

Report

Cabinet

Part 1

Date: 9 March 2022

Subject **Revisions to the South East Wales Achievement Service Collaboration and Members Agreement (CAMA).**

Purpose The purpose of this report is to provide members with the opportunity to update the South East Wales Education Achievement Service Collaboration and Members Agreement (the CAMA) to provide a suitable and necessary level of support to the Education Achievement Service (EAS) should they need to make significant staffing changes, with consequential restricting costs, impact on their ability to operate as an ongoing concern

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Ward All

Summary The current CAMA was agreed by all five local authorities in 2013 (following the establishment of the EAS in 2012), at that time the structure of the organisation and the public funding arena were different to current operating model. It has become apparent that there remains a risk (albeit one that is not quantified at this time) that the current funding does not make allowances for the abnormal cost burden that can be incurred in the event of staff severance arrangements being necessary. These severance costs, which may be incurred due to the continued need to implement efficiencies, could force the company into liquidation. Revising the CAMA arrangements would reduce this risk.

Proposal It is recommended that Members agree to the revised form of wording in paragraph 1.11, agreeing that Newport City Council (as one of the five local authorities) pay pro rata EAS employee severance costs remaining, after the company has used 50% of its previous year end reserve balance to pay the first portion of these severance costs

Action by Cabinet

Timetable Immediate

This report was prepared after consultation with:

- Monmouthshire County Council (leading CAMA revisions).
- South East Wales Consortium Directors
- EAS Company Board
- Cabinet Member for Education and Skills
- Joint Executive Group (JEG)
- Chief Executive of Newport City Council

Signed

Background

- 1.1 The current CAMA was agreed by all five local authorities in 2013 (following the establishment of the EAS in 2012), at that time the structure of the organisation and the public funding arena were different to current operating model. The organisation has pivoted away from a traded services model to one which is predicated on system based resources e.g. the role of school bases School Improvement Partners. Simultaneously and as a consequences of the covid-19 pandemic and governmental focus on health recovery there is a potential risk to the significant grant flows that the Welsh Government has provided to the EAS.
- 1.2 The EAS's previous leadership noted the uncertainty around the funding model and in particular the level of protection in the CAMA. Following a period of challenging industrial relations where both staff terms and conditions and redundancy terms were being renegotiated there was an intervention from the Chief Executives (through the then lead Chief Executive) to provide assurances that the five controlling authorities would support the EAS if there was a requirement to fund redundancies. This took place in 2016. This paper and agreement will move the commitment away from an informal agreement to a formalised adaption of the CAMA.
- 1.3 The various governance elements of the EAS, namely the Board and the Audit and Risk Assessment Committee (ARAC) have continued to raise this issue with Directors throughout the period.
- 1.4 As the lead authority for the period 2019-2021 Monmouthshire County Council has been engaged with its legal representative to assess the need for the amendment to the CAMA. Upon reviewing the original CAMA it was their view that no further amendment was required as paragraph 8.4 in the current document provided the mechanism for additional funding:

“8.4 The Company shall provide the Joint Executive Group with the financial information identified in Clause 9.6 and any other information as the Joint Executive Group may require from time to time to verify how the Company is performing against Budget.

Any additional funding required to fulfil the Company operations shall be considered by the Joint Executive Group and shall be shared between the Home Authorities in proportion to the contribution made by each Home Authority in the year ending on 5th April before the deficit arises.”

- 1.5 The Board has been advised of this position at meetings throughout the past period.
- 1.6 However, through those discussions with the Board it has become apparent that there remains a risk (albeit one that is not quantified at this time) that the current funding does not make allowances for the abnormal cost burden that can be incurred in the event of severance arrangements being necessary. These severance costs, which may be incurred due to the continued need to implement efficiencies given financial constraints, could force the company into liquidation. Allowances for such provision is already contained within the Joint Services Protocol covering joint services across Greater Gwent and the principle is that a comparator model is agreed for the EAS.
- 1.7 The EAS working with Directors propose that the five controlling authorities formalise an agreement, similar to the home authorities Joint Services Protocol, to underwrite certain severance costs (i.e. redundancy payments and any employer capital pension costs) arising through the EAS having to take appropriate action to achieve a balance budget.

