

PLYMOUTH CITY COUNCIL

Subject: The PLUSS organisation
Committee: Cabinet
Date: 10 December 2013
Cabinet Member: Councillor Lowry
CMT Member: Malcolm Coe (Assistant Director for Finance, Efficiencies, Technology and Assets)
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Ref:
Key Decision: Yes
Part: I

Purpose of the report:

The PLUSS Organisation is a Local Authority owned provider of a range of employment and training programmes for people with disabilities. It was set up in 2005.

PLUSS has since established itself as one of the leading organisation of its type in the country. Over the years the value of its contracts with the four local authorities has reduced such that it no longer carries out the bulk of its work for the four member Councils. It does, however, have a number of significant contracts with other public sector bodies.

This report sets out the intention of Plymouth City Council, together with its three partner Authorities, Devon County Council, Torbay Council, and Somerset Council, to sell its interest in the PLUSS Organisation and transfer ownership to the national charity Turning Point.

Turning Point offers an ideal opportunity for PLUSS to achieve its aims and in turn affords the owners the opportunity to divest themselves of ownership of PLUSS, which removes long term risks and liabilities, but most importantly will help secure the long term future for PLUSS.

The Brilliant Co-operative Council Corporate Plan 2013/14 – 2016/17:

By relinquishing our ownership of the PLUSS Organisation, we will enable the company under its new owners to provide a more stable longer term service to the more vulnerable members of society.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Although there will be no immediate effect on our MTFP, by selling PLUS it will release Plymouth City Council from its future pension liabilities, and all other potential contingent liabilities associated with the company.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

There are no implications as Plymouth City Council and the other authorities are transferring ownership to a national charity with a wealth of experience in the field of disability employment.

Equality and Diversity

An Equality Impact Assessment has been undertaken.

Recommendations and Reasons for recommended action:

1. That Cabinet agrees to the sale of PLUS to Turning Point upon the terms as outlined in this report;
2. That Cabinet delegates power to the Portfolio Holder for Finance, in consultation with the Monitoring Officer and Section 151 Officer, to deal with and approve any outstanding matters as part of the sale of PLUS;
3. That Cabinet authorises the Monitoring Officer to enter into all necessary legal documentation to complete the sale of PLUS to Turning Point

To enable the relevant Senior Officers to complete the sale of PLUS to the agreed timeline

Alternative options considered and rejected:

Remain as owners which 1) restricts PLUS's future potential and 2) retains Plymouth City Council's exposure to future contingent liabilities, in particular the pension liabilities

Published work / information:

None

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Equality Impact Assessment	√								
Commercially sensitive financial details		√			√				

Sign off:

Fin	MNI3 14.23	Leg	1485 /SC	Mon Off	TH01 28	HR		Assets		IT		Strat Proc	
Originating SMT Member: Malcolm Coe													
Have the Cabinet Members agreed the contents of the report? Yes													

1. Background

- 1.1 Prior to August 2005, Devon, Plymouth and Torbay Councils provided a range of employment and training programmes for people with disabilities and operated an equipment store. Known as the Industrial Services Group (ISG) this service was overseen by a Joint Social Services Committee but the management of the service was unwieldy. Following a review it was concluded that there was a need for change to ensure that the service could be delivered in a more cohesive and efficient manner.
- 1.2 The upshot of the review process was that in August 2005, Devon, Plymouth and Torbay Councils formed PLUSS, a local authority controlled company, limited by guarantee. PLUSS effectively took over what had hitherto been undertaken by ISG. It delivered services to the three member Councils through a series of service contracts as well as providing services to other external organisations, including the Department for Work and Pensions (DWP).
- 1.3 In June 2006, Somerset County Council transferred like services to PLUSS and became a member alongside the three existing member authorities. Each of the four Councils has representation on the Board.
- 1.4 PLUSS has since established itself as one of the leading organisation of its type in the country. Over the years the value of its contracts with the four local authorities has reduced such that it no longer carries out the bulk of its work for the four member Councils. It does, however, have a number of significant contracts with other public sector bodies.

