



Report to Policy Committee

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Report of: Andrew Jones, Strategic Director of Children’s Services

Report to: Education, Children & Families Policy Committee

Date of Decision: 21 June 2023

Subject: Future of School Improvement – SCC activities and contracting with Learn Sheffield

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? (1318)				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below: - Confidential information in the appendices.				

Purpose of Report:

This follows the report presented to Committee on 13 December which presented options for the future funding of Sheffield City Council school improvement activities and outlined further investigative work that needed to be undertaken as to how best to deliver these activities. The purpose of this report is to update on the outcome of that further investigative work.

Recommendations:

The report recommends that the Education, Children and Families Policy Committee:

1. Agrees that the council should continue to directly deliver some statutory school improvement services according to established practices and processes.
2. Also agrees that the council should not now look to insource all school improvement services and notes that whilst the current contract for school improvement activities through Learn Sheffield will expire on 31st August 2023 officers will look to move forward the proposal for a new contract for limited school improvement activities from 1 September 2023 for two years.
3. Notes that SCC will continue as a member of Learn Sheffield and remain the 'supervising authority' for Learn Sheffield.

Background Papers:

School forum's agreement to de-delegate £268,000 until 31 August 2023
[Reforming how Local Authorities School Functions are funded \(DfE 2021\)](#)
[Schools Causing Concern Guidance \(DfE 2022\)](#)

Lead Officer to complete: -

1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Kayleigh Inman
		Legal: Sarah Bennett, Rahana Khalid
		Equalities & Consultation: Bashir Khan
		Climate: Jessica Rick
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	SLB member who approved submission:	Andrew Jones
3	Committee Chair consulted:	Cllr Dale
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Steve Middleton	Job Title: School Advisor
	Date: May 2023	

1 PROPOSAL

1.1 Background

1.1.1 The Council has for a number of years commissioned a range of school improvement services from Learn Sheffield. The current contract was entered into following Cabinet approval in July 2021. This contract runs for a period of 2 years from 1st September 2021 until 31st August 2023.

1.1.2 Learn Sheffield is a school company established in accordance with the Education Act 2002, the School Company Regulations 2002 and the Companies Act 2006. The company is limited by guarantee and has 2 cohorts of membership – Sheffield City Council (the local authority) and ‘participating schools’ (which are school members but also includes academies and colleges). Only legal entities (e.g., academy trusts, governing body for schools, Sheffield City Council) have voting rights; and although collectively ‘participating schools’ hold 80% of the voting rights, Sheffield City Council as a single legal entity holds 20% voting rights and together, they exercise joint control.

1.1.3 The company was established following Cabinet approval on 22nd July 2015 and has subsequently been commissioned to manage and deliver school improvement services across Sheffield. Learn Sheffield provides support and challenge to schools and colleges. Their goal is to ensure Sheffield children receive the best education in the country, so that our young people’s achievement and readiness enables them to be active citizens of Sheffield.

1.1.4 The services currently performed by Learn Sheffield on behalf of Sheffield City Council, relating to statutory school improvement activities include:

- Duties in relation to making provision to carry out statutory Key Stage assessment.
- Limited duties in relation to school governors.

In addition, Learn Sheffield currently performs work in the areas below:

- Understanding the performance of maintained schools in their area, using data as a starting point to identify any maintained school that is underperforming, while working with them to explore ways to support progress.
- Brokering school improvement provision for maintained schools.
- Intervening in maintained schools as appropriate.
- Encouraging good and outstanding maintained schools to take responsibility for their own improvement; support other maintained schools; and enable other maintained schools to access the support they need to improve.
- Advising on the appointment of headteachers in maintained schools.

1.2 **Financial position**

Learn Sheffield has 2 main sources of income – funds received via the contract with the council and a subscription offer that has been available to schools in the city since April 2018. Currently approximately 90% of all schools in the city subscribe to the organisation.

- 1.2.1 Until recently the council utilised a School improvement Monitoring and Brokering Grant ('the Grant') to support investment into the Learn Sheffield commission. Since 2017, the Grant has been provided to support councils to fulfil their core improvement activities, with the amount received by each council proportionate to the number of maintained schools in their area. These core improvement activities are set out in Part 4 of the Education and Inspections Act 2006 (the 2006 Act) and on page 47 of the Schools Causing Concern guidance.
- 1.2.2 In October 2021, the Education and Skills Funding Agency (ESFA) launched a consultation on the future of the Grant beyond March 2022. This proposed that in future these functions be funded from maintained school budgets and that the grant be reduced by 50% from March 2022 and full removal from March 2023.
- 1.2.3 The ESFA have proceeded with the plans outlined in the consultation. The 100% reduction of the grant is now in place. The grant ended in March 2023.
- 1.2.4 In recognition of the upcoming removal of the grant in December 2022, officers recommended to this Committee that the council fulfilling the core school improvement activities, currently provided by Learn Sheffield directly to schools, should be investigated further as its preferred option for the future. The Committee were minded to agree to insourcing, subject to having the necessary information in front of them to make a lawful decision to do so.
- 1.2.5 It had originally been anticipated that a final decision would be possible early in the new year. However, in March 2023 officers requested a delay to the decision to allow for more exploratory work to be undertaken. The Committee granted officers time to further explore options to determine how the council would fulfil core statutory school improvement activities from September 2023.