1.8 This will be achieved through:

The home authorities underwriting those severance costs incurred within the EAS which arise through actions required to meet a balance budget. Home authorities will underwrite those costs, pro rata to their current core contribution percentages, subject to the company first contributing 50% of its retained balances towards the total cost.

1.9 Other costs, such as payments in lieu of notice and payments for accrued but untaken holiday pay, will be absorbed as part of the normal operational costs of the EAS and will not form part of any costs to be underwritten by the home authorities.

1.10 To achieve this outcome, it will be necessary for the proposal to be considered in accordance with each Local Authority's legal, financial and democratic procedures.

1.11 The proposed wording of the amendment would be:

Costs of Employee Severance Arrangements

In the event of enforced employee severance costs (i.e. the costs of redundancy payments and any employer capital pension costs) being incurred by the Company in order to achieve a balanced budget in the current financial year or to set a balanced budget for the proceeding financial year, the Home Authorities will (subject to clauses 1.5.2 and 1.5.3) pay those costs, pro rata to their core contribution percentages in the financial year in which those costs are incurred by the Company.

The severance costs to be paid by the Home Authorities will be any amount remaining after the Company has used 50% of its previous year end reserve balance to pay the first portion of those severance costs.

Any costs incurred by the Company in addition to the severance costs as defined in clause 1.5.1 (for example, payments in lieu of notice and payments for accrued but untaken holiday entitlement) will be borne by the Company as part of its normal operational costs and will not form part of any severance costs to be underwritten by the Home Authorities.

2. REASONS:

2.1 The EAS has become an integral part of the school improvement architecture in south east Wales. As it nears ten years since its creation its role in ensuring the continued improvement activities in all schools and its current critical role in supporting the creation and implementation of the new Curriculum for Wales.

2.2 The amendment set out above in 3.8 provides a greater level of protection to the EAS than the current arrangement (3.4). Given the collective commitment to the education agenda in south east Wales and the fact that there would be a greater risk to the five authorities to recreate advisory services individually the new clause appears to be a proportionate measure to ensure continued service.

Financial Summary (Capital and Revenue)

This change in the CAMA would have an impact on the responsibility of partners to meet the costs of change associated with any potential future decrease in funding received by the EAS. Whilst not an exact science the illustration below provides a sense of how the mechanism could work and the exposure of each local authority based on its current contribution to the EAS.

		Scenario A		Scenario B	
	2021/2022	2022/2023	2023/2024 (0%)	2023/2024 (5%)	
End of Year Balance	256,140	213,328	65,254	-82,820	
Grant budget setting	2,883,225	2,961,482		2,813,408	
Grant reduction – 5%		148,074	148,074	140,670	
Impact on balances		65,254	-82,820	-223,491	
	Change Management	130,000			
	EAS Contrb.	32,627			
	LA Contrb.	97,373			
	BGCBC	11,282			
	CCBC	31,606			
	MCC	13,014			
	NCC	25,244			
	TCBCB	16,227			

The model above shows the impact of a 5% reduction in core Welsh Government Grants (£148,074) and its impact in reducing the year-end balance to £65,254. If the EAS then had to make staffing changes equivalent to £130,000 it would see its balances protected by 50% or in this case £32,627. This would see the five local authorities having to contribute £97,373 to protect the company and allow it to retain its solvency. The numbers in the table above are based on the current contributions from each authority.

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Newport City Council pro rata contribution to EAS staff severance costs	L	L	<ul style="list-style-type: none"> SEWC Directors and JEG are fully engaged with EAS grant income and staffing changes. Staffing reductions are a 'last resort' given prior efficiencies. Grant income has a degree of flexibility and can be used to further support staffing costs. The pro rata costs is contextually low and could be funded from an existing earmarked reserve, specifically created for this purpose. 	Chief Education Officer

Newport City Council required to contribute towards any EAS staff Redundancy Costs	L	L	<ul style="list-style-type: none"> • Redundancy costs have been managed from EAS budgets to date. • Staffing structure is relatively small and Headteacher's are used to facilitate the Partner School Improvement roles, reducing contracted staff significantly. 	Chief Education Officer
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* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Corporate Plan 2017-22
Strategic Recovery Aims

Options Available and considered

- Cabinet choose to revise the CAMA with the updated section seen in 1.11.
- Cabinet choose to maintain the current CAMA

Preferred Option and Why

For Cabinet to accept the proposal to revise the current CAMA with updates noted in section 1.11. This will ensure sustainability of the EAS School Improvement Service for Newport City Council and support the four additional local authorities within this partnership arrangement.

