

Manchester City Council Report for Resolution

Report to: Children and Young People Scrutiny Committee – 19 June 2018

Subject: Review of Manchester City Council's Leaving Care Service

Report of: Strategic Director, Children and Education Services.

Summary

Manchester's care leavers are 'Our Children'; as their corporate parents, we have a duty and a moral responsibility to ensure they are prepared and provided with the right support to ensure they step into the adult world ready for the opportunities and challenges, to live safe, happy, health and successful lives.

Since 1995 Manchester City Council's Leaving Care Service has been commissioned via a third party; with the contract more recently being reviewed and extended annually. An appraisal and review has been undertaken to determine the cost and performance against statutory guidance, best practice standards and the impact on the lives of 'our children'. The findings from the review which was undertaken by an independent organisation considered an number of options for the future of the service:

- Do nothing
- recommission/re-tender
- deliver via an 'in house' arrangement
- consider an alternative delivery model.

Having considered the merits of each option it has been concluded that Manchester City Council's Leaving Care Service is most appropriately delivered via a 'Wholly Owned Trading Company' (WOTC) on the basis that an WOTC offers the greatest opportunity to respond to changing legislative requirements, is flexible and has the capacity to raise the quality of services; within the context of an invest to save model. This is therefore the preferred option.

The report also includes the service requirements resulting from Children and Social Work Act 2017 which introduced a new duty on local authorities from April 2018. This requires the offer of a Personal Adviser support to all care leavers up to age 25. This includes care leavers who return to the local authority at any point between the ages of 21 up to 25 and request Personal Adviser support, even if they had previously indicated that they did not want it. Local authorities are required to proactively offer the support on at least an annual basis and should list in the local authority's published 'Local Offer' for care leavers.

On 30th May 2018, Manchester City Council Executive considered the content of this report, benefits and costs set out therein and resolved;

1. The work to progress a new service model to deliver Manchester City

Council's Leaving Care Service and the development a 'Wholly owned Company' as the preferred option for the delivery of that service

2. Delegate responsibility to the Strategic Director for Children and Education Services, City Treasurer and City Solicitor in establishing a Wholly Owned Company and project delivery plan to deliver Manchester City Council's Leaving Care Service.

In addition the requirements and new duties for Leaving Care Services under the Children and Social Work Act which came into effect from 1st April 2018 and the potential financial implications were also noted.

Recommendations

Children and Young People Scrutiny Committee members are recommended to;

1. Consider and support the content of this report and the proposals contained therein and explore the intended benefits for our Care Leavers.
2. Seek a further report following the successful implementation of the aforementioned proposals.

Wards Affected - All

| Manchester Strategy outcomes | Summary of the contribution to the strategy |
|---|---|
| A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities | Manchester City Council and its partners are the Corporate Parents for c750 young people who were formerly 'looked after', when given the right support, opportunity and encouragement make a positive contribution to success of the city. |
| A highly skilled city: world class and home grown talent sustaining the city's economic success | Engagement with partners to provide sufficient of high quality education, employment and training opportunities that adapt to the specific needs of children will provide future generations with the skills and behaviours to sustain the City's economic success. |
| A progressive and equitable city: making a positive contribution by unlocking the potential of our communities | The programme of improvement outlined in the plan will ensure children and young people who are known to statutory services are, through effective support, given an equal opportunity to positively contribute to their and other communities |
| A liveable and low carbon city: a destination of choice to live, visit, work | Investment in modern, energy efficient and high quality accommodation, education and learning infrastructure drives reductions in carbon. |
| A connected city: world class infrastructure and connectivity to | Investment in existing and new education provision will enhance the City's attractiveness to potential |

| | |
|--------------|---|
| drive growth | residents and contribute to the development of high quality neighbourhoods. |
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Full details are in the body of the report, along with any implications for

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

The current contract value of the existing Leaving Care commission is £1.4m. An independent organisation were commissioned in April 2017 to undertake a 'value for money' review of the current Leaving Care service/offer in Manchester and present an options appraisal. This appraisal was benchmarked against national policy/guidance, regional developments and recognised best practice. The options appraisal indicated an alternative delivery model could achieve net savings in the region of £115k-£231k before taking into account the new Leaving Care duties for 21-25 year olds.

