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REPORT AUTHORISATION FORM 4.C.214***

**CITY OF CARDIFF COUNCIL
CYNGOR DINAS CAERDYDD**

CABINET MEETING: 12 JULY 2018

**CARDIFF COUNCIL 21ST CENTURY BAND B PROGRAMME:
CAPACITY AND GOVERNANCE**

**PORTFOLIO: EDUCATION, EMPLOYMENT AND SKILLS
(COUNCILLOR SARAH MERRY)**

AGENDA ITEM:

PORTFOLIO:

Reason for this Report

1. To update cabinet on development of the Council's proposed Band B schemes under the 21st Century schools programme, and to seek Cabinet approval for amended senior management arrangements for leadership of the Council's school estate development programme, and related governance of the programme across the Council.

Background

2. Extensive and far reaching proposals for the development of the school estate in Cardiff have been outlined in three recent reports to Cabinet:
 - Developing the Education Estate in Cardiff, 12th October 2017;
 - 21st Century Schools, Cardiff City Council's Band B Priorities, 14th December 2017;
 - Improving Provision for Children and Young People with Additional Learning Needs, 2018-2022, 18th January 2018.
3. Taken together these reports outline an ambitious programme to address the following pressures:
 - The growth of the school population already in our primary schools as it moves in to secondary phase;
 - The increase in the numbers of pupils with additional learning needs deriving from both population increase and an increase in rates of incidence

- The significant education provision required to meet the new populations in the local development plan areas; and the increased commitment from the Council to address the maintenance requirements of the existing education estate.
4. Taken together this amounts to a school development programme of a size, scale and complexity which is significantly greater than anything previously seen in Cardiff, bigger than any other Local Authority programme in Wales, and comparable to the largest school modernisation programmes in the bigger UK core cities.
 5. On 14th December 2017, Cabinet confirmed the priority schemes which will be delivered in Cardiff under Band B of the 21st Century Schools Programme. It was agreed that in order to provide assurance that the Council has sufficient capacity and appropriate governance to deliver such a large-scale programme, a subsequent report would be presented advising on these aspects of delivery.
 6. Consequently, this report provides both an update of developments since the Cardiff Band B scheme was formally approved in principle by Welsh Government and it outlines what is needed with regard to capacity and governance in Cardiff in order to ensure that the Council's ambitions are delivered and the significant financial investment delivers good value for money.
 7. Revised senior management arrangements were set out in a report on 16th November, and Cabinet approved the new Tier 1 and 2 Senior Management structure. Cabinet also agreed that the Council would need to ensure that sufficient capacity exists to deliver the Council's priorities in relation Band B of the 21st Century Schools programme and recognised that the current staffing arrangements in this area will need to be reviewed, following confirmation by the Welsh Government of the Council's funding envelope.
 8. Subsequent to both the above reports, Arup were commissioned to review the governance arrangements and resources required to ensure Cardiff Council can deliver this ambitious education capital programme. Their report is included in Appendix 1, with the Executive Summary detailing the key recommendations.
 9. It is important that any proposals to secure sufficient capacity to deliver the ambitious schools' estate programme are consistent with the outcomes of developments in the Council's approach to delivering its role as Corporate Landlord of the Council's extensive buildings estate, including school properties, but excluding Council owned housing. As a major landowner in Cardiff, with an estate valued over £1.2 billion, this transformation programme seeks to transform the way in which the Council manages its approach to property and asset management.
 10. A separate report to Cabinet titled, Management of the Council's Non-Residential Property Estate – Embracing a Corporate Landlord Model, sets out an update on progress in implementing this revised approach.

This report also sets out the modified governance arrangements which will apply in order to ensure alignment, integration and accountability of functions across the Council in delivering this corporate role, with clear accountability to Cabinet through the Asset Management Board, chaired by the Chief Executive.

