

MUNICIPAL YEAR 2019/20 REPORT NO. 159

MEETING TITLE AND DATE:

Cabinet Meeting 22 January 2020

REPORT OF:

Executive Director People,
Tony Theodoulou

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Agenda – Part: 1

Item: 10

Subject: IWE Ltd. future operating model from 2020/21

Wards: all

Key Decision No: 5035

Cabinet Members consulted: Cllr Cazimoglu & Cllr Maguire

1. EXECUTIVE SUMMARY

- 1.1 Independence and Wellbeing Enfield (IWE Ltd) was created as a local authority trading company, wholly owned by the Council, and agreed by Cabinet in December 2015. Formal trading arrangements were agreed to commence on 1st April 2016. Services being run in-house within Adult Social Care were subsequently transferred.
- 1.2 IWE Ltd was established in order to provide a range of services for some of the most vulnerable people in Enfield whilst maximising the potential of commercial opportunities and enabling income generation and savings to be generated for the Council. It was also to continue as the Council's Adult Social Care Provider of last resort, to deal with provider failures and emergency situations.
- 1.3 A key purpose of setting up the company was to explore commercial opportunities to the benefit of the company and the Council. This would include the development and delivery of services to organisations external to the Council, for example to other Councils, which would generate additional income for the Council and opportunities to develop innovative services for the benefit of local people in the community
- 1.4 Whilst the company has continued to deliver social care provision to vulnerable adults, and to address issues around standards in services which it has taken on, it has not enabled the delivery of commercial growth originally envisaged.
- 1.5 The Social Care market is more competitive than it was four years ago and given the requirement to buy back Council services at cost, the administrative burden which this places on the company and the payment of Council terms and conditions to staff, which this administration has decided not to amend, competing with the independent sector on price alone is not a viable option for IWE Ltd.
- 1.6 It is also in keeping with the political direction of the current administration to in-source services where it makes sense to do so.
- 1.7 The services currently delivered by IWE Ltd can be delivered in-house without the governance and administrative complexity and burden of a trading company structure. Bringing the service back in-house would, therefore, simplify the arrangements required to deliver the current services.
- 1.8 The option of working with other Councils or organisations to deliver services of joint benefit remains possible if the services are brought back in-house.

2. RECOMMENDATIONS

Cabinet is asked to:

- 2.1 Approve the dissolution of IWE Ltd as an Enfield Council trading company and its executive board;
- 2.2 Approve the transfer of services currently provided by IWE Ltd to the Council;
- 2.3 Note that the proposed arrangement will be a relevant transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and all employees of IWE Ltd meeting the relevant criteria under the Regulations will automatically transfer to the Council.; and
- 2.4 To delegate authority to the Executive Director – People in consultation with the Director of Law & Governance and the Director of Human Resources & Organisational Development to implement the above recommendations, including taking all actions required by the Council as shareholder to effect the dissolution of IWE Ltd and the executive board.

3. BACKGROUND

- 3.1 IWE Ltd was created as a local authority trading company, wholly owned by the Council, and agreed by Cabinet in December 2015. Services being run in-house within Adult Social Care or subsequently transferred to IWE include:
 - Day opportunities: (Formont, Rose Taylor, New Options, Community Link and Park Avenue), including community transport
 - Adult Placements (Shared Lives)
 - Enablement & Outreach services
 - The Integrated (with Enfield CCG) Community Equipment Service & the Wheelchair Service
 - Residential/Nursing Care Home (Bridgewood House)
- 3.2 Since creating IWE Ltd a Board has been established and maintained. The Board includes two non-executive Directors and a Cllr Chairperson as well as three IWE directors (including the managing director) and a director representing the Council.
- 3.3 All areas of service delivery in IWE have agreed service specifications written by Commissioners. These all contain an agreed set of Key Performance Indicators to monitor service delivery, which is subject to review at a regular monthly performance and activity meetings between commissioners and IWE.