The estimated cost of a new Leaving Care service is £1.2m, the existing cash limit budget of £1.2m after taking account of the £200k saving included in the approved Children's Services Budget and Business Plan 2018-20. These assumptions will be validated as part of the due diligence process. The due diligence will also ensure that all the appropriate VAT, taxation and pensions implications have been fully considered.

In addition to the cost of the Leaving Care service there are new Leaving Care duties for 21-25 year olds which came into effect on 1st April 2018. The Government has recently confirmed £53k of new burden funding. Whilst the service will seek to manage this within the leaving care budget and the additional funding from Government, there is a high risk that demand for additional Personal Adviser support cannot be contained within this amount and as a result Children's Services are working creatively to achieve within the existing budget.

Financial Consequences – Capital

There are no immediate capital consequences of these proposals. However, should the service relocate to an alternative site there may be capital implications. These implications will be subject to the normal capital approval process.

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1.0 Overview

- 1.1 Manchester City Council has a statutory duty to provide a Leaving Care services to those young people who have been/are 'Looked After' aged 16-25 years and leave the care of the Local Authority (the corporate parent). These duties are set out in the following legislative frameworks;
- The Children (Leaving Care) Act 2000 places a statutory requirements on Local Authorities to provide a minimum level of support which included an assessment of young people's needs on leaving care, the appointment of a Personal Advisor (PA) and support through a pathway plan.
 - The Care Leavers' Strategy 2016 - "Keep On Caring: Supporting Young People from Care to Independence," which outlined a 'revolution' in the way that young people coming out of care are supported and in doing so introduced 5 key outcomes that a Local Authority should seek to achieve for all young people leaving care, they should:
 - Be better prepared and supported to live independently
 - Have improved access to education, employment, and training.
 - Experience stability in their lives, and feel safe and secure
 - Receive improved access to health support.
 - Achieve financial stability.
- 1.2 The Children and Social Work Act 2017 which came into effect on 1st April 2018, has enhanced all previous legislation with the requirement for Local Authorities to publish a 'local offer' for Care Leavers and the extension of the remit of Personal Advisor role being available to support young people leaving care up to the age of 25 years.
- 1.3 In addition to the existing 750 Care Leavers who are currently in receipt of a service, it is estimated there are approximately an additional 250 young people aged 21 to 25 years of age now entitled to and may potentially request a service; they have all been written to advising them as such. The practical details/implications are emerging and for which there has been a limited amount of additional financial made available by central government. Notwithstanding this, in addition to an enhanced Education, Employment and Training offer, Children's Services have proactively worked in partnership with the Strategic Housing Board, Registered Providers and Social Landlords to develop a range and choice of affordable and suitable accommodation options. In addition to reviewing the current physical and emotional wellbeing offer to better reflect their needs.
- 1.4 The publication of the local offer will bring greater accountability to Local Authorities and along with Ofsted's Inspection of Local Authority Children's Services (ILACS) will increase the potential for challenges being brought against the local authority for non-compliance. Manchester's 'Local Offer' has been published and a comprehensive review which has taken account of the feedback Ofsted's Inspection findings in 2017 and the views and contributions of 'our' young people is in an advanced stage and will be lead to a

republication of Manchester's offer in August 2018 and can be accessed via the following link:

