



Children's Trust Joint Committee 2 February 2022

Report Title	Children's Trust Contractual Agreements
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Key Decision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Support Services Provided by the Councils

1. Purpose of Report

- 1.1. To consider proposed changes to the contractual agreements between the Councils and Northamptonshire Children's Trust.
- 1.2. To seek permission from the Joint Committee to delegate execution of the final set of contractual agreements to the Chief Executives of both councils.

2. Executive Summary

- 2.1 This report sets out the proposed changes to the contractual agreements that exist to manage the relationship between North and West Northamptonshire Council (the Councils) and Northamptonshire Children's Trust (NCT).
- 2.2 The majority of contractual agreements were agreed and finalised in October 2020 before Northamptonshire Children's Trust's service commencement date of 1 November 2020. Following the Local Government Reorganisation (LGR) a number of agreements required changes. There were also some areas that required more detailed work between the parties before agreements could be

finalised and this was envisaged when the original documents were completed in October 2020.

- 2.3 The report sets out the background to the establishment of the Children's Trust and the work completed to date on progressing the contractual agreements. The report then summarises the key agreements still to be finalised, the proposed changes to these agreements and the implications for the Councils.

3. Recommendations

3.1 It is recommended that the Children's Trust Joint Committee:

- a) Approve that the proposed changes and updates to the contractual agreements between North Northamptonshire and West Northamptonshire Councils and Northamptonshire Children's Trust outlined in this report are agreed.
- b) Delegate the sign-off of the final set of contractual agreements to the Monitoring Officers of both councils.

3.2 Reason for Recommendations

- To ensure the appropriate contractual agreements are in place to enable the strong management of the relationship between the Councils and Northamptonshire Children's Trust.

3.3 Alternative Options Considered

- None. The recommendations in this report seek to finalise the Support Services Agreement and other documents necessary to give effect to the Children's Trust Governance arrangements and its statutory responsibilities.

4. Report Background

4.1 Northamptonshire Children's Trust (NCT) was established on 1 November 2020. It is a company limited by guarantee that was initially owned by Northamptonshire County Council. On 1 April 2021, Northamptonshire County Council was abolished, and two new unitary authorities were established; North Northamptonshire Council and West Northamptonshire Council. Northamptonshire Children's Trust is now wholly owned by these two unitary councils.

4.2 Northamptonshire Children's Trust was established in response to a statutory direction from the Secretary of State for Education issued in June 2019. Statutory directions are issued to councils that are poorly performing and, in most cases, provide children's services judged inadequate by Ofsted. In June 2019, Northamptonshire Children's Services were inspected by Ofsted and found to be failing to keep children safe, the services were judged inadequate by Ofsted as a result.

- 4.3 As part of the establishment of Northamptonshire Children's Trust, a set of contractual agreements were put in place to manage the relationship between Northamptonshire County Council and Northamptonshire Children's Trust. The majority of these agreements were negotiated and signed by both parties in October 2020 prior to the establishment of the Trust. Upon the abolition of the County Council, the contracts were novated to the unitary councils which took on the obligations of the County Council as set out in the agreements.
- 4.4 Whilst the majority of agreements were completed before November 2020, some of the agreements required amendment following local government reorganisation and some required further development. These are summarised in section 5 below.
- 4.5 The West Northamptonshire Shadow Executive and North Northamptonshire Shadow Executive previously gave delegated authority on the 23 and 25 March 2021 respectively to the Director of Children's Services to finalise the Support Services Agreement, the Interface Agreement and any other documents necessary to give effect to the Children's Trust Governance arrangements prior to 1 April 2021 and to make any necessary minor operational changes to enable the transition to North Northamptonshire Council and West Northamptonshire Council.
- 4.6 Whilst it was anticipated that this work would be completed by 1 April 2021, this has not been possible for a number of reasons. Since April 2021, officers from both Northamptonshire Children's Trust and the Councils have been working to finalise the agreements. This has been done whilst both parties were focusing on the commissioning and delivery of children's social care services which has at times had to take precedence over the finalising of agreements.
- 4.7 Additionally, some issues to be ironed out through the agreements were complex and required further work to get the agreements completed. This included some of the complex issues related to property agreements as well as the development of the 'performance concepts' included in the Support Services Agreement (see more detail in section 5.4 below). Some of the agreements were also inter-dependent on each other, so for example the Support Services Agreement could not be signed whilst there were outstanding issues on the Deed of Variation.
- 4.8 The council and the Trust also need to enter into a deed of variation to the Service Delivery Contract. This deed of variation makes amendments which are largely caused by local government reorganisation (see more detail in section 5.3 below) and therefore could only take place once the new unitary councils had been established.
- 4.9 Both parties have been supported by specialist legal support in drafting these agreements. The relevant agreements are now completed and ready for execution by Northamptonshire Children's Trust and both councils therefore recommend that the Joint Committee grants the Monitoring Officers of North Northamptonshire Council and West Northamptonshire Councils the delegated authority to execute the remaining agreements, as per section 3.1 of this report.