11. The effective management of the whole Council estate, including schools, and the future development and expansion of the schools estate, both call for input from a wide range of Council departments. These governance arrangements are designed to ensure that these major cross-cutting priorities for the Council have clear leadership and transparent accountability, with strategic governance for key decisions lodged in the Council's Cabinet.

Developing the education estate in Cardiff

21st Century Schools Programme

12. 21st Century Schools and Education Programme is a collaboration between the Welsh Government (WG), the Welsh Local Government Association (WLGA) and Cardiff Council. It is a major, long-term and strategic capital investment programme with the aim of creating a generation of 21st century schools in Wales. The programme focuses resources on the right schools in the right places, for early years through to Post-16.
13. Welsh Government have divided the 21st Century Schools investment programme into tranches, with the first tranche known as Band A and the second tranche, Band B. It is probable that further bands, C and D will follow.

Band A Programme

14. Cardiff's Band A Programme was approved in principle by the Welsh Government in December 2014. The Council's capital investment programme was originally £137.3 million. In 2015, the programme was realigned and funding was increased to £164 million to take account of changes in population across the city, the condition of the educational estate and the sufficiency of school places in the primary sector in both the Welsh-medium and English-medium settings.
15. Band A is due to be completed by April 2019. On completion, it will have delivered two new High Schools: Eastern High, in collaboration with Cardiff & Vale College, and Cardiff West Community High School, as well as six new primary schools and improvements to existing school premises.
16. Delivery of Band A has called on an extensive range of skills and specialist expertise, both within and across the Council, and, through procured services, from specialist contractors and providers. The schemes have delivered significant community interest benefits, and are making a positive impact on improving the city infrastructure. Such

developments also clearly impact on patterns of movement to and from school, and have the potential to act as catalysts in wider social and economic regeneration.

17. Whilst the delivery arrangements as they have applied to Band A schemes have been led by the school organisation team in the education directorate, it is important to note the wide range of specialists from across the Council who have been key contributors to the delivery of the schemes. These have included for example: school organisation and planning; education curriculum advice; finance; procurement; strategic estates; human resources; legal; transport; planning.
18. Externally sourced expertise has been extensive, including: programme management; cost consultancy; project management; architecture and design; construction; demolition; security; design safety advice.
19. Important elements of the procurement methodology employed in band A have improved value for money when compared to previous school procurement exercises. These elements included: the use of two-stage tendering process; batch procurement, whereby a group of primary schools were procured together through one exercise with one contractor appointed to deliver; and standardised design, enabling costs savings in delivery whilst still allowing for tailoring of design to suit the needs of each particular school and its locality.
20. The funding for the capital expenditure for Band A was split on a 50:50 basis between the Council and Welsh Government. The Council's contribution was predominantly sourced from external borrowing, supplemented by capital receipts, Section 106 contributions and general capital programme funding, with the Welsh Government's funding provided via specific grants and Local Government Borrowing Initiative (LGBI) revenue funding.
21. The revenue expenditure incurred in delivering Band A, largely in connection with project management and transitional arrangements, was funded via the SOP Financial Model, which was originally predicated on revenue release savings, general efficiencies and facilities management savings arising from school closures. The same funding source is also used for funding the capital financing costs arising from the external borrowing undertaken.

Band B Programme

22. The Welsh Government has approved in principle Cardiff's Band B programme of £284 million. Welsh Government will fund half of this programme, with Cardiff Council funding half. Release of funding will be dependent on the approval of individual business cases for the schemes within the overall programme.
23. Band B is an extensive and ambitious capital programme, commencing in April 2019 through to 2024. It will lead to the construction of 5

secondary schools, 4 Special Schools and 4 primary schools, 2 Welsh medium and 2 English medium.

24. Cardiff's Band B programme will address:

- Sufficiency needs of the growing child population, particularly in the secondary, special school sectors and the Welsh-medium and English-medium primary schools in the east, south and west of the city;
- Condition of the current school estate, removing all Condition D school properties;
- Some of the suitability issues of the current estate, which are required to meet the demands of 21st Century learning.