http://www.manchester.gov.uk/info/100010/social_services/7217/leaving_care

2.0 Background

- 2.1 Since approximately 1995 Manchester City Council's Leaving Care Service has been delivered via a third party organisation under a commissioned contractual arrangement. This contract has been subject to an annual process of review, variation and contract extension informed by regular monitoring of service outcomes. Most recently the service received a revised specification for the period April 2016 - March 2017. The current contract is due to run until 30th September 2018.
- 2.2 In 2014 and more recently 2017 as part of Ofsted's Single Inspection of Manchester's Children's Services the Leaving Care Service was judged to be Require Improvement. The areas for improvement identified in 2017 were similar to those already highlighted with the provider in 2016 and the findings of Ofsted in 2014. As a result it has been concluded a different arrangement is required to ensure the City Council's requirements can be met. Manchester City Council has always been proud to think big and our ambition is that every care leaver can expect and receive the same support we'd give our 'own' children.
- 2.3 Peopletoo Ltd, an independent organisation, were commissioned in April 2017 to undertake a 'value for money' review of the current Leaving Care service/offer in Manchester and present an options appraisal. This appraisal was benchmarked against national policy/guidance, regional developments, recognised best practice and specifically;
- Scoping the actual leaving care offer describing the multi-disciplinary universal support, cost effectiveness, sustainability, and care-leaver engagement
 - Modelling the demographic of Care Leavers in Manchester for size and scope of new service to inform planning for resource and finance.
 - Developing a proposed set of performance and assurance measures that support the continuous improvement of the service.
 - Scoping and proposing a core standard leaving care offer across Greater Manchester (GM).
 - Scoping and developing a Leaving Care 'hub and spoke' governance structure and board membership at GM Level, incorporating local operational and strategic links.
 - Reviewing and offering a proposal with regard to Sir Martin Narey's Residential Care in England report recommendation (July 2016).
 - Completing a review of the best practice nationally and provide a summary of research available.
 - Delivering a proposed plan for a single service attending to all relevant works strands and accounting for risks, both service and financial.

- 2.4 Discussions are currently progressing across Greater Manchester to develop a Leaving Care Service/Trust across all 10 Local Authorities and is supported by a DfE innovation grant. However, presently it is not in the scope of those discussions for a Leaving Care Trust to extend to delivery. The Trust will focus on a series of protocols and working agreements to remove inter-agency bureaucracy and through a sector led improvement approach; which is characterised by high challenge and support in order to improve the life experiences and opportunities for all of Greater Manchester's Care Leavers.
- 2.5 The option appraisal which has been undertaken in respect of Manchester City Council's Leaving Care Services has given due regard to the potential for the Greater Manchester Care Leavers Trust leading the delivery of services across the conurbation, should it be a future possibility.
- 2.6 The options appraisal considered;
- Do nothing
 - recommission/re-tender
 - deliver via an 'in house' arrangement
 - consider an alternative delivery model.
- 2.7 The options appraisal findings were duly considered, in particular the strengths/weaknesses of each one and concluded the option which is most adaptable and able to respond to the needs of young people, those of Manchester City Council and able to 'flex' in accordance with Greater Manchester Review of Children's Services was a Wholly Owned Trading Company (WOTC) and requested a full business case be developed.
- 2.8 The option of re-commissioning was tested via a 'soft marketing' testing exercise on 7th September 2017, which engaged 23 local and national organisations who responded to an open invitation through the Corporate Procurement Chest. The conclusion of this exercise was that there were limited viable alternatives and no other organisation with much experience of delivering the services on the scale required. Consequently there is a significant risk that retendering the service will not deliver a viable result or achieve value for money.
- 2.9 With a Wholly Owned Trading Company (WOTC) the Council maintains overall control through its 'commissioning' role whilst taking advantage of some of the benefits associated with social enterprises, such as the flexibility to adapt to the needs of the business, opportunities for innovation, attract other sources of funding, and can 'trade' to generate upto 20% income from non council contracts.
- 2.10 The preferred option is to establish the WOTC as a "Teckal company": the use of the Teckal exemption will enable the Council to award the service contract direct to the WOTC as long as certain parameters are met, namely it satisfies the tests to apply; the "control" test and the "functional" test. The Council must control all of the shares in the company and must also exercise effective day-to-day control over its affairs; in other words, the same as the relationship

between the Council and one of its internal directorates.