2. Recent Developments

- 2.1 PLUSS is now a well-established company and operates as a national provider of services. Allied to the fact that the four member Councils are increasingly concentrating on core services the timing was right to review the Councils ownership of PLUSS and for PLUSS to focus on its future.
- 2.2 Initial soundings from within the four Councils elicited a favourable response to the idea of them relinquishing their ownership of PLUSS, although there was a concern to ensure that any transfer of ownership should be to new owners driven by a sound social purpose thereby enabling the continuation of services of value to local communities.

- 2.3 PLUSS' own business plan identified the need for significant growth for the company to be able to maintain its current market share, achieve growth and retain its financial viability. Given the limited opportunities for growth through traditional commissioning PLUSS' view was that it needed to "merge" with a partner that shared similar core values and vision.
- 2.4 As a result of these considerations the Board of PLUSS explored options with three organisations whom the PLUSS Board felt might best meet the long term needs and aspirations of PLUSS. Detailed discussions were held with each of the three organisations during the period September 2011 to October 2012 and updates on how these discussions were progressing were provided at Chief Executive level and through meetings with the four Councils via the owner representatives, being four senior finance officers who meet on a regular basis with the attendance of representatives of PLUSS (including some Board member representatives) as needed. Their role is to act as a conduit between PLUSS and its owners, deal with any issues that may arise for the owners in relation to PLUSS' activities and ensure by such communication that the interests of the Councils, as owners, are protected.
- 2.5 Following these discussions it emerged that one of the organisations, Turning Point would be best suited as the preferred partner, primarily because their core values and vision aligned with those of PLUSS. Accordingly, as Turning Point, represented the best "fit" discussions continued with this organisation.

3. Turning Point

- 3.1 As a registered charity Turning Point operates as a social enterprise and is focused on improving lives and communities. In particular it provides a range of services for people with substance misuse issues, learning difficulties and mental health issues with employment for these people being its central focus. The prime interest in acquiring the ownership of PLUSS is the joint benefits this would bring to both organisations in terms of expanding services, particularly employment support services to a range of customers, thereby ensuring that they can deliver a strategic ambition of being able to offer meaningful employment support to all of their customers.
- 3.2 Following a full options appraisal of Turning Point the PLUSS Board selected Turning Point as its preferred option subject to obtaining the consent of the four Councils as owners of the Company and to undertaking the necessary due diligence. In summary the sale of PLUSS to Turning Point provides these advantages:-
- it brings in additional specialist support services to disadvantaged groups in Devon and Somerset;
 - it provides a mechanism for the Councils to remove themselves from the running of PLUSS; and
 - it supports the broad move of local authorities towards commissioning core services.

3.3 In addition Turning Point becoming the owner of PLUS will bolster PLUS' resources in terms of bidding for national contracts and 'Prime' bidder status for Government procurement employment exercises with the potential for ensuring that these services continue to be delivered to local people by a local organisation familiar with their needs and local circumstances.

4. Commercial Negotiations

4.1 The principle of proceeding with negotiations with Turning Point was discussed with the relevant Cabinet members at an early stage within each Council, and the consensus was that negotiations should go ahead to see if agreement could be reached with Turning Point on the terms of the sale.

4.2 The owner representatives referred to in paragraph 2.4 were asked to lead on the commercial negotiations of the sale of PLUS from the four member Councils to Turning Point and these officers have been supported by their in-house lawyers. Further, to assist in the process a report was commissioned from an independent firm of accountants in order to gauge the value of PLUS.

4.3 Following a series of discussions a position has been reached whereby the Councils will receive a payment for PLUS. PLUS is a member of the Devon LGPS and once pension liabilities are factored in the value of the company is low.