ALN Sufficiency

25. As Cardiff's population has grown, so has the number of children with Additional Learning Needs (ALN). A report titled *Improving Provision for Children and Young People with Additional Learning Needs, 2018-2022*, 18th January 2018, informed Cabinet of the implications of the ALN Tribunal (Wales) Act and the projected growth in demand for specialist resource base and special school provision. The Cabinet paper sought approval of Cardiff's ALN strategic priorities, 2018-2022 and authority to consult on a range of proposed schemes to extend and re-align ALN provision.
26. At its meeting on 5th July 2018 Cabinet agreed to determine statutory notices and to proceed with seven of the schemes consulted on.

Condition & Suitability

27. Cardiff has a large education estate, with over 127 school properties. The Authority's current spend on school asset renewal has been circa £3m per annum. Deployed on a priority basis, these resources have been predominantly limited to keeping properties safe and watertight. It has been clear that greater priority must be given in the future to a more rigorous, and appropriately funded approach to maintaining the assets in the Council's estate, of which the schools estate forms a significant part.
28. In February 2018 the Cabinet decided to allocate an additional £25million to education asset renewal, of which circa £6million is to be used to implement plans to ensure the suitability of existing provision to meet Additional Learning Needs. Combined with the existing £3 million each year, this brings together a total of £40million over a 5-year period to be invested in improving the condition and suitability of the school estate.
29. A focus upon the condition and suitability of the school estate will also enable due consideration of the requirements of the new curriculum in Wales, including digital competency and more creative and flexible learning environments.

Local Development Plan

30. The Local Development Plan (LDP) adopted by Cardiff maps the infrastructure required to facilitate and sustain the city's growth up to 2026. The LDP includes a number of strategic housing sites, including sizeable sites in the north and west of the city, which will generate significant increases in the demand for school places across the city over the next 10 years and beyond. This will be achieved from planning obligations (land and finance) requested from developers to provide for this additional demand with the sites and the programme support required to deliver the new schools.
31. It is anticipated that by 2026 the LDP developments will have generated a further 10 two-form entry primary schools as well as two more 10-form entry secondary schools.

Band B funding

32. Similarly to Band A, the capital expenditure incurred in relation to Band B will be funded on a 50:50 basis between the Council and Welsh Government. The Welsh Government's contribution will be provided via specific grant, with the Council's contribution funded via external borrowing and capital receipts.
33. In addition to the traditional capital funded route, the Welsh Government have also made another option available to local authorities, known as the Mutual Investment Model (MIM). The MIM is a revenue-funded model whereby the asset is constructed, and then maintained, via a Special Purpose Vehicle (SPV) in which the Welsh Government would hold an interest with an external contractor. The Council would then make lease payments for use of the building over a 25-year period and, at the end of the 25-year period, the building would transfer to Council ownership. The Council's position, as per the December 2017 Cabinet report, is not to express an interest in the MIM. However, dialogue continues between Welsh Government and local authorities in order to provide further clarity in relation to which types of scheme are eligible for MIM.
34. The traditional capital model and MIM contrast in respect of the fact that the capital model is only concerned about the initial design and build of the new school. With the capital model, the Council would, once the construction is complete, be responsible for identifying the necessary resources to maintain the building over its useful life. This would require revenue resources, channelled via the School Funding Formula, for the general upkeep of the building and capital resources for the more fundamental repairs and maintenance work. The maintenance arrangements under the MIM, in comparison, would see the SPV undertake the majority of maintenance and ensure the general condition of the building was kept at the required level. The annual lease payments made for the use of the building would be sufficient to cover the costs incurred by the SPV in maintaining the building. Under the MIM, the Council would still need to identify funding for certain elements of maintenance not covered by the MIM arrangement.

Delivering the next stage of Cardiff's school estate.