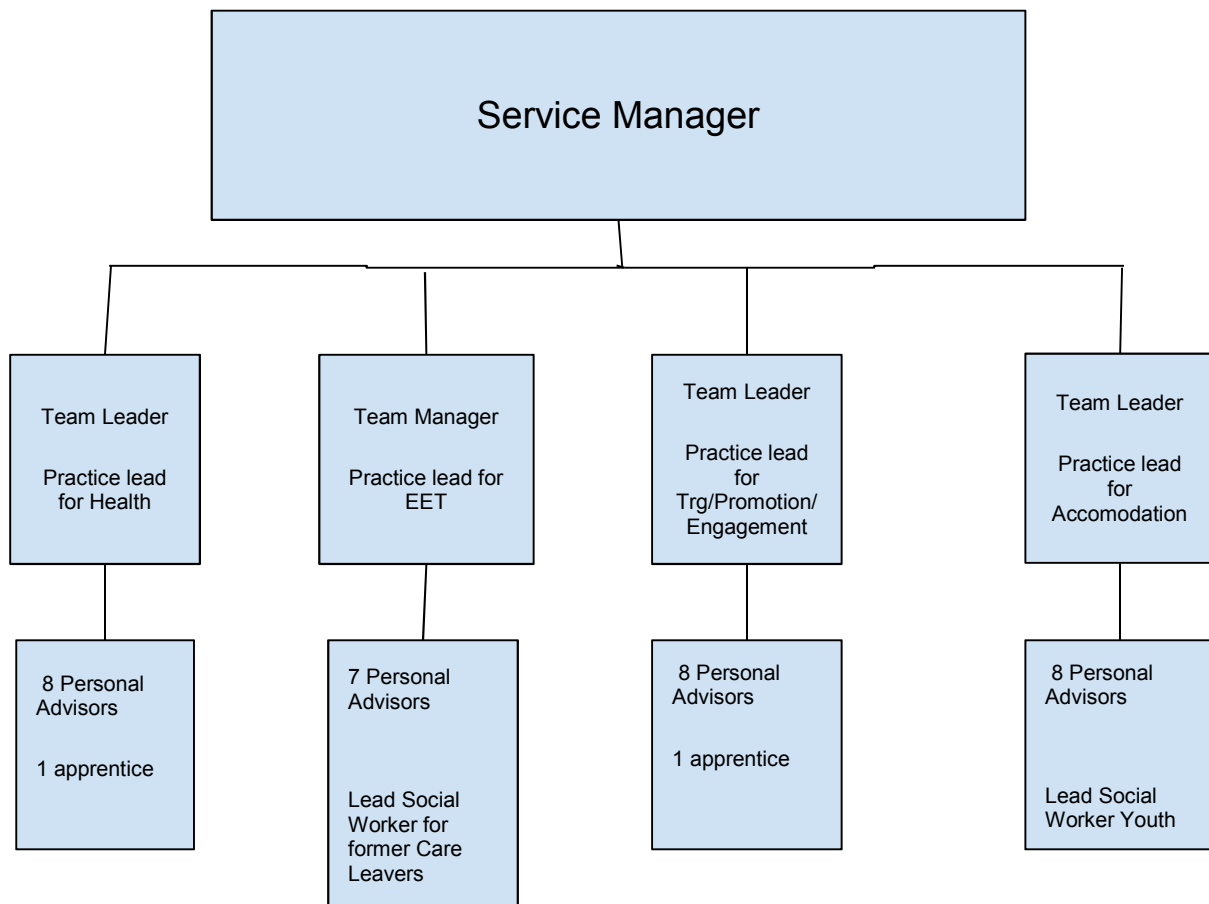
- 2.11 Effectively the Council must retain control over the WOTC and have the power of decisive influence over both the strategic objectives and the significant decisions of the company. The Council will need to ensure that it has sufficient control over WOTC to manage its actions and restrain it as necessary; (which will be set out in the Articles). The Council needs to appoint a majority of directors to the board; and for meetings to be quorate a majority of directors present need to be those appointed by the contracting authority; and to reduce risk, certain strategic decisions will need to be reserved to the Council as sole member, e.g. borrowing, approval of the business plan, letting contracts. (again, as set out in the Articles).
- 2.12 The business undertaken by WOTC for any organisation other than the Council must be of marginal significance only, and that is now anything up to 20% of a company's activities. WOTC must be solely concerned with delivering a service to the Council and not trading significantly with external organisations, and its open market activity must not amount to more than 20% in terms of turnover of its activity. i.e at least 80% of the turnover of the activity of WOTC must be for the Council. There will be no private sector ownership of the company or any intention that there should be any at the time it is set up, although there can be joint ownership by a number of public authorities.
- 2.13 This will be achieved through the governance structure. As referred to at least 80% of the Teckal company's turnover must be for the Council as its public sector owners. Any contracts with other public sector bodies or private sector entities will not benefit from the Teckal exemption and the company will have to tender in the ordinary way for such contracts in accordance with any applicable procurement legislation.
- 2.14 Under the Public Contracts Regulations 2015, and mentioned above, the Council can now undertake 20% trading with third parties outside of their 'Teckal' contract. This is calculated based on three years' turnover – so allows for some smoothing over these years. The Council must ensure that it retains the power to issue directions on strategic matters or important issues of policy, and that the autonomy of the board will not supersede Council powers.
- 2.15 Assuming the Teckal test is satisfied, the Council does not have to follow the Public Contracts Regulations when awarding contracts to the Company. However, the Company will have to comply when awarding and entering into its own contracts for goods, works and services.
- 2.16 There are reportedly approximately 20 Social Care WOTC operating in the United Kingdom; none of which are associated with care leavers. True to the City's history of innovation Manchester would be the first City to adopt this approach for Care Leavers. The uniqueness of the model means that there may be the ability to attract grant funding, for example via the DfE through the innovation fund.
- 2.17 A WOTC potentially brings substantial benefits to the Council as it will

