

## **AGENDA ITEM 5**

4. The Council has a statutory duty within the Education Act 2002 to ensure the

establishing a company limited by guarantee with charitable status in partnership with another Music Service.

5) Creation of a Company Limited by Guarantee, with charitable status with a wider cultural/arts brief - This would involve establishing a company limited by guarantee

Option 5 – creation of a Company Limited by Guarantee, with charitable status with a wider cultural/arts brief – This option is recommended for progression as it is innovative in its ambition for the service and yet carries the least risk for both the Council and the service in the long term. There are short-term costs in the establishment of an external service, but the longer-term financial and quality of service benefits, due to the ability to react quickly, reduce large overheads and access new income streams mean that this option is considered as the most beneficial for the Council, service users and the service. The Company Limited by Guarantee would be an independent organisation, with no ownership from the Council; further proposals of governance are detailed in section 16 below.

11. Subject to outline approval from Cabinet the option recommended to be developed to detailed business case stage is option 5, for the service to be transferred to a **Company Limited by Guarantee, with charitable status with a wider arts brief**. The detailed business case will resolve the potential risks and issues associated with this option, which are summarised in section 15 below.

### **Benefits to Service Users**

12. The benefits of the recommended option to services users, including schools and individual pupils, are detailed in Appendix 1, but can be summarised below:

#### Finance

Service users are likely to benefit from the new organisation's ability to secure new income streams, from trusts or other grant-making bodies

#### People

Service users will have access to a service with increased operating flexibility which will be more responsive to service users` 11 Tm and



Staff projections  
Sensitivity analysis/profiling

Redundancy liabilities

Pension liabilities

Support to set up the company and associated costs and financing

Asset transfer costs

Retention of current reserve

Risk profile.

16. The above deliverables are considered critical to the success of the transfer for both the Council and the proposed new organisation, as without mutual agreement on these factors, WYM would be unlikely to attract sufficient high quality trustees, who may well be wary of applying for a Board role without certain success factors in place. While Appendix 5 (embedded within Appendix 1) sets out some initial recommendations in relation to these issues, the Detailed Business Case will address all of these issues in detail and set out clearly the implications (including financial implications) for the Council and the new organisation.

### **Governance Model of New Organisation**

17. The new organisation would be a Company Limited by guarantee, with charitable status, accountable to a Board of Trustees. The Board would be accountable to the Charity Commission and to its funders – primarily the Arts Council – and subject to the terms and conditions of their grant. There would be no formal accountability to Ofsted.

18. The Board of Trustees would need the requisite skills to lead the Music Education Hub and operate a trading arm, considering skills and experience in music education, local authority services, schools, young people, law, finance and business. The Council would recruit the initial trustees and the body itself would recruit the rest. The recruitment process would be thorough. Trustees would be volunteers. The aim would be to recruit Trustees from a range of backgrounds, including the public, charitable and private sectors to ensure a broad range of skills and experience on the Board. If the Trust wished not to be classed as local authority influenced, local authority representation would be limited to 19% of the Board. This applies to anyone on the Board employed by the County Council, other local authorities or elected members.

### **HR Implications**

19. Staff would transfer to the new company under TUPE.

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## **Communications Plan**

21. This will include plans to communicate and consult with staff and trade unions. Wider staff and union communications have already begun to take place, and will continue, alongside specific communication and consultation processes necessary to support staff and managers, and to successfully implement the changes. Wider stakeholder and service user engagement would also be a key element of the process prior to the potential transfer of the service.

## **Equality and Privacy Impact Assessment**

22. An Equality Impact Relevance Screening report was carried out in March 2015.

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## **Background Papers**

In the opinion of the proper officer (in this case the Director of Business, Environment and Community) the following background papers are relevant to this report.

The National Plan for Music Education:

<https://www.gov.uk/government/publications/the-importance-of-music-a-national-plan-for-music-education> (Nov 2011)

Ofsted report into Music Hubs:

<https://www.gov.uk/government/publications/music-in-schools-what-hubs-must-do>  
(Nov 2013)