Arup Report Recommendations

35. The report commissioned from Arup, attached at Appendix 1, sets out an independent assessment of the capacity and governance required in Cardiff to deliver the Council's ambitions regarding the school estate. The report's recommendations are summarised, and commented on below.

Governance

36. It is accepted that in order to deliver the scale and ambition of the education capital programmes, secure value for money and discharge the statutory health and safety responsibilities of the Council that clear governance structures are required.
37. Updated Governance arrangements for assets across the Council's estate are set out in the separate report on Management of the Council's Non-Residential Property Estate – Embracing a Corporate Landlord Model, and are commented on in the report from Arup, which states that they believe that they provide appropriate arrangements for the education estate.

"We believe the Governance structure proposed by the Council provides a robust overall Governance arrangement for the education estate."

Capacity

38. Arup supports the proposal to increase the capacity of current senior management arrangements for the Corporate Landlord function.

"We believe it is essential to add capacity to the team in order to deal effectively with the asset management of a major council estate, containing significant back log maintenance. p. 2

39. Arup also recommends that, in order to strengthen both capacity and governance, a new Programme Director for the Education School Organisation Programme should be appointed, reporting directly to the Director of Education and Lifelong Learning.

'An appointment at this level will have significant short-term revenue costs. This essential expenditure must be viewed against the scale of the programme and the benefits that such an appointment offers. The right appointment will reduce the risk of non-delivery in terms of time, cost and quality. We recommend that the appointment is funded from the programme budget, as it directly relates to the programme.'
Recommendation 1, p.2

40. The Arup report goes on to make recommendations about the number and designation of roles required to manage the delivery of the programme, both those that sit internally in the education school

organisation team, and those which are required as part of the external procurement of contractors and the management of such contracts.

41. The report from Arup, Appendix 1, section 3, sets out an approach to the 'Life Cycle' of a new build. This has four stages:
 - **Need**- identification of need, based on demand analysis
 - **Scheme**- design of a scheme to meet that need;
 - **Delivery**- procurement and construction of such scheme,
 - **Operation**- the ongoing operation of the resultant buildings
42. The report identifies the key priorities at each stage, matches these against the roles and functions across the Council, and references the process to the overarching Governance arrangements. The report advises the Council to recognise more explicitly this 'life cycle', and to use it as the basis of the governance arrangements so that they ensure clarity of role and accountability throughout the cycle.

Reason for Recommendations

43. The proposed school development programme is a major investment in the future of Cardiff. It presents significant opportunities to bring long lasting benefit to educational provision and to the wider fabric of the city. It also presents risks, in terms of the size of finance required and the capacity needed to deliver such a programme. This report outlines these risks and proposes actions to mitigate them.

Financial Implications

44. This report outlines the governance and resourcing requirements recommended for the effective delivery of the 21st Century Schools Band B Programme, Asset Renewal, schools required as a result of the Local Development Plan and other capital schemes being undertaken in connection with the school estate. The most significant recommendation is for a Programme Director position to be created to oversee the entire SOP Programme. This post would be in addition to the existing staffing structure and would result in additional costs. Therefore, it will be necessary for this post to be funded from existing SOP revenue resources, as part of the overall SOP Financial Model.
45. Consideration needs to be given to the potential resource changes to the current SOP team as well as the support requirements from other directorates and departments. The report references a range of areas where additional support will be required and consideration will need to be given as to whether increased levels of support, compared to the current arrangements, are affordable within the overall SOP Financial Model. As stated above this team will also be responsible for the delivery of schools arising from the LDP and Asset Renewal Work. The Director of Education in partnership with the Head of Finance will work with directorates to ensure that the funding required will be representative of the level of work undertaken. This will require reprioritisation of existing

financial resources as well as identifying appropriate funding resources in order to ensure that the overall model remains affordable.