maintain overall control. Subject to the conditions referred to above, it will be free to operate as a commercial entity but remain wholly owned by the Council. As a Teckal company, it is able to access a wider market than if it operated purely as a Council department (although it must effectively be run as such) and can generate income, to be reinvested into the service (or the wider council).

- 2.18 It is possible for a Teckal/WOTC to provide within its constitution for other Local Authorities to join the company, and the Board would then be reorganised to ensure a balanced membership would be maintained.
- 2.19 The company's constitution will be set out in its memorandum and articles of association, which will provide authority for the board of directors and officers as to how it will operate. The company will effectively be run by its board of directors who are answerable to the Council, as shareholder. The articles will provide that where any non-authority board members may be appointed, the Council will have the express right to remove any such directors at any time. Effectively, because the Council holds all of the share capital in the company that will usually be indicative of control.
- 2.20 There is potential for state aid to arise where the Council offers any services to WOTC at no cost or at below market rates, or transfers any assets to WOTC at no cost or at below market rates. To the extent that the Council may wish to provide (even on a temporary basis) support to WOTC by way of back-office functions such as HR, payroll and IT and WOTC must pay an appropriate rate for these services, as indicated below.
- 2.21 The use of Council resources and costs (over and above staff costs) to set up WOTC will need to be viewed as necessary investment costs. In respect of continuing support costs and services, WOTC can seek to have these provided by the Council, and in that instance will be provided as shareholder services to WOTC. The services must be provided at cost, and no procurement exercise is necessary. A form of agreement (SLA) will need to be entered into between the Council and WOTC. This will allow the Council to support WOTC and ensure it is viable in the transitional period.
- 2.22 If the support services are to be provided by a separate/private entity and where such services are over the threshold for public procurement, the procurement rules will apply to the WOTC, which will be required to pay whatever the rates are as set by the separate entity.
- 2.23 The Council's statutory duties will ultimately remain with the Council, and whilst the Council will retain overall control of the company, it will also retain responsibility for its finances/spend and meeting the statutory service requirements.
- 2.24 Whilst the delivery of the Leaving Care Service through a WOTC is the preferred option, this is still subject to the due diligence process including considering the financial and workforce information, VAT and taxation and pension implications.

3.0 Service Delivery Model

- 3.1 It is proposed the following operating model will be characterised by Restorative Leadership style (high challenge, high support) built on a ratio of 8 personal advisors/practitioners managed by a Team Leader. The overall service will be led by a Service Manager, who is responsible for the service performance and continuous development.