- 3.4 As part of its portfolio, IWE delivers 4 services regulated by the Care Quality Commission: Adult Placements (Shared Lives), Enablement, Community Outreach and Residential/Nursing provision for older people with dementia/Learning Disabilities.
- 3.5 Three of these services have consistently achieved a CQC rating of “Good”.
- 3.6 The remaining service Bridgewood House Nursing and Residential Care Home is rated as “Requiring Improvement”. This follows an inspection in April of 2018 and a further inspection in August of 2019. The latest inspection has found the leadership within the home to be inadequate and has issued a warning notice both to IWE Ltd and to the registered manager. This is a matter of profound concern to the Council and measures have been put in place to address these concerns as a matter of urgency. The Council is also continuing to work with IWE through its provider concerns process to deliver improvements to achieve a rating of “Good”.
- 3.7 IWE assumed full responsibility for the Adult Social Care Transport Service in August of 2018. The service was previously provided by Passenger Transport Services in Environment. This transfer was completed with no disruption to service users or staff and resulted in excellent feedback from its first Health and Safety Audit where 95% was achieved.

Commercial Opportunities

- 3.8 Staff transferred into IWE Ltd from the Council did so on council terms and conditions. IWE Ltd would, therefore, not be in a position to compete with private sector domiciliary care agencies or residential/nursing care homes for older people on price alone. In order for the business to be able to successfully compete with these sectors there would have to be a reduction in staff terms and conditions, an option which the Council would not consider. However, the delivery of high-quality support services for people with the most complex and challenging needs is an area where these services can be provided economically.
- 3.9 The Council commissioner has highlighted service development opportunities and commercial opportunities where current capacity and cost are an issue, including the development of day opportunities for people with learning disabilities and behaviour that can prove challenging, support services and day opportunities for people with very complex physical disabilities, including acquired brain injury where we currently purchase a lot of high cost support outside the borough boundary area. There have been opportunities over the last 3 years in other Council areas to develop an integrated equipment service and nursing care provision as well as caretaking and growing the Council’s own Safe and Connected service and developing this as an offer for

other areas outside of the Council. Opportunities for service development in these areas will continue to be explored going forward.

- 3.10 The company is aware of the opportunities and has expressed these within its 3-year Business Plans. However, the company's main focus until now has, for the most part, been on continuing to deliver the core services it provides sustainably and at high quality. Under sometimes extremely challenging circumstances, the staff and leadership within IWE Ltd have continued to work towards this and have continued to provide critical support to the Council as a provider of last resort. It must, therefore, be made clear that this report and the recommendations within it are no reflection of the quality and professionalism of IWE Ltd staff. This is borne out by the frequent praise received from service users and family members supported by IWE services.
- 3.11 Whilst, it is disappointing that IWE Ltd have not been able to develop wider commercial opportunities this should be understood in context. The current Social Care Market is extremely challenged by many years of austerity. Unit costs of services in Enfield are low. We also suffer from a large number of providers in Enfield who provide services to other Councils and the NHS driven by low property prices. It is therefore only the opportunity of taking on business from other Council's or NHS bodies that would deliver commercial growth. These organisations themselves are having to find cost savings and make reductions so are more likely to focus on cost rather than quality and good staff terms and conditions which would be IWE's selling point. The complexity of arrangements both in terms of governance and buy-back arrangements for Council support services such as HR, Finance, IT support services have placed an additional burden on the company both in terms of resource and price. Overhead costs attached, therefore, are at a level where IWE Ltd is not able to compete on price with the private and voluntary sector markets where costs have been driven down.
- 3.12 The senior leadership team for IWE currently includes a Managing Director, a Director of Innovation, a Director of Finance, an LATC Development Manager, two Service Area leads and two non-executive director posts, all of which would be required to deliver against the requirements of a trading company. All IWE Ltd staff meeting the relevant criteria under the TUPE Regulations will transfer back to the Council. A review of posts and structures within IWE would be completed post-transfer.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Prior to the creation of IWE Ltd as a local authority Trading Company the Council explored the following options:
- Externalisation
 - Mutuels

- Charities
- Forms of Social Enterprise
- Local Authority Trading Companies
- Shared Management Arrangements

