

REPORT TO CABINET

30 August 2017

Subject:	Establishment of Sandwell Children's Social Care Trust Board
	Councillor Simon Hackett - Cabinet Member for Children's Services Councillor Steve Eling - Leader of the Council
Director:	Executive Director – Resources – Darren Carter Executive Director of Children's Services – Jim Leivers Chief Executive – Jan Britton
Contribution towards Vision 2030:	 
Key Decision:	Yes
Forward Plan (28 day notice) Reference:	SMBC 16188
Cabinet Member Approval and Date:	Councillors Eling and Hackett - 27 th July 2017
Director Approval:	Jan Britton - 20 July 2017 Darren Carter – 18 July 2017 Jim Leivers – 18 July
Reason for Urgency:	Urgency provisions do not apply.
Exempt Information Ref: <i>(if applicable please contact DSU for advice)</i>	There is no exempt information contained within this report.
Ward Councillor (s) Consulted (if applicable):	This is a corporate issue therefore there is no requirement to consult at individual ward level.
Scrutiny Consultation Considered:	The Children's Trust is regularly discussed at Scrutiny.
Contact Officer(s):	Tara Malik Service Manager – Change and Communications Manager and Trust Project Director Tara_Malik@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Note the appointment of the Right Honourable Jacqui Smith as Chair of the Board of the Sandwell Children's Social Care Trust.
2. Authorise the Chief Executive to take all necessary actions to effect this appointment referred to in (1) above.
3. Note that the future items, as detailed in Appendix A, will be presented to Cabinet for decisions in relation to the Trust.

1 PURPOSE OF THE REPORT

- 1.1 At its meeting on 19 October 2016, Cabinet was advised of the Government's Statutory Direction (under Section 479A of the Education Act 1996) to set up a new arrangement in the form of a Children's Trust to deliver children's social care services for a period of time.
- 1.2 The Statutory Direction sets out the requirement to establish a Sandwell Children's Trust as a new and distinct legal entity to provide children's social care services in Sandwell on behalf of the Council. This will initially be called Sandwell Children's Social Care Trust. The Trust shall have day-to-day operational independence in the management and delivery of these services and it will be managed by a board of executive and non-executive directors.
- 1.3 The Cabinet meeting on 7 December 2016 agreed the content of the Memorandum of Understanding, including the corporate model, make-up of the Trust Board and vision for the Trust. The corporate model for the Trust is a company limited by guarantee wholly owned by the Council. Cabinet received a report on 22 March 2017, outlining the range of decisions the Council will need to take in relation to the Trust in terms of:
 - the setting up of the operationally independent Trust and the transfer of operations to it; and
 - going forward as the Trust becomes operational.
- 1.4 At both these stages there will be two types of decision the Council will need to make (these are executive decisions and so fall to be decided by Cabinet):

- As the decision maker for the Council in its capacity as the body that is responsible and accountable for the discharge of the relevant children's social care services functions; and
- As the decision maker for the Council in its capacity as sole member of the Trust in relation primarily to the Reserved Matters as set out in the Memorandum of Understanding and other legally required decisions

1.5 It was agreed at Cabinet on the 22 March 2017, that the Cabinet itself would operate as the decision making body for matters in relation to the Trust. The key decisions the Cabinet needs to make at the appropriate time to set up the Trust are the approval of documents relating to the establishment and operation of the Trust i.e.

- governance documents for the Trust,
- the Service Delivery Contract between the Council and the Trust other agreements between the Council and the Trust (including Service Level Agreements and property arrangements)

1.6 Appendix A details the decisions that Cabinet will need to make over the coming months and as the Trust becomes operational.

1.7 The Chair of the Board has been appointed by the Secretary of State in consultation with the Council. Following a recruitment process in June, the Secretary of State has agreed the appointment of the Right Honourable Jacqui Smith as the Chair of the Trust Board.

1.8 The two Council appointed non-executive directors were nominated by Council at its meeting on 16 May 2017 – Councillor Paul Sandars and Stuart Lackenby (Director of Prevention and Protection).

1.9 The Chair and the two Council appointed non-executive directors will form the initial Trust Board which will increasingly start operating in its own right. The purpose of this report is to note the appointment of the Chair of the Trust board.

2 IMPLICATION FOR THE COUNCIL'S AMBITION

2.1 The Sandwell Children's Social Care Trust aims to improve outcomes for vulnerable children and families and improve social care practice. Therefore, the Trust will help achieve the ambitions around caring for vulnerable children and families and helping the community feel safer.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 At its meeting on 19 October 2016, Cabinet was advised of the Government's Statutory Direction (under Section 479A of the Education Act 1996) to set up a new arrangement in the form of a Children's Trust to deliver children's social care services for a period of time.
- 3.2 The Statutory Direction sets out the requirement to establish the Sandwell Children's Social Care Trust as a new and distinct legal entity to provide children's social care services in Sandwell on behalf of the Council. The Trust shall have day-to-day operational independence in the management and delivery of these services and it will be managed by a board of executive and non-executive directors.

