand the services available to its members. The Plan also includes the actions for SCo to act as the operational arm of ICo.

The Members' Agreement for both companies includes the requirement for a 5 Year Business Plan to be created annually by each company and to be approved by its members no more than 30 days before the beginning of each financial year. At the ICo and SCo Joint Board Meeting on 21st January 2013, it was unanimously agreed that the ICo and SCo 5 Year Business Plans for 2013-2018 be recommended for adoption by members.

The ICo and SCo Boards have requested that members should give their approval or otherwise by 28th February 2013 in order to comply with the deadline set out in both companies' constitutions.

3. Financial Considerations

The ICo and SCo funding method is solely from agency fees levied on each member contract. This represents a change in funding methodology compared to the EMBC-PL funding, where the company was funded by a combination of charges to schools and funds held centrally by each Council.

The change in funding leads to a shortfall in SCo income compared to company expenditure in 2013-14 and 2014-15. In 2013-14 this will be funded by using £313K from cash reserves and therefore not expose members to any additional financial risk during this period. In 2014-15 a smaller shortfall is predicted and again can be funded by cash reserves. The company will be working to increase sales and there will be enough time to take remedial action in preparation for the 2015-16 period if the cash reserves are exhausted and the sales income has not increased sufficiently. The SCo Business Plan contains a number of different income scenarios and actions to take to ensure the company remains solvent.

The ICo Business Plan shows a balanced financial forecast and no recourse to reserves are necessary.

As the Business Plan is an annual preparation, the Council will have a regular opportunity to review the progress of the business. The level of risk that the 2013-14 Business Plans expose the Council to are comparable with the previously agreed EMBC-PL Business Plans.

4. Legal Considerations

The Boards of both ICo and SCo have requested that members should indicate their approval or otherwise by no later than 28th February 2013 for the adoption of the 5 Year Plan.

In order to provide an efficient and proportionate approach to managing the Council's responsibilities as a member of both ICo and SCo, Cabinet gave approval on 24th April 2012 for certain decisions in respect of the Council exercising its membership rights to be delegated to the Strategic Director – Children and Younger Adults in consultation with the Cabinet Member for Education. Within that report, approval of the companies' 5 Year Business Plans would remain decisions for Cabinet.

The Chief Executive has the power, in accordance with Part 3 of the Constitution (Responsibility for Functions), after discussion, if practicable, with the Leader of the Council or relevant Cabinet Member or Chairman, to take such action deemed to be necessary and expedient in matters requiring urgent consideration and which, because of the timescale involved, cannot be dealt with by submission to the next following meeting of the Council, Cabinet, Cabinet Member or Committee.

The Director of Legal Services considers it appropriate for the Chief Executive to use this power given that the Council's approval of the Business Plans for ICo and SCo is required by the constitution of both companies to be provided no more than 30 days before the beginning of the next financial year. As a result of this provision, this decision can not be delayed until the next meeting of Cabinet on 26th March 2013.

5. Other Considerations

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality, environmental, HR, health, property and transport considerations.

6. Key Decision

No.

7. Call-in

Is it required that call-in be waived in respect of the decisions proposed in the report? No.

8. Background Papers


Held by Deputy Head of CAYA Finance.

9. OFFICERS' RECOMMENDATIONS

That Cabinet approves the emPSN Infrastructure Co (ICo) and emPSN Services Co (SCo) 5 Year Business Plans for 2013-2018.

Ian Thomas
Strategic Director for Children & Younger Adults :

Approved:



Mr N Hodgson, Chief Executive

Date: 26/2/2013