- 4.2 They were discounted on the grounds that they would reduce the amount of scope available to the Council to influence wider market development given market pressures and the evidenced increase generally in demand for services. Retaining overall control of the services provided enabled the Council to access available resources as a provider of last resort and to deliver much needed early intervention and preventative services, a function which if outsourced, would generate additional costs to the Council.
- 4.3 The Council could continue with IWE Ltd as a trading company. Whilst the company has demonstrated a proven ability to deliver services to a range of vulnerable adults including people with complex needs and regulated services on the Council's behalf, it has not demonstrated an ability to develop commercial options for the expansion of the company, for example, by developing and delivering an offer to other organisations outside Enfield Council. It is the view of the commissioner that the focus now does need to be on consolidating the core services to maximise efficiencies and the quality of services. This option has, therefore, not been proposed.
- 4.4 The Council can still pursue joint development opportunities with other Councils and Clinical Commissioning Groups. It does not require a trading company to do this.
- 4.5 The Council could market the services via formal tender processes. It is unlikely that such an arrangement would find a provider who could successfully manage the range of services from equipment service, Learning Disability Services for those with complex disabilities and Nursing Home Care, Transport and Enablement Services. Additionally, any provider would likely want to cost in risk of managing these services including maintaining the terms and conditions of the circa 300 FTE workforce. The cost and complexity of such a process would outweigh the likely benefits. For example, when the service at Bridgewood House was put out to tender for the final time, bids received from external providers (in 2017) ranged between £4.2m to £4.3m with annual uplifts tied to existing staff terms and conditions. As at this financial year (2019/20) an outsourced service would be costing the council around £4.65m vs the current IWE cost of £4.4m, a difference of £0.25m.

5. REASONS FOR RECOMMENDATIONS

- 5.1 This report acknowledges the really good work done by staff across IWE Ltd in delivering caring support services to some of the most vulnerable residents in our community.

- 5.2 Nevertheless, one of the key purposes of the trading company, as specified in the original Cabinet report from December 2015, was to maximise the potential of commercial opportunities and enable savings to be generated to the benefit of the Council.
- 5.3 Three years on, the IWE Ltd Business Plan, whilst ambitious in scope, has yet to deliver any meaningful commercial activity to the benefit of the Council.
- 5.4 The services delivered by IWE Ltd can be delivered to the same level and quality in-house and the opportunity to develop services jointly with other partners remains an option.
- 5.5 It is the view of the Council, therefore, that in-sourcing these services would better serve the Council's own policy of in-sourcing where it makes sense to do so, in line with the political direction of the current administration and the Council's strategic commissioning priorities.

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

- 6.11 In 2019/20, there is a budget of £14.569m for the management fee of IWE, however the current projected spend is £16.069m. The overspend of, £1.5m, has been reported in the Quarter 1 Revenue Monitoring report to Cabinet.
- 6.12 A significant amount of work has been done to re-baseline the IWE budgets to account for costs not originally included in the budget transfer including the leadership function and additional financial provision made to achieve budget balance going forward.
- 6.13 If approval is obtained to bring IWE into Adult Social Care within the People Department, all of the financial systems including income collection, banking, ordering, payments and financial management will be incorporated into the Council processes. The current budget scrutiny arrangements and variance reporting through the management teams and to Cabinet as part of the Revenue Monitoring report will apply to all of the services currently within IWE.
- 6.14 As stated in 3.12 there will be a review of some senior posts currently in IWE, if these are brought in house, there may be potential redundancy costs to the general fund.
- 6.15 All of the Service Level Agreements, for support services will cease. There will be no net budget impact for other Council services as a result of this.
- 6.16 All of the property budgets and costs will be transferred into the central property portfolio operated by the Council. There will be

no further need for operating leases, which will reduce administration and internal transactions.

- 6.17 If there are any additional costs as a result of the transfer of the property portfolio back to the Council, these costs will be contained within existing resources.
- 6.18 The total costs of operating the service will not change materially, as a result of this decision, other than those stated above. There may be additional commercial opportunities which can be explored, which may lead to additional income in the future.
- 6.19 The Council has sought advice from PSTAX, a public sector tax specialist, on any potential liabilities and implications of bringing back all the activities of IWE to the Council. The advice covered VAT, Stamp Duty Land Tax and Corporation Tax. The firm have concluded for all of the taxes there should only be one additional tax liability on the Council if the decision is made to bring back all the services of IWE to the Council.
- 6.20 All of property that IWE occupies is under leases agreements with the Council and these will be transferred back to the Council without any charge and therefore there will be no tax liability. The provision of welfare services by the Council will be part of its non-business activity and charges to clients contribute towards the cost of their care will not be subject to VAT. The Council and IWE are in a “capital gains group” and therefore transfer of intangible assets is tax free.
- 6.21 For any qualifying assets, there may be a balancing charge tax. This is where the market value exceeds the written down value. This is estimated, to be £10k payable by the company based on the statement of accounts for 2018/2019. There should be no additional corporation tax liabilities.

6.2 Legal Implications

- 6.2.1 The Council is under a statutory duty to deliver social care provision to vulnerable adults, and has the power under Section 111 of the Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions. In addition, the Council has a general power of competence under Section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. The recommendation to transfer the IWE services back in house as the most effective way to deliver the statutory social care services is in accordance with these powers.