The role of the Council in relation to the Trust

- 3.3 The corporate model for the Trust is a company limited by guarantee wholly owned by the Council. The report to Cabinet on 22 March 2017 outlined that the Council will need to take a range of decisions in relation to the Trust in terms of:
 - the setting up of the operationally independent Trust and the transfer of operations to it; and
 - going forward as the Trust becomes operational.
- 3.4 At both these stages there will be two types of decision the Council will need to make (these are executive decisions and so fall to be decided by Cabinet):
 - As the decision maker for the Council in its capacity as the body that is responsible and accountable for the discharge of the relevant children's social care services functions; and
 - As the decision maker for the Council in its capacity as sole member of the Trust in relation primarily to the Reserved Matters, as set out in the Memorandum of Understanding, and other legally required decisions.
- 3.5 At the 22 March 2017 meeting, it was agreed that the full Cabinet itself will act as the decision making body for matters in relation to the ownership of the Trust (as well as making decisions in its role as the children's services authority). Keeping the ownership decisions at full Cabinet reflects the significance of this issue for the Council. Cabinet can consider at a later point, once the Trust is operational, whether it wants to revisit the setting up of a Trust Ownership Committee.

3.6 There will be a number of decisions to be taken by the Cabinet, over the next few months during the set up period of the Trust. The key ones will be the approval of the governance documents, the Service Delivery Contract and other agreements with the Trust and the appointment of directors to the board so the Trust can increasingly become fully operational. Appendix A details the decisions that Cabinet will need to make over the coming months and as the Trust becomes operational.

Appointment of the Trust Board

3.7 One of the key roles of the Cabinet in the set up period is to appoint directors to the board of the Trust.

3.8 The Memorandum of Understanding which the Council has entered into with the Department for Education sets out the composition of the board of directors of the Trust as follows:

- A Chair (non-executive director) as appointed by the Secretary of State in consultation with the Council;
- Three executive directors comprising the Trust's Chief Executive and two other members of the executive management team;
- Three non-executive directors with collective knowledge and expertise across children's services, public services;
- Two additional non-executive directors appointed by the Council (e.g. members and /or officers)

3.9 Apart from the Chair and the Chief Executive, all other appointments and removals from posts will be made in consultation with the Secretary of State.

3.10 Following consultation with the Secretary of State, the first requirement is for Cabinet to agree the first appointments to the Trust Board to enable the Trust to start operating.

3.11 The Chair of the Board has been appointed by the Secretary of State in consultation with the Council. Following a recruitment process in June 2017, the Secretary of State has agreed the appointment of the Right Honourable Jacqui Smith as the Chair of the Trust Board.

3.12 The two Council appointed non-executive directors were nominated by Council at its meeting on 16 May 2017 - Councillor Paul Sandars and Stuart Lackenby (Director of Prevention and Protection).

3.13 The Chair and the two Council non-executive directors will form the initial Trust Board which can then increasingly start operating in its own right.

- 3.14 Subsequently, the Cabinet will appoint the remaining independent non-executive directors to the Board and the three executive directors (including the Chief Executive of the Trust) in due course.
- 3.15 A recruitment process to appoint a Chief Executive of the Trust was undertaken in July 2017. Unfortunately, the field of applicants was not sufficient. A further recruitment drive will take place in order to secure this critical appointment as soon as possible.

4 THE CURRENT POSITION

- 4.1 Members are being kept up to date in the ongoing establishment of the Sandwell Children's Social Care Trust.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Senior members and officers of the Council as well as the Secretary of State for Education have been consulted.

6 STRATEGIC RESOURCE IMPLICATIONS

- 6.1 There are no direct resource implications arising from the approval of the decision-making arrangements.
- 6.2 The Council will continue to set the strategic direction for Children's Services and will continue to operate within the Council's three year corporate business planning and budget setting process. The arrangements for the delivery of children's social care services will be based on the Memorandum of Understanding between the Council and the DfE and set out in the Service Delivery Contract and the governance arrangements which are being developed.
- 6.3 The Council's corporate risk management strategy has been complied with to identify and assess the risks associated with the decisions being sought in this report.
- 6.4 The risks associated with the set up and operation of the Trust have been captured in various risk registers including the Council's strategic risk register and the project risk register.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

- 7.1 Under Section 479A of the Education Act 1996, the Secretary of State has the power to give a local authority such directions as the Secretary of State thinks fit to enable the functions under this legislation (children's social care functions) to be performed to an adequate standard.

