

DERBYSHIRE COUNTY COUNCIL

CABINET

4 March 2014

Report of the Strategic Director for Children and Younger Adults

SCHOOLS BROADBAND – (Children and Young People)

1. Purpose of the Report

To seek approval

- a) of the EMPSN Infrastructure Co (ICo) 5 Year Business Plan for 2014-2019; and
- b) to delegate authority to the Strategic Director for Children and Younger Adults in consultation with the Cabinet Member for Children and Young People for approving the EMPSN five year Business Plans.

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 now known as EMPSN (East Midlands Public Services Network Limited). The company awarded a series of contracts to deliver broadband and application services to schools. When the most recent contract awarded by EMPSN 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 Service Co (SCo). The focus of the companies has also altered from acting as a contract holder on behalf of schools and LAs to becoming a broker of services, leading schools and other customers to contract individually with providers of connectivity and services.

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.

Over 1000 schools have contracted to receive connectivity via EMPSN, (which includes 368 Derbyshire schools), furthermore, Lincolnshire and Nottingham City have contracted for potentially their whole school estate. In addition, Lincolnshire, Leicestershire 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. The agreement requires that the ICo plan is approved by its members no more than 30 days before the beginning of each financial year. The SCo Plan can be agreed by the EMPSN Board. The plans were circulated to all EMPSN Directors on 3rd February 2014, asking for approval to recommend to members. It is anticipated that this approval will be obtained whilst this report is on circulation.

Although, the ICo Board has requested that members should give their approval or otherwise by 1st March 2014 in order to comply with the deadline set out the companies' constitution, the Managing Director of EMPSN has confirmed that as the work of ICo is commissioned through SCo and the fall-back position is to rely on the previous year's plan, the short delay in Derbyshire's member approval by Cabinet will not cause any operational issues.

2.2. Future Approvals

The issue of ensuring that member decisions can be taken in enough time was addressed to some extent by Cabinet on 24th April 2012, where it was agreed to delegate authority to the Strategic Director – Children and Younger Adults, in consultation for the Cabinet Member for Education, to make decisions in respect of the County Council exercising its rights as a member of both companies within certain boundaries. As part of the same report to Cabinet, it was agreed that any decision which directly affect the County

Council's membership or which have a significant impact on the County Council's membership would remain decisions taken by Cabinet, which included the companies' five year plans.

In March 2013, the approval of the Business Plans for both companies was achieved through an urgent decision taken by the Chief Executive (noted by Cabinet 26th March 2013). This was due to the timing of the Business Plans approval by the EMPSN Boards and the available Cabinet dates not providing enough time to have the Business Plan agreed by members 30 days before the beginning of the financial year in accordance with the constitutions of the two companies.

Given that the timing of the availability and approval of the 5 year plans are likely to remain a challenge in terms of meeting Cabinet timescales, it is suggested that Cabinet consider further delegating authority to approve the 5 year plans to the Strategic Director – Children and Younger Adults, in consultation with the Cabinet Member for Children and Young People.

3. Financial Considerations

EMPSN ICo and SCo are providing contract management services for public sector organisations in internet connectivity and services. There are aspirations for the network that is in place already to be provided to other public sector organisations, thus spreading the overhead over a wider customer base. To date, three LAs have taken advantage of this and have commissioned their corporate networks through EMPSN.

The 5 year Business Plan for SCo indicates a reliance on attracting more customers taking service for the company to cover its costs beyond 2015/16. If it is unsuccessful then there are alternative courses of action that could be taken to ensure the company remains solvent. The SCo Business Plan contains different scenarios to address this risk.

The financial risk to the authority is limited and is contained to the price paid for connectivity at the small number of Derbyshire corporate sites for which connection via the EMPSN network is the only viable option. This risk is not felt to be any greater than it would be if connection was by an alternative provider.

4. Legal Considerations

The Council's Constitution enables certain powers to be delegated to chief officers in consultation with Cabinet Members. Chief officers may, within the approved budget, exercise all matters of day to day administration and operational management of the services and functions for which they are

responsible, including taking and implementing decisions which are not key decisions and which are concerned with maintaining the operation or effectiveness of those services or with a matter incidental to the discharge of the Council's functions or which falls within the scope of a policy decision taken by the Council.

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. Background Papers

Held by Deputy Head of CAYA Finance.

7. Key Decision

No.

8. Call-in

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

9. STRATEGIC DIRECTOR'S RECOMMENDATION

- That Cabinet approves
- a) the EMPSN Infrastructure Co (ICo) 5 Year Business Plans for 2014-2019; and
 - b) to delegate authority to the Strategic Director for Children and Younger Adults in consultation with the Cabinet Member for Children and Young People for approving the EMPSN five year Business Plans.

Ian Thomas
Strategic Director for Children & Younger Adults