- 6.2.2 In relation to the potential for exploiting commercial opportunities, it should be noted that there are constraints on a local authority's ability to trade for a profit. The Council's main trading powers are set out in section 95 of the Local Government Act 2003 and sections 1(4) and 4 of the Localism Act 2011. Under such provisions, the Council can carry out activities for a commercial purpose, but can only do so through the vehicle of a company. This was an important driver for establishing IWE Ltd (as articulated in the 2015 Cabinet Report). However, the requirement for a company vehicle does not apply to the provision of services for a profit to other 'public bodies' under Section 1 of the Local Authorities (Goods and Services) Act 1970. Where the commercial opportunities involve trading with other public bodies as defined in that Act, the Council does not need a company in order to exploit those opportunities.
- 6.2.3 It is also worth flagging the existing trading constraints on IWE Ltd by virtue of its being a Teckal company. Teckal status means that the exemption under Regulation 12 of the Public Contracts Regulations 2015 applies ('award of contracts to controlled persons'), and contracts can be awarded freely between the Council and IWE without the need for a procurement process. To have Teckal status, a company must - among other requirements - carry out more than 80% of the services it provides for the Council alone.
- 6.2.3 The process of winding up IWE Ltd must be carried out in accordance with the Companies Act 2006 and the company's constitutional documents (primarily the Articles of Association), and any tax implications as a result of dissolving the company should be considered, with specialist advice sought if required.
- 6.2.4 Existing contracts between IWE and third parties will either need to be novated over to the Council, or terminated (with new contracts procured by the Council). Any such novation or termination must be in accordance with the terms of the contracts in question (to avoid IWE being in breach of contract), and any novation to, or fresh award of contracts by, the Council must be implemented in accordance with the Council's Contract Procedure Rules and, where applicable, the Public Contracts Regulations 2015. The Council must also comply with the formalities required to terminate its Management and Services Agreements with IWE.
- 6.2.5 Bringing the IWE services in-house will entail a service provision change, thereby constituting a 'relevant transfer' under the TUPE Regulations 2006. The Council must therefore comply with the requirements of the TUPE Regulations, including the obligation to inform, and consult with, employees. Officers from the Council's HR, Payroll, Pensions and Legal teams must be

involved in determining which employees are eligible to transfer under the TUPE Regulations, and on what conditions.

- 6.2.6 Council officers must ensure that all necessary insurances are in place to enable the services to be carried out in-house.
- 6.2.7 As detailed in the Report, IWE took on the provision of services at Bridgewood House, including nursing care. Nursing services are NHS prescribed functions (Regulation 5 NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000/617), and the Council will therefore need to make arrangements with the NHS (via a section 75 agreement) for nursing staff funded by the NHS to be placed in Bridgewood House. This is permitted under statute (Regulation 9 NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000/617) and is known as ' Exercise by local authorities of NHS health-related functions'. This section is to be reviewed by legal
- 6.2.8 Due diligence must be afforded to section 149 of the Equality Act 2010 regarding the public sector equality duty. In addition, the Council is required by law to consult before making certain decisions, including in relation to making changes to how it delivers statutory services. The Local Government Act 1999 provides for a general duty to consult widely, including with representatives of persons liable to pay any tax, precept, levy or non-domestic rates, representatives of persons who use or are likely to use services provided by the authority, and representatives of persons appearing to the authority to have an interest in any area within which the authority carries out functions. In deciding whom to consult and the form, content and timing of consultation, the Council must have regard to any guidance issued by the Secretary of State. A failure to consult properly and adequately can lead to a policy or decision being overturned by the Courts. Consultation forms part of the Council's general duty to act fairly, and the Council should take into consideration responses from any consultation carried out before implementing the recommendations in this Report.
- 6.2.9 Council officers should be mindful of the need to maintain a separation between those advising the Company and those advising the Council, with information barriers being implemented as required. Employees affected by the proposals in this Report will take independent advice if needed.
- 6.2.10 Since being created and taking over the provision of services IWE has been using and occupying the various Council premises at which those services are delivered, including the properties referred to in paragraph 3.1 of this report. Such use and occupation has been on an informal basis akin to a tenancy

at will. It was intended that formal leases be signed for each individual property, in which case there would be a need to prepare Stamp Duty Land Tax returns and apply for the registration of all the leases at the Land Registry. If that is done, and IWE is then to be dissolved, it will be necessary for formal surrenders of all the leases to be signed and registered and further land tax returns filed. It would be lawful however not to complete the proposed leases but merely take back possession of the respective properties from IWE at such time as the company is dissolved. This would represent a considerable saving in Land Registry fees and officer time.