- 7.2 The Statutory Direction for the Council sets out that a newly created body is established to deliver the Council's children's social care services, to be called a Children's Trust.
- 7.3 The Trust will be operationally independent in the delivery of children's social care services, whilst statutory responsibility for these services will be retained by the Council. Accordingly, the statutory role of the Lead Member for Children's Services will continue to be provided by the Council. The Lead Member as a member of the Council's Cabinet has political responsibility for the leadership, strategy and effectiveness of local authority children's services. The Lead Member is democratically accountable to local communities and has a key role in defining local vision and setting political priorities for children's services within the broader political context of the Council. The Council must balance its oversight of the Trust whilst enabling the Trust to be operationally independent.
- 7.4 The Trust has been established as a company limited by guarantee wholly owned by the Council and "Teckal" compliant. This means that for the purposes of procurement law, the Service Delivery Contract awarded by the Council to the Trust and contracts for support services to be supplied by the Council to the Trust can all be entered into without undertaking a procurement process.
- 7.5 This report is about the Council exercising its function as sole member of the company.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 There are no equality implications arising from this report.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 There are no data protection issues arising from this report.

10 CRIME AND DISORDER AND RISK ASSESSMENT

- 10.1 There are no crime and disorder implications arising from this report.

11 SUSTAINABILITY OF PROPOSALS

- 11.1 The proposals contained in this report have been future proofed for future requirements.

12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

12.1 The Sandwell Children’s Social Care Trust aims to improve outcomes for vulnerable children and families and improve social care practice. In this way the Trust will contribute towards the health and wellbeing of the wider community.

13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

13.1 None

14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

14.1 The Chair of the Trust Board has been appointed by the Secretary of State in consultation with the Council. Following a recruitment process in June, the Secretary of State has agreed the appointment of the Right Honourable Jacqui Smith as the Chair of the Trust Board.

14.2 The two Council appointed non-executive directors were nominated by Council at its meeting on 16 May 2017 – Councillor Paul Sandars and Stuart Lackenby (Director of Prevention and Protection).

14.3 The Chair and the two Council appointed non-executive directors will form the initial Trust Board which will increasingly start operating in its own right. The purpose of this report is to note the appointment of the Chair of the Trust board.

15 BACKGROUND PAPERS

None

16 APPENDICES

Appendix 1 Details of decisions to be taken by Cabinet

Darren Carter
Executive Director – Resources

Jim Leivers
Interim Director of Children’s Service

Details of decisions to be taken by Cabinet

<p>Stage of Project</p>	<p>Decisions to be made by Cabinet in its capacity as sole member of the new Trust</p>	<p>Decisions to be made by Cabinet in its capacity as the body responsible and accountable for the discharge of the relevant children's social care services functions</p>
<p>Setting up the Trust and transfer of operations</p>	<ul style="list-style-type: none"> • Appointment of the directors to the Board i.e. <ul style="list-style-type: none"> ○ Non-Executive Directors ○ Executive directors (once these are appointed as senior managers of the Trust) • Agreement to the governance arrangements between the Council and Trust <ul style="list-style-type: none"> - Articles of Association (including Board decision making and reserved matters) • Approval of the agreement between the Council and the DfE setting out the consent and consultation rights of the DfE in relation to the Trust and the Service Contract 	<ul style="list-style-type: none"> • Agreement to the terms of the Service Contract between the Council and the Trust including <ul style="list-style-type: none"> ○ Performance framework and KPIs ○ Financial arrangements ○ Staffing arrangements (including how the jobs pledge will work) • Agreement to any other financial support by the Council for the Trust e.g. credit agreement/loan • Agreement to the terms of the SLAs for the Council to provide services to the Trust • Agreement to any property transactions to provide premises for the Trust (these may already be agreed and/or covered under delegated officer powers)
<p>When the Trust is operational</p>	<p>Consideration of any reserved matter which the Council has to approve as owner of the Trust. The details of these are to be finalised but will include</p> <ul style="list-style-type: none"> ○ Approval of the annual Business Plan ○ Approval of other strategic decisions ○ Approval of significant expenditure/contracts ○ Changes to the Articles ○ Appointments of new directors 	<ul style="list-style-type: none"> • Consideration of any revised direction from the Secretary of State • Consideration of any decision in relation to the services contract e.g. annual fee to the Trust, request for additional funding, contract monitoring and performance management including consideration of the performance management report, review of contract after 5 year term • Consideration of any variation of the Services Contract e.g. change in scope