5. Issues and Choices

5.1 There are 5 documents that are due to be completed and that have been provisionally agreed between the councils and Northamptonshire Children's Trust. Each of these agreements is briefly summarised below with a summary of any updates or changes as well as the implications for the councils.

5.2 In addition to the 5 documents outlined below, the Councils are currently developing an Interface Agreement that will set out the interface between the two Councils in respect of the Trust. This document will be Council-facing as opposed to Trust-facing – the Trust will not be a party to the Interface Agreement. The Councils intend to agree this document following completion of the documentation referred to within this report. Once this is complete, a report will be brought to a future Joint Committee.

5.3 Service Delivery Contract Deed of Variation

5.3.1 The Service Delivery Contract (SDC) is the main contract that governs how the Trust will deliver children's social care and early help services on behalf of the Councils. The parties need to enter into a deed of variation on the Delivery Contract, which is being varied to take into account the changes resulting from the change from County Council to the Unitary councils. The Delivery Contract (and its rights, obligations and liabilities) are statutorily transferred from the County Council to the Unitary Councils and the Parties to the Contract are varied accordingly.

5.3.2 The changes also clarify the position of North Northamptonshire Council as the 'Host Council' for managing the relationship with Northamptonshire Children's Trust. North Northamptonshire Council hosts the 'Intelligent Client Function' with the Trust which leads on contract management.

5.3.3 There are minor changes to the standing memberships of the key contractual governance meetings (the Strategic and Operational Groups) to reflect the move from the County Council to the unitary councils.

5.3.4 The Deed of Variation also changes some elements of the Service Delivery Contract that relate to the Trust's occupancy of the councils' properties and assets. These include making reference to the leases and licenses for the various properties that have been agreed between the Councils and the Trust.

5.4 Support Services Agreement

5.4.1 The Councils provide a variety of Support Services to the Trust to enable them to effectively deliver children's social care services. The support services provided are listed in Appendix A. Most support services are provided by West Northants with a small number provided by North Northants.

5.4.2 Two services are also provided by Cambridgeshire County Council and one by Milton Keynes Council which reflects the legacy of the old LGSS arrangements that were in place under the County Council. However, in terms of contractual responsibility, the Councils are responsible for facilitating the provisions of the full suite of Support Services to the Trust including those provided by third parties.

- 5.4.3 The Support Services Agreement (SSA) records the overarching terms and conditions upon which the Councils will provide the Support Services to the Trust, and details the service parameters, responsibilities and charges in respect of the provision of Support Services.
- 5.4.4 When it is agreed the Support Services Agreement will replace the Transition Agreement (TA) dated 30 October 2020. The Transition Agreement was entered into at the same time as the Service Delivery Contract and is a mechanism through which the Trust can buy back the Transitional Support services from the Council to fulfil its obligations under the 'Delivery Contract. It is a short-term agreement designed to allow the parties to agree outstanding elements of the Support Services Agreement.
- 5.4.5 There have been several changes from the Transition Agreement to the Support Services Agreement, these are:
- The refining and development of key performance indicators (KPIs) for each of the Support Services. A draft suite of KPIs were developed to enable the Trust to hold the councils to account for the delivery of the support services. Over the last few months, officers from both parties have worked together to agree a reduced number of KPIs as well as agreeing targets for each KPI.
 - The agreement of the 'performance concepts' and how these relate to the KPIs. These concepts allow the Trust to hold the Councils to account for their performance of the individual support services by defining what constitutes a KPI Failure and prescribing a process for the rectification of any such failures. If the councils are failing to provide a support service to an adequate standard this may be defined as a performance failure, the Trust may then ask the councils to develop a plan to improve. If, after implementation of this plan, performance does not improve to the agreed standard then the Trust can escalate this through the contractual governance channels and ultimately choose to terminate an individual support service for an individual material breach.
 - The agreement of these performance concepts also clarifies the interface between poor performance of the Support Services and the Dependency regime under Schedule 4 to the Service Delivery Contract. It clearly defines when the Trust may claim a 'Relief Event' if the Councils fail to deliver one or more of the support services.
 - Changed to Schedule 1 – The Support Services. This schedule provides an overview of what Support Services are being provided by the Councils to Northamptonshire Children's Trust. The changes are largely to reflect the changes stemming from LGR such as a change from the County Council to one of the unitary councils providing the Individual Support Services or a change in the primary and secondary escalation points. These escalation points are officers at the councils the Trust should approach if issues with an Individual Support Service arise.
 - Changes to Schedule 3 – the Service Level Agreements (SLA). Each support service has an individual SLA that sets out the councils' obligations which includes the KPIs which the Trust will use to hold the councils to account. The previously proposed KPIs and targets have been reviewed to enable scrutiny of performance and to reflect the parties' priorities. There have also been minor changes to the SLAs to reflect changes from the County Council to the new Councils.