Comments of Chief Financial Officer

There is currently £92k held in an earmarked reserve for any future redundancy costs within the EAS. Based on the above exemplification, a contribution of £25k would be required from Newport City Council, leaving a balance of £67k for future use. It will be necessary to annually review the balance in the reserve and likely exposure to a future share of redundancy costs. Should it be felt that the reserve balance needs to be increased, the additional amount would need to be identified from within the overall in-year financial position of the Council or considered as part of developing the medium term financial plan.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's general powers to enter into contractual collaborative arrangements in relation to the discharge of its educational improvement functions. The EAS was established as a Company limited by guarantee in order to provide a range of educational support services for the participating local authorities, under the terms of individual service level agreements. Each of the local authorities is a corporate member of the EAS Company, with representatives on the Board and the Joint Executive Group (JEG), and have entered into a Collaboration and Members Agreement (CAMA) which sets out mutual rights and obligations in relation to the management and operation of the company. The CAMA already provides that any additional funding required by the EAS and approved by the JEG will be shared by the local authorities in proportion to their respective contributions towards the costs of the service. The proposed amendment to the CAMA clarifies that this proportionate contribution will also apply to any unavoidable severance costs incurred by the EAS in the event of any grant reduction and the need to make staffing savings. The Councils will be required to pay an additional share of these severance costs in proportion to their general contributions, after the EAS has used up 50% of its reserve balances to meet these costs. This is consistent with other collaborative arrangements, where lead authorities are provided with a joint indemnity against these staffing costs. Otherwise, the Company would not have sufficient funds to meet its liabilities.

Comments of Head of People and Business Change

The proposals outlined in the report are being undertaken in collaboration with partners from Torfaen County Council, Monmouthshire County Council, Caerphilly County Borough Council and Blaenau Gwent County Council and with involvement from a range of partners.

The proposed revision to the CAMA has no direct impact on directly employed staff at Newport City Council. However, the service is an important element of supporting teaching and learning staff within the authority and vital to our school organisational development, as well as being a key contributor to the development of regional staffing policies to meet statutory Welsh Government guidance. Any future reduction in grant funding for the EAS could result in potential redundancies as the service seeks to make efficiencies through a reduction in staffing. Without the proposed contribution from partner local authorities to support severance payments (if necessary), the sustainability of the EAS service is at risk, and will impact on organisational development within schools and establishment of staff policies for the school workforce.

Scrutiny Committees

N/A

Fairness and Equality Impact Assessment:

For this report, a full Fairness and Equality Impact Assessment has not been undertaken. This is because this report is not seeking any strategic decisions or policy changes. The contextually low amount of pro rata funding to support severance costs does not present a significant risk to the council, its partners, employees or customers.

Wellbeing of Future Generation (Wales) Act

In consideration of the sustainable development principle, 5 ways of working:

Long Term – The proposal allows the EAS not to fall in to company liquidation, which supports the long term support for school and in turn improved outcomes for learners over time.

Preventative – The proposal prevents company liquidation and allows the five local authority to retain the arm's length company to support their schools.

Integration – The proposal provides the end benefit of securing the stability of a school improvement service. The service of the EAS (via their Business Planning arrangements) are integrated into Corporate, Service Area and School Development planning.

Involvement – All five local authorities in the consortia have had involvement in this proposal through JEG, SEWC Directors or EAS Company Board. The education workforce and governors are involved in EAS Business Planning activities which agree the direction and level of support required to improve outcomes for learners.

Collaboration - The proposal is being undertaken in collaboration with partners from Torfaen County Council, Monmouthshire County Council, Caerphilly County Borough Council and Blaenau Gwent County Council. The collaborative work enables the Council to share resources and maintain a school improvement service.

Welsh Language (Wales) Measure 2011

N/A

Consultation

N/A

Background Papers

None.

Dated: 2 March 2022