



## Children, Young People & Education Committee

<b>Date:</b>	<b>Monday, 4 October 2021</b>
<b>Time:</b>	<b>6.00 p.m.</b>
<b>Venue:</b>	Palace Suite - Floral Pavilion

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### AGENDA

1. WELCOME AND INTRODUCTION
2. APOLOGIES
3. MEMBERS CODE OF CONDUCT - DECLARATIONS OF INTERESTS

Members are asked to consider whether they have any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

4. PUBLIC AND MEMBERS QUESTIONS

#### Public Questions

Notice of question to be given in writing or by email by **12 noon, Wednesday 29 September 2021** to the Council's Monitoring Officer ([committeeservices@wirral.gov.uk](mailto:committeeservices@wirral.gov.uk)) and to be dealt with in accordance with Standing Order 10

#### Statements and Petitions

##### Statements

Notice of representations to be given in writing or by email by 12 noon, **Wednesday 29 September 2021** to the Council's Monitoring Officer ([committeeservices@wirral.gov.uk](mailto:committeeservices@wirral.gov.uk)) and to be dealt with in accordance with Standing Order 11.

## Petitions

Petitions may be presented to the Committee. The person presenting the petition will be allowed to address the meeting briefly (not exceeding one minute) to outline the aims of the petition. The Chair will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda. Please give notice of petitions to [committeeservices@wirral.gov.uk](mailto:committeeservices@wirral.gov.uk) in advance of the meeting.

## Questions by Members

Questions by Members to dealt with in accordance with Standing Orders 12.3 to 12.8.

### 5. **CHILDREN'S RESIDENTIAL TRANSFORMATION PROGRAMME (Pages 1 - 16)**

### 6. **EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

The following item contains exempt information

**RECOMMENDATION:** That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 3 of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

### 7. **CHILDREN'S RESIDENTIAL TRANSFORMATION PROGRAMME EXEMPT APPENDIX (Pages 17 - 44)**



## CHILDREN, YOUNG PEOPLE AND EDUCATION COMMITTEE

4<sup>th</sup> October 2021

<b>REPORT TITLE:</b>	<b>CHILDREN'S RESIDENTIAL TRANSFORMATION PROGRAMME</b>
<b>REPORT OF:</b>	<b>SIMONE WHITE, DIRECTOR FOR CHILDREN, FAMILIES AND EDUCATION</b>

### REPORT SUMMARY

In June 2021, the Children, Young People and Education Committee considered a report which requested approval for a financial investment of £1,000,000 by way of a commercial loan to support the development of up to four new children's homes in Wirral.

The Committee gave an in-principle agreement to the proposal subject to due diligence being carried out and requested that the Director for Children, Families and Education bring a further report back to the Committee at an appropriate date.

This report presents a summary of the external due diligence work carried out and outlines the proposed loan arrangements for the investment.

This is a key decision which affects all Wards.

### RECOMMENDATION/S

The Children, Young People and Education Committee is requested to recommend to the Policy and Resources Committee that it:

- (1) approves the issue of a commercial loan facility to We Are Juno CIC, in terms approved by the Director of Resources, in consultation with the Director of Law and Governance, as set out in section 5 of this report, in the sum of up to £1,000,000;
- (2) authorises the Director of Resources, in consultation with the Director of Law and Governance, to:
  - (a) settle and perfect such security for the performance of the borrower's obligations under the commercial loan facility as is offered by We Are Juno CIC to the Council; and
  - (b) agree such minor variations in the terms of the commercial loan facility as are necessary to reflect any changes in circumstances arising during the term of any loan agreed, including any security pursuant to recommendation 2(a) above.