- The removal of the Information Governance and Data Protection support service from the Support Services Agreement. Parties have mutually agreed that this service can now be provided in-house by the Trust. Since 1 April, Northamptonshire Children's Trust has recruited a Data Protection Officer so there is now a clear lead in the Trust for this service. The Trust also felt that it would be able to deliver a service more able to meet its specific needs if it delivered the service in-house. This has involved the TUPE transfer of 1 member of staff as well as small accounting changes to the overall contract sum, however this change is financially neutral to both councils.
- The development of clearer processes to protect the limited exclusivity of the services, essentially there is an exclusivity period where the Trust may not choose to stop receiving a support service from either of the Councils. The updated Support Services Agreement also provides greater clarity more generally over termination rights and notice periods.

5.5 Pensions Guarantee Agreement

- 5.5.1 The Pensions Guarantee Agreement is a document supporting the Trust's access to the Northamptonshire Pension Fund section of the Local Government Pension Scheme.
- 5.5.2 In it, the Councils guarantee the Trust's obligations to the Fund should the Trust fail to meet any of its payment obligations. Almost all forms of access to the Fund require some form of guarantee, so this is not unusual. It in fact offers benefits to the Councils. By so closely integrating the Trust's access to the Fund with the councils, it means that there will be no need to underwrite significant costs such as an exit debt.
- 5.5.3 The changes to the Pension Guarantee Agreement are again mainly to reflect the changes caused by Local Government Reorganisation. The councils together will be joint guarantors of the Trust's exposure to the fund whilst West Northamptonshire Council will act as the administering authority.

5.6 Relationship Deed

- 5.6.1 The Councils were each automatically admitted as members of the Trust on 1 April 2021 in replacement of the County Council. The Councils have established a joint committee and joint officer board for the purpose of discharging their relevant children's social care functions, managing the relationship between the councils and between the councils and the Trust from 1 April 2021 to enable the Trust to deal with a single entity and forum for all matters.
- 5.6.2 The Relationship Deed governs the terms under which North Northamptonshire Council will act as the Host Council, being the legal entity and interface between the joint committee, joint officer board and Trust (given that the joint committee and joint officer board are not legal entities themselves) and will act on behalf of the Councils in respect of all matters relating to the Articles.
- 5.6.3 The Relationship Deed will take priority over the Trust's Articles of Association (if a conflict between the two documents were to occur) and will continue until the joint committee arrangements end or the parties mutually agree to

terminate the deed. During this time, unless the parties otherwise agree in writing, the Host Council will represent and act on behalf of both Councils for the purpose of the Articles (including issuing and receiving notices, giving and receiving information, consenting, approving or directing the Trust or being consulted by the Trust, exercising any rights or carrying out any obligations and anything similar under the Articles) and any reference to 'Member' shall be to the Host Council.

5.6.4 However, nothing in the Relationship Deed shall fetter any rights of either Councils, as member, to exercise their rights as members of the Trust including passing resolutions, voting, attending meetings, nominating Council Directors, appointing authorised representatives and accessing information relating to the Trust or in relation to their liability as members.

5.7 Side Letter to the Governance Side Agreement

5.7.1 The other document to be executed is a side letter to the Governance Side Agreement (GSA). The Side Agreement is a contract between the Councils and the Secretary of State for Education under which the Secretary of State is afforded certain consultation and consent rights with regards to the Trust.

5.7.2 The letter will be from the Councils to the Secretary of State for Education. It will address how the two new councils will interface with the Secretary of State, this is required because of the creation of the two new Councils.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 There are no direct resources or financial implications arising from the proposals. The contract sum for Northamptonshire Children's Trust for the current financial year has already been agreed and the proposed changes to the contractual agreements will have no impact on the current contract sum.

6.2 Legal and Governance

6.2.1 This report provides a summary of the proposed changes to the legal documentation for the Committee's consideration prior to the amendments being made to the contractual agreements.

6.3 Relevant Policies and Plans

6.3.1 This report builds on the reports considered by the North Northamptonshire and West Northamptonshire Shadow Executives in March 2021, which set out the joint arrangements for governing the Children's Trust following vesting day of the new councils on 1 April 2021.

6.4 Risk

6.4.1 There are no significant risks arising from the proposed recommendations in this report.

6.5 **Consultation**

6.5.1 Consultation has taken place between the Children's Trust and North and West Northamptonshire Councils in preparing the contents and recommendations to the Joint Committee within this report.

6.6 **Consideration by Scrutiny**

6.6.1 This report has not yet been considered by Scrutiny Committees at either council.

6.7 **Equality Implications**

6.7.1 There are no discernible equality implications arising from the contents of this report.

6.8 **Climate Impact**

6.8.1 There is no significant climate impact from this report.

6.9 **Community Impact**

6.9.1 There is no distinct community impact from this report.

6.10 **Crime and Disorder Impact**

6.10.1 None.

7. **Background Papers**

7.1 [North Northamptonshire Shadow Executive Committee, 25 March 2021 – Item 16, Children's Trust Joint Arrangements](#)

7.2 [West Northamptonshire Shadow Executive Committee, 23 March 2021 – Item 18, Children's Trust Arrangements](#)