6.3 Property Implications

6.3.1 The proposals in this report do not trigger the requirement to comply with the Council's Property Procedure Rules in relation to property transactions, as there are no relevant property transactions to consider, especially as there are no completed leases in place between IWE and the Council and the Legal recommendation is for the proposed draft leases to be left incomplete.

6.3.2 Property notes Legal's comments above on the status of the Leases and supports Legal's recommendation that the draft leases should not now be completed.

6.3.3 However, there are a number of considerable property implications in this report in relation to Corporate Landlord responsibilities and liabilities, asset management and related resource and budget allocation

6.3.4 The following properties (owned and leased-in) have been occupied by IWE since it's inception and will be directly affected by the company's dissolution:

1. 14 Centre Way, Claverings Industrial Estate N9 0AH (owned)
2. 25 Connop Rd (New Options) EN3 5FB (owned)
3. 55B The Sunny Rd (Rose Taylor Day Centre) EN3 5EF (owned)
4. 84 Silver St (Community Link Enfield) EN1 3EP (owned)
5. 65C Park Avenue (Park Avenue Day Centre) EN1 2HL (owned)
6. Waverley Rd (Formont) EN2 7BP (owned)
7. 2nd Floor, 54-56 The Market Square, Edmonton Green Shopping Centre, London N9 0TZ (leased-in)
8. Room 4.8 Civic Centre Silver St, London EN1 3XA (owned)

9. Bridgewood House, 1 Old Road Enfield EN3 5XX
(owned)

- 6.3.5 Where IWE have been in occupation, a dilapidations inspection will need to be undertaken prior to the dissolution of IWE, and a schedule of dilapidations and condition survey prepared and costed, with the resultant liability being reserved by the Finance department (or recovered from IWEs accounts) to cover the costs of the required dilapidations and any upcoming condition works.
- 6.3.6 The CCP (Corporate Condition Programme) will need to be increased in value and will have to account for the additional costs associated with all IWE properties now needing to be covered by this programme. This amount needs to be established by CMCT (which will require full detailed condition surveys, which in turn will need to be budget for) and approved by Council to be added as new Capital expenditure to the 10 year Capital Programme.
- 6.3.7 Under the Council's Strategic Asset Management Plan and Corporate Landlord model all property costs will be consolidated under Property budgets. According to Core Principle 11 of the Council's Strategic Asset Management Plan, the Council must:
- “Account for **full market rent** for ALL buildings, including operational ones and take a % cut out of rental income to cover all property costs – maintenance, management, development, feasibility work etc. (including Strategic Property Services (SPS), Corporate Maintenance & Construction Team (CMCT) and Facilities Management Team (FM) resources)”*
- 6.3.8 This means that Health & Adult Social Care (rather than IWE) will now be required to pay full market rent and all-inclusive service charges on all their operational premises that have been previously occupied by IWE, with all payments being transferred into the relevant property budget areas.
- 6.3.9 An appropriate premises budget allocation will need to be made by Finance to be added to the Operational Assets – Health & Social Care Portfolio cost code, which is held with SPS. This budget allocation should equate to the full market rental value and service charges for all the assets, being sufficient to cover all premises and associated management and resources costs and also take into consideration the current budget deficit of £2M, which is stated in this report
- 6.3.10 Note that the leased-in asset will be subject to rent review by the 3rd party landlord and this will be likely to increase the cost of

holding this asset for Health & Adult Social Care in the future. Budgets should be allocated to reflect this.

6.3.11 The addition of the IWE portfolio to SPS Operational Assets Portfolio will increase the need for management resources within the SPS Operational Property team, which will need to be resourced in addition to existing staff budgets for SPS, estimated at the rate of 20% of 1 x FTE at grade PO2.

7. KEY RISKS

7.1 Reputational risk to both the Council and to IWE Ltd in the event that the quality of key statutory, regulated services suffers as a result of an increased focus on commercial business outside of the Council. The return to the Council will focus on the quality and sustainability of regulated services.

7.2 Financial risk to both the Council and IWE Ltd in the event that any new commercial ventures with bodies external to Enfield Council may not be commercially viable. Mitigated by the return to the Council.