46. In addition, the report provides a reminder of the background and context to the forthcoming Band B Programme and other significant capital investment programmes within the school estate. The funding arrangements for these various schemes have been outlined in previous reports, including the Council's 2018/19 Budget Report. The funding arrangements for these schemes remain unchanged at this stage, however it should be noted that the Welsh Government have requested that local authorities reconsider the Mutual Investment Model (MIM). The Cabinet's initial position regarding the MIM was to not apply, following consideration of the long term financial implications. Should there be a decision to reconsider Cardiff Council's position regarding the MIM, then it will be essential that the appropriate financial and legal evaluations are undertaken to ensure that the Council understands the level of financial or legal risk over the long term.
47. As well as the resources required to deliver the capital aspects of the Band B programme, consideration will also need to be given to the ongoing maintenance requirements, both revenue and capital. Working within the limits of the current financial constraints, it will be important for the necessary funding to be provided so that new schools are maintained to the appropriate level and future maintenance backlogs are avoided, wherever possible.

Legal Implications (including Equality Impact Assessment where appropriate)

48. Under the Education Act 1996, the Council has a general statutory obligation to promote high standards of education and to consider parental preference which includes preference for Welsh medium education. The Council also has obligations under the School Standards and Framework Act 1998 and School Funding Regulations 2010 to provide capital funding for maintained schools. Section 84 and 85 of the School Standards and Organisation (Wales) Act 2013 and the Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013, set out the statutory obligations for all local authorities to prepare, submit, publish and revise Welsh in Education Strategic Plans (WESPs). The Council also has to consider its obligation under section 88 and schedule 10 of the Equality Act 2010 to prepare and implement an accessibility strategy. The strategy should increase disabled pupils' access to the curriculum and improve the physical environment and the provision of information. The Additional Learning Needs (Wales) Bill was agreed by the National Assembly for Wales on 12th December 2017 and will require additional places for pupils with additional learning needs. The report sets out how the Council will meet these legal obligations.
49. When the Council makes decision about this programme, it also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties,

Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: Age, Gender reassignment, Sex, Race – including ethnic or national origin, colour or nationality, Disability, Pregnancy and maternity, Marriage and civil partnership, Sexual orientation, Religion or belief – including lack of belief. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language. The Council must also consider its legal obligations under the Well-being of Future Generations (Wales) Act 2015 to think more about the long term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. These considerations will need to be taken into account when decision are made in relation to this programme.

50. The Council's decision making process is set out in the Council's constitution, and if the Governance structure proposed in this report is adopted, all Council Officers and Members will need to ensure that decisions are made in accordance with the constitution and all relevant legislation. In particular, most of the proposals under this programme will require the Council to follow the School Organisation Code and the School Standards and Organisation (Wales) Act 2013 when making regulated alterations to schools, opening new schools or closing existing schools.

HR Implications

51. The proposed Programme Director – School Organisation Programme has been evaluated in line with the Council's senior management pay structure. Appointment to this role will be made by an Appointments Committee.
52. The trade unions have been consulted on this proposal.
53. The proposal to review the roles and structure of the School Organisation team can be undertaken by the Director of Education in accordance with the Council's HR Delegation CO1.
54. Trade union consultation will be required as part of the Council's agreed restructuring processes.

RECOMMENDATIONS

55. It is recommended that Cabinet:
 1. Note the update in this report on the scheduling and funding issues associated with the delivery of Cardiff's Band B schemes.
 2. Approve the creation of the post of Programme Director -School Organisation Programme at Tier 2, fixed-term for 3 years reporting to the

Director of Education, in line with the Council's pay structure at Assistant Director level.

3. Note the Director of Education and Lifelong Learning will review the roles and structure of the school organisation team to secure the capacity required as identified in the external report cited at Appendix 1, within the funding already agreed under Band B of the 21st Century Schools Programme, Asset Renewal and the LDP.

Nick Batchelar

Director of Education and Lifelong Learning

Date

The following appendices are attached:

Appendix 1:
Cardiff Council Educational Delivery Strategy Review
Ove Arup and Partners Ltd