- 3.2 The underpinning approach of the service will be to promote a 'trusted relationships' using Ambit/mentalization intervention as a means to engaging with care leavers within the strengths based Signs of Safety Practice Model; delivering the the New Belongings 'gold standard' service. This approach has been informed by evidence of 'what works', best practice and the following set of key outcomes to drive performance and accountability;

- Better Prepared and Supported to Live Independently
- Improved Access to Education, Employment and Training
- Experience Stability and Feel Safe and Secure
- Improved Access to Health Support
- Achieve Financial Stability

- 3.3 Resulting in more Care Leavers living in safe and secure arrangements and involved in education, employment, or training; assisting them to be resilient and live safe, happy, healthy and successful lives.

- 3.4 Each of the Team leader's will have a lead responsibility built into the job role to be subject expert, develop links in the following areas;
- Health
 - Education, training and employment
 - Housing, accomodation
 - Training, development, engagement and awareness raising inc UASC
- 3.5 This will require Team Leaders to be proactive in making links and being proactive in the engagement and working together with key partners such as Named Nurse, Virtual Head, Housing options/providers, Social Work/Youth Justice Teams etc. The intended outcome is to raise awareness, drive consistent practice standards and increase opportunities and outcomes for our children to lead safe, happy, health and successful lives.
- 3.6 In addition it is proposed each of the teams will have within its staffing compliment an 'apprentice' who will be one of our children (care leaver). This will be to support them develop work and life skills, increase employment opportunities and secure academic success.
- 3.7 In response to the additional duties as set out in the Children and Social Work Act 2017 and the number of young people who become eligible, relevant and former relevant by virtue of LAPSO and duties under the Criminal Justice Act (pre-release planning). The Youth Justice Service will establish a designated post that will be lead practitioner for care leavers that will be managed by the permanence/care leaving service but embedded in the Youth Justice Service.
- 3.8 A Senior Social Work Post will be established to establish a practice hub that will oversee and provide the initial response/assessment to those care leavers aged 21 to 25 years age re-engaging with the service for support/advice. This will include reviewing pathway plans/assessments, working partners, mentors and Personal Advisors to provide the required intervention to conclusion.

4.0 Governance/Legal and Procurement Considerations

- 4.1 The aforementioned review and subsequent deliberations as set out in this report have included consultation and engagement of Manchester City Council's legal, procurement and Human Resources and Organisational Development Services.
- 4.2 In addition and working sub-regionally with the aforementioned Greater Manchester Leaving Care Trust, it is proposed the governance of the 'WOTC' will be overseen by a Multi-Agency Board and include young people. It is expected Board membership will have the prerequisite expertise, connectivity, knowledge and skills to shape and deliver a strategic cross-boundary and/or city-wide core offer. This 'core offer' will be informed by the aspirations of our looked after children/care leavers and tackling barriers that inhibit their success. It is anticipated the Board will be strategically aligned to Manchester's Employment and Skills, Housing, Mental Health strategies and Corporate Parenting Panel/Boards. An indicative membership is as follows;

- Executive Member for Children and Education Services
- Director of Children's Services (Chair)
- Performance/Assurance Officer
- Finance Officer
- Service lead
- Young Person representing the voice of Manchester's Care Leavers
- HROD
- Key stakeholder/partner
- Representative from North West Business Leaders Team

- 4.3 This arrangement will enable young people to actively influence design, development and ongoing responsiveness to the needs of care leavers.
- 4.4 The arrangements will also be underpinned by a service contract between the City Council and the WOTC which will set out the relevant governance, financial and service standards.
- 4.5 Should the WOTC be developed with any other authority, this offers the potential to reduce costs through economies of scale in management/leadership capacity. In addition there will need to have in place information sharing agreements, practice guidance and processes. This will be subject to Tekel considerations.