1.3 **Update from March 2023**

- 1.3.1 As part of the investigations approved by this Committee, officers have consulted with stakeholders including local headteachers, governors and Learn Sheffield. One of the outcomes of this consultation was a proposal from Learn Sheffield that they could continue to fulfil activities on behalf of the council within the budget now available.

- 1.3.2 The council would continue to meet the statutory school improvement responsibilities it provides currently through its existing practices and processes. However, in the case of the limited areas where there is no existing capacity within SCC to meet statutory duties, (for example, the monitoring and moderation of Key Stage assessments), these responsibilities would continue to be contracted out. Learn Sheffield would also continue to deliver complementary non-statutory services.
- 1.3.3 Having considered this proposal, officers believe that it represents the best value for ensuring statutory responsibilities continue to be met and that high standards of school improvement activity continue to be in place across the city.
- 1.3.4 Continuing with Learn Sheffield provides consistency and stability by continuing a positive relationship with an existing 'Schools Company' with an established reputation locally and with effective partnerships in place, both with SCC and Sheffield schools. Learn Sheffield have proposed activities that can be funded from existing budgets, and it is not felt that the services could be delivered more cost effectively in-house. These proposals will enable SCC to meet its statutory duties and have confidence that our schools are being supported effectively. Consequently, the proposal is a better option than insourcing all services.
- 1.3.5 The cash value of the previous contract was £268K. Of this, following the removal of the reduced grant, £131K remains available for investment. The estimated value of the new contract is £97K.
- 1.3.6 It is therefore no longer the officer recommendation that these services are insourced and the Committee is asked to give its approval to this change of approach and to permit officers to move forward the proposal for a contract for limited school improvement activities (the proposed contract is within the thresholds for officer decision making and within existing available budgets).

2 HOW DOES THIS DECISION CONTRIBUTE

- 2.1 The Sheffield school improvement strategy outlined the vision that the school system can provide the platform for Sheffield children to receive the best possible education. It recognises that all schools need to improve continuously. The purpose of this proposal is to enable SCC to support and challenge schools effectively to achieve that aim within the context of changes to funding for school improvement at a national level. Learn Sheffield are an established school improvement partner and have been working effectively with schools across the city. They are best placed to ensure service continuity and school support.

3 HAS THERE BEEN ANY CONSULTATION?

- 3.1 A consultation process with School Forum on the funding of school improvement was undertaken in February 2022 and subsequent meetings. Headteachers have also had consultation within Leadership meetings.

4 RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

4.1.1 Decisions need to consider the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010.

4.1.2 An EIA has been undertaken and highlights there will be a better coordination and integrated school improvement services with other services provided by the Council which will help in improving Schools within the context of changes to funding for school improvement at a national level.

4.1.3 Improved schools will be better equipped to support better outcomes of a diverse range of pupils, which will support improved longer terms outcomes.

4.2 Financial and Commercial Implications

4.2.1 The Improvement Monitoring and Brokering Grant ended in March 2023 and is no longer available to fund school improvement activity.

4.2.2 If the recommendation is agreed, the existing Learn Sheffield contract will end on 31st August and SCC will fulfil the statutory school improvement activities, supplemented by a new contract of lower value for Learn Sheffield to fulfil the duties that SCC is unable to meet.

4.2.3 The total cash value of the previous contract was £268K. Of this, following the removal of the grant, £131K remains available for investment. The new commission will need to be delivered within this funding envelope.

Supervising Authority

4.2.4 Learn Sheffield is a School Company that has Sheffield City Council as the Supervising Authority. A School Company is set up by one or more maintained Local Authority schools, exercising their statutory powers under Section 11-13 of the Education Act 2002. A school company can undertake 3 types of activity:

- purchasing goods and services for schools in the company
- providing services or facilities to other schools either directly or facilitating that provision by a third party
- exercising functions which a LA can contract out.

4.2.5 The School Companies Regulations 2002 (“Regulations”) provide that each school company must have a Supervising Authority to ensure that it is run on a sound financial footing. This is intended to provide a protective framework for companies to operate within, but the Supervising Authority will not intervene in the day-to-day running of the company. Regulations stipulate that a Local Authority must be the supervising authority (which includes monitoring and management of finances of that company).

4.2.6 The functions of the Supervising Authority include:

- Monitoring the management and finances of the school company, including scrutiny of audited annual company accounts
- Considering requests from school companies to borrow
- Notifying the Secretary of State of company membership, name or registered number and any changes to these details within 28 days
- Directing governing bodies to withdraw from a school company in certain circumstances.