Original Risks in Dec.15 Cabinet report summarised below:

7.3 Failure of company and services to be competitive leading to losses and bankruptcy and impact on Council General Fund – scored as low risk.

Mitigation – work already done to put IWE services on a sustainable financial footing; Increased focus on sustainability upon transfer back to the Council.

7.4 Failure to act in compliance with legal requirements, including tax arrangements and annual audited accounts– scored as low risk.

Mitigation– this risk will be removed by transferring back to the Council.

Operational Risks:

7.5 Lack of capacity to manage workload due to expansion and/or increased responsibilities.

Mitigation– Upon return to the Council there will be an increased focus on the core service delivery, quality and value for money as well as a review of the leadership capacity needed to ensure a smooth transition and ongoing consolidation of quality and performance. This risk is possible and impact minimised through mitigations.

People Risks:

7.6 Staff are demotivated due to lack of engagement and communication – scored as low risk.

Mitigation– Strong engagement with all IWE staff will be essential both pre and post transfer back to the Council as this is both highly likely and will have a significant impact.

Reputational Risks to the Council:

7.7 Negative perception of Trading Company's ability to deliver effective and efficient services on the Council's behalf – risks scored as low.

Mitigation– The transfer back to the Council risks reinforcing this perception. Strong governance through the HASC Management Team, leadership and staff engagement plus access to robust financial and activity data will be crucial in order to mitigate against this risk. This is likely with a major impact.

Strategic Risks:

7.8 Lack of long-term vision for the company in the absence of a five- year business plan – risk scored as low

Mitigation – There will still be a requirement for a long-term plan for services once they transfer back to the Council, co-produced with staff and stakeholders. Communication of and monitoring of delivery against priorities will be key to managing this risk. This is likely with a major impact

8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1 Good homes in well-connected neighbourhoods

The provision of good quality residential and nursing care provision for some of our most vulnerable residents at Bridgewood House will continue to be a priority for the Council.

8.2 Sustain strong and healthy communities

IWE Ltd is a provider of services which promote better health, wellbeing and resilience in order to promote independent living and reduce the risk of admission to hospital, residential/nursing care whilst supporting speedy and appropriate discharge from hospital. This will continue to be the core purpose of an in-house Council provider.

8.3 Build our local economy to create a thriving place

IWE Ltd provides employment opportunities, both paid and voluntary, to local people, including service users and carers. A successful trading company will deliver benefits not only to the

Council but to the wider community, including social value projects which benefit the wider community as a whole. This will continue to be a core purpose of an in-house Council provider.

9. EQUALITIES IMPACT IMPLICATIONS

TUPE regulations will apply.

10. PERFORMANCE AND DATA IMPLICATIONS

Not applicable here other than to note that full service specifications for all IWE services are included within the management agreement between the Council and IWE Ltd. These will be reviewed on a regular basis by Service Development, Contract Monitoring Officers and Officers within the Safeguarding and Quality Service. All data is now uploaded on to Pentana by IWE for review at regular meetings with the Commissioners. This arrangement and relationship between the services and the commissioner will continue.

Performance monitoring will focus on quality and sustainability of existing services as well as efficiency.

11. HEALTH AND SAFETY IMPLICATIONS

Not applicable

12. HR IMPLICATIONS

12.1 'The proposal to transfer services provided by IWE Ltd to the Council would constitute a service provision change under the Transfer of Undertakings (TUPE) regulations. Staff currently directly employed by IWE Ltd and assigned to the provision of these services would be entitled to transfer to the Council with their current terms and conditions intact. It should be noted that currently the majority of staff employed by IWE Ltd are under Council terms and conditions.

12.2 The TUPE regulations require consultation to take place with the relevant trade unions and staff, directly or indirectly impacted by the transfer, at the earliest opportunity. HASC management will need to notify IWE Ltd of any intended "measures" they propose to take as a result of the transfer and would participate in the consultation process with staff and trade unions.'

12.3 Please note that it will be necessary to work closely with Payroll/Pension colleagues in the Council in relation to this proposal to ensure a smooth transition of pay and pension arrangements for staff.

12.4 An IWE Transition Board/workstream will be established to oversee all of the actions that will flow out of the proposal in January Cabinet (subject to this being agreed) i.e. HR, Exchequer, Payroll, Finance, Recharges, Pension, ICT.

13. PUBLIC HEALTH IMPLICATIONS

Not applicable