5.0 Financial Considerations

- 5.1 The cost of the current commission is £1.4m. The Children's Services Budget and Business Plan 2018-2020 approved by the Executive in February 2018 includes a £200k cost reduction to be achieved through the re-commissioning of the service. Whilst initial cost estimates suggest this can be achieved, these assumptions are still subject to due diligence and validation of the financial, workforce premises and other relevant information.
- 5.2 VAT implications are currently being considered. At this stage based on the initial outline budget it is anticipated that vat on supplies would be irrecoverable and the additional cost for VAT would be £8k. VAT will also need to be charged on any support services the Council provides, this VAT will be irrecoverable, given the nature of supplies.
- 5.3 There are TUPE implications associated with the proposal for an estimated 30 people employed by the current provider. Further work will be undertaken to determine the current workforce undertaking the Leaving Care duties. The Council will be in a stronger position to understand this once notice is given and the provider is legally bound to provide relevant information.
- 5.4 The cost of the service model excludes the potential cost implications of new Leaving Care duties for Care Leavers aged 21-25 which came into effect from April 2018. In the Children's Services Budget and Business Plan 2018-2020 the risk of Government funding was highlighted. The Department of Education has recently confirmed funding of £53k which would fund 1-2 Personal Advisers (PA) with a caseload of 25.

- 5.5 It is estimated that there would be around 500 additional care leavers eligible for support from the Council, of which around 50% may seek Council support. With an average caseload of 25 cases per PA the proposed service would need around 10 additional PAs and some additional mentoring support for the care leavers. This is estimated to cost around £350k in a full year. It is intended that there will be a phased approach to recruiting staff driven by the numbers of young people approaching the Council for this support. Whilst the service will seek to manage this within the leaving care budget and the additional funding from Government, there is a high risk that demand for additional PA support will present a budget pressure for Children's Services.

6.0 Workforce Implications

- 6.1 Any transfer of the duties currently undertaken by the current provider either to Manchester City Council or another employing entity is likely to result in a transfer under TUPE regulations.
- 6.2 There are estimated to be up to 30 staff currently involved in the commission to deliver our Leaving Care offer and are therefore potentially in scope to transfer under TUPE regulations.
- 6.3 Work is underway to better understand the operational arrangements of the workforce currently delivering the offer so that resulting TUPE implications can be understood. The final in scope list for transfer will not be known until notice is served and we move into formal consultation however based on the current staffing numbers and workforce budget this will not exceed the workforce envelope for the new operating model moving forward.

7.0 Risk Assessment.

- 7.1 Having given due regard to the needs of our care leavers, the progress that has been made within Children's Services since 2014 and the benefit of a value for money review, the preferred option is to establish a WOTC for Manchester's Leaving Care Service. This option will allow for flexibility to adapt to the changes in the profile/needs of our looked after/care leavers, engagement with the development of a Greater Manchester Leaving Care Trust, the benefits of devolution and respond to national guidance and legislation.
- 7.2 It is recognised there are potential and inherent risk associated with being a 'trail-blazer'. It is anticipated these risks will be mitigated through Manchester's history of innovation and experience of establishing joint ventures via the aforementioned delegations.
- 7.3 In addition, it is possible as we progress due diligence over the the next 3 months, unexpected/additional cost implication and risks may arise which will be managed via the project risk assessment process and should those risks be insurmountable a decision will be taken to double run a re-tendering approach alongside bringing the service in house.

- 7.4 Finally, subject to approval, the timescales are ambitious from decision to go live; which have indicatively been set at 6 months and are intended to provide reassurance to staff and service users. There has been a great deal of preparations already undertaken, which provides mitigation against the identified risks and confidence.

8.0 Conclusion and Next Steps

- 8.1 Manchester City Council is committed to ensuring 'our children' live safe, happy, health and successful lives; none more so than our looked after and care leavers.
- 8.2 Manchester City Council has since 1995 delivered its statutory service to care leavers via an external provider, this model having been reviewed is not considered to be one that is fit for future developments and changes and support the service improvements as reflected in Ofsted findings in 2017.
- 8.3 As outlined throughout this report the preferred model for Manchester to deliver services to our care leavers is via the development of a Wholly Owned Trading Company (WOTC); operable from 1st October 2018. A WOTC offers a number of advantages and opportunities that are most likely deliver the council's ambitions for our care leavers and afford them future they deserve.