4.2.7 The regulations do not stipulate a requirement for the Local Authority to be a director or a member of the school company, its responsibility sits only as a supervising authority (under the Education Act).

4.2.8 Should all the governing boards of schools maintained by the Supervising Authority cease to be members of the company, the supervising authority must resign from its role by serving 56 days' notice on the company.

4.2.9 A direct contract with Learn Sheffield is currently permitted because of provisions known as "Teckal status" or the Teckal exemption", now set out in legislation but previously arising from case law. If the Teckal status was not maintained in future, any requirement for 3rd party delivered services would be procured in accordance with the requirements of the Public Contract Regulations 2015. Procurement and Supply Chain would be fully engaged with to undertake any future procurement activity.

4.3 Legal Implications

4.3.1 The Council has a statutory duty to carry out core improvement activities under the Education and Inspections Act 2006.

4.3.2 This report seeks approval move away from the proposal for insourcing, after which officers would look to move forward proposals for the Council to enter a new contract with Learn Sheffield to provide core improvement activities. Learn Sheffield is a school company established in accordance with the Education Act 2002, the School Company Regulations 2002 and the Companies Act 2006 and for which Sheffield City Council is the Supervising Authority.

4.3.3 The proposal to procure services relating to statutory school improvement activities through Learn Sheffield via a new 2-year contract lawfully remains out of scope of the 2015 procurement regulations as the grounds for a Regulation 12(4) arrangement (formerly/commonly known as a Teckal company) continues to be met where contracting authorities exercise joint control. This will need to be reviewed if (as suggested in the body of the report) Learn Sheffield carry out traded services with third parties which exceed 20% of its total work.

4.4. Climate Implications

No significant climate impacts have been identified. Where elements get taken forward by contractors, CIAs should be completed for these specific commissions as they arise.

4.5 Other Implications

In considering the options for the future of this work, the following risks need to be considered:

4.5.1 Service Continuity

Ongoing planning and mitigation of risk need to be carried out against the current delivery areas. The council will continue to assess whether it has the internal capacity of capabilities to carry out these functions, whether they need to be contracted out or if it deems them to be no longer needed. If the recommended option is not agreed there is significant risk from 1 September 2023 to continuity in arrangements for Key Stage assessments, Ofsted Inspection support, and Head Teacher recruitment. This risk will be mitigated through the proposed new contract with Learn Sheffield.

4.5.2 Access to School Improvement Expertise

Learn Sheffield provides access to education professionals (an established team of 7 LSIPs) that have experience, knowledge, and relationships with schools across the city. SCC will contract with Learn Sheffield to ensure maintained schools continue to have access to this resource in relation to Ofsted Inspection support, Headteacher recruitment and Key Stage Assessment arrangements. SCC does not currently have capacity or experience to deliver these services that Learn Sheffield is fulfilling until the end of the contract on 31 August 2023. From 1 September 2023 onwards SCC risks not meeting its statutory responsibilities unless a new contract is entered into. There is a risk that Sheffield schools will be left without support in key areas relating to Ofsted inspection and Headteacher recruitment. Consequently, awarding a new contract to Learn Sheffield mitigates reputational, operational and legal risks.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Insourcing - If SCC were to provide no further investment in Learn Sheffield, SCC would need to develop its own strategic approach to statutory school improvement and fulfil all statutory school improvement activities currently provided by Learn Sheffield. This would require a significant increase in capacity and activities within SCC and associated impact on budgets as well as disruption to service continuity. Learn Sheffield are an established and trusted partner with School Company status and have offered services that are affordable within existing budgets.

6 REASONS FOR RECOMMENDATIONS

- 6.1 SCC has been forced by changes to school improvement strategy and funding at a national level to reconsider how services are provided. The current contract arrangements will soon expire, and the current funding arrangements are no longer available. The School Forum have agreed that they will no longer fund school improvement with Learn Sheffield through de-delegation.
- 6.2 The recommended option will allow SCC to continue delivering quality services to its maintained schools, in a context where the School Improvement Monitoring and Brokering Grant has affected funding. This recommendation is in alignment with the latest DfE guidance in Schools Causing Concern and “Reforming how Local Authorities School Functions are funded” (DfE 2021).
- 6.3 The recommendation will enable SCC to:
- Make effective use of a significantly reduced financial resource.
 - Know its schools by further developing its own monitoring and intervention processes in collaboration with Learn Sheffield.
 - Continue to develop a strong relationship with its local partner, Learn Sheffield
 - Continue to maintain strong relationships and offer support to school leaders and governors.
 - Ensure support, challenge and intervention is matched to need and provided in a timely manner.
 - Continue to coordinate and integrate statutory school improvement services with other services provided by the council such as inclusion and SEND.
 - Have confidence that SCC is fulfilling its core statutory school improvement activities