4.4 The sale means that the Council will no longer have any liabilities towards the Devon LGPS and will cease to act as guarantors in respect of the PLUS overdraft facility. Turning Point will also guarantee the loan that has been provided by each Council to PLUS. This represents a better position than is currently the case as in effect the four Councils are guaranteeing the loan in the event of PLUS defaulting. The properties occupied by PLUS and currently leased or sub-let from the Councils will continue to be leased on market terms. Existing contracts with PLUS will continue until such time as they need to be re-tendered. Aside from indemnities dealing with pension liabilities and warranties given by the Councils to PLUS on inception the heads of terms provide that no warranties or indemnities will be given by the Councils in respect of the sale of PLUS to Turning Point. The existing pension liability of the Councils would be dealt with if PLUS ends its membership of the Devon LGPS. Paragraph 5 below deals in more detail with the pension position. From the date of sale the Councils will no longer be represented on the Board of PLUS

4.5 In summary the sale to Turning Point represents a good opportunity to secure the long term viability of PLUS. From the Councils perspective the sale reduces liability and risk and it is generally considered that now represents the right time to dispose of PLUS, especially as it is to an organisation which it can benefit from and hopefully prosper. It is hoped that the sale of the PLUS will be concluded around July next year.

5. Pension Position

- 5.1 PLUSS is a member of the Devon LGPS but is presently consulting with the trade unions and its staff about closing the scheme. Subject to consultation PLUSS would then close the scheme next year ahead of its sale to Turning Point. It is estimated that there is a fund deficit on a full closure basis. PLUSS is not in a position to meet all of the full-closure deficit, and under the terms of the membership of the scheme the onus falls upon the four local authority owners to meet the shortfall because of the guarantee they provided in respect of the original staff group who transferred from the local authorities to PLUSS.
- 5.2 The liabilities and corresponding assets for the original staff will transfer back to the original employer on an ongoing funded basis. As there are different actuarial assumptions relating to local authorities and companies (even if local authority owned) the fund assets to be transferred will be in excess of the liabilities, which will result in all four owners being in a surplus position. On closure PLUSS's remaining liabilities will be covered by a payment from PLUSS and from a proportion of the pension surplus from the four authorities remaining with PLUSS' section of the Devon LGPS fund. Thereafter, no further contributions will be required from any party in respect of the liabilities remaining with the PLUSS section of the Devon LGPS fund. Estimated figures regarding the options on closing the LGPS for PLUSS are subject to movements in market conditions. It has been made clear to all parties, and will be a condition of the sale, that the proposal to close the scheme may have to be postponed should a large adverse change in stock market conditions occur at any time prior to or on the closure date.

6. Financial, HR and Legal Considerations

- 6.1 In short the financial considerations are as follows. The surplus outlined in paragraph 5.2 will be apportioned across the four Councils and for the most part will be utilised to offset PLUSS's pension liabilities upon it ceasing to be a member of the Devon LGPS. The sale of PLUSS enables the Councils to relinquish certain financial liabilities that would otherwise have stayed with them had they remained the owners of PLUSS. Further, it enables the pension position to be dealt with at a time which is advantageous from the perspective of the four owners.
- 6.2 At the time of the original transfers the four owners entered into loan agreements with PLUSS. The loan repayments will continue to be paid by PLUSS and will not be affected by the sale of PLUSS.
- 6.3 The HR implications are that PLUSS will continue to operate and therefore there will be no staff transfer. PLUSS will be undertaking all necessary consultations with their staff and their respective unions regarding the closure of the LGPS scheme and the sale of PLUSS to Turning Point.
- 6.4 In terms of legal considerations the four Councils have been represented by their respective in-house lawyers and this team has been heavily involved in negotiating both heads of terms and the terms of the sale. Inevitably in a transaction of this type there is much legal work to be undertaken in order for the sale to proceed. Whilst good progress has been made to date final details still need to be negotiated and agreed with lawyers acting for Turning Point, hence the recommendations 2 and 3.

7. Equality Issues

- 7.1 An equality impact assessment has been prepared on behalf of the four member Councils and is attached at Appendix I.

8. Conclusions

- 8.1 The creation of PLUSS as a local authority controlled company in 2005 was the right move at that time. Since then with social, political and economic change the need to re-evaluate PLUSS and its future has led to the conclusion that the future for PLUSS is likely to be more secure if it moved away from being a local authority company and engaged with a new owner whose core values and vision aligned with those of PLUSS. Turning Point offers an ideal opportunity for PLUSS to achieve its aims and in turn affords the owners the opportunity to divest themselves of ownership of PLUSS, which removes long term risks and liabilities, but most importantly will help secure the long term future for PLUSS.