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 **The external due diligence has now been completed:** The Children, Young People and Education Committee gave an in-principle agreement for the recommended investment, subject to due diligence being carried out. An external organisation, Camdor Global, was requested to complete the due diligence work, taking into account the business case and financial plans produced by the proposed borrower, We Are Juno CIC . A report was produced, as attached at Appendix A, which provides a balanced overview of the proposals and identifies a recommended loan interest rate for Wirral Council. Appendix A to this report contains exempt information as defined in Schedule 12 A of the Local Government Act 1972. It is in the public interest to exclude the press and public during consideration of this item under paragraph 3 (information relating to the financial and/or business affairs of any particular person including the authority holding the information). Given that the due diligence work is now complete, and a full report can be presented, it is anticipated that the Committee will be in a better position to make an informed decision on whether to recommend the proposal to Policy and Resources Committee.
- 1.2 **To ensure there are local homes for Wirral Children Looked After as the numbers of children in care continues to rise:** Across the Liverpool City Region (LCR), the number of Children Looked After has increased by 18% since April 2016. Wirral Council has implemented a rigorous programme to reduce numbers, however, the current number of children in care is 820, is still high. With 11% fewer independent foster carers than in 2016 and with in-house foster carers reducing across the region, the number of carers is failing to grow in line with increases in Children Looked After.
- 1.3 **To help address the financial pressures for Wirral Council as the costs of placements continues to increase:** With demand outstripping supply, there is no incentive for providers to be competitive in their pricing resulting in costs . Indeed the increase in costs shows little sign of slowing. The current average weekly cost of a residential placement in the North West is £4,196 per week with some placements for children presenting more complex needs, costing over £6,000 per week.
- 1.4 **To provide high quality provision for the borough's most vulnerable children in a market where the quality of current provision is mixed:** Whilst the Council tries to ensure Wirral children are placed in provision rated good or outstanding by Ofsted, the mixed position of quality in the market means that this is not always possible. To mitigate this, the Council has put measures in place to ensure regular quality monitoring and review of premises and organisations offering placements. There remains a need to drive up quality so that children have holistic environments which not only provide basic care requirements, but also provide support for emotional wellbeing and education outcomes.
- 1.5 **To create more local placements and help reduce the number of children who must be placed out of the borough:** Currently residential placements for Children Looked After are commissioned via an established procurement framework - the North West Flexible Purchasing Scheme. This framework offers competitive

placement rates compared with other frameworks across the country. Many local authorities seek to reduce placement costs by commissioning via the North West Flexible Purchasing Scheme thereby reducing the number of local placements available in Wirral. This results in the Council having to place children in out of borough homes away from their families and local communities. It also has a significant financial impact on the Council, given that out of borough placement unit costs are higher and require additional resources to support the child e.g. travel and time required by key workers such as social workers, Independent Reviewing Officers and support workers.

- 1.6 **To increase sufficiency within the current children's care sector:** The Council has an average of 8% of Children Looked After in externally commissioned residential placements. As at the end of April 2021, 61 residential placements were commissioned with 26 children (42.6%) living in-borough and 35 children placed out of borough. Of the 35 children living out of borough, 27 live more than 20 miles away from the Wirral, some as far away as Scotland, Cumbria and Durham, rupturing ties with their local community, peers, schools and, at times, family. These 'at a distance' placements hinder the Council's ability to monitor value for money, quality standards and most importantly the progress and outcomes of the young person. Whilst in some circumstances it is in the child's best interest to be out of area, for safeguarding reasons and/or matching reasons, a proportion of out of area placements relate to lack of current local options.
- 1.7 **To invest in an ethical provider to provide balance to a market dominated by private providers who use growth acquisition models to increase market share and encourage resilience in the supply of placement opportunities :** It is evident that private equity companies have used growth acquisition models (where private companies buy other private companies) to increase their market share in the children's care sector. This means that a large proportion of the children's residential market is owned by small number of private companies. Within the North West, five private providers provide 30% of all residential placements. This risk is that should any of these companies enter significant financial difficulty and be unable to continue to provide homes for children, there would be a significant adverse effect on Wirral's most vulnerable children and young people.
- 1.8 **The current model of growth by acquisition may possibly come to an end or be restricted as the Competition and Markets Authority starts to investigate sales and potentially intervene:** This means the next tranche of private equity owners may not be able to rely on economies of scale and efficiency savings through growth by acquisition. The unavoidable consequence of this is that future profitability of these organisations may need to be gained through higher prices and/or lower service investment.

## 2.0 OTHER OPTIONS CONSIDERED

- 2.1 **Do nothing.** This option has been considered and discounted given that the current situation is unsustainable. As outlined above, rising costs in the placement market, the increasing needs of children and young people to live in good quality homes and a proportion of private ownership within the market, means that there is not a sufficient supply of suitable accommodation for Wirral children.

- 2.2 Given the current level of demand and level of need within Wirral, this option would increase commissioning pressures resulting in children being placed in lower quality accommodation and increase budgetary pressures.
- 2.3 **Operate a single in-house model for Wirral children only.** This option is being implemented within the Council's Accommodation Programme and plans are in place to build a 6-bed in-house residential facility for Children Looked After with disabilities through the refurbishment of Willowtree Short Breaks Service.
- 2.4 For the proposal outlined in the report, this option has been considered and discounted for several reasons:
- **Meeting the needs of children and young people:** Previous in-house delivery models were ceased because of the challenge in ensuring that children were suitably matched to accommodation which met their needs. The fundamental need which determines a child's placement in residential provision is how the home will best support the needs of the child or young person. Due to the complexity of children now being placed in non-specialist homes, it remains a challenge to match children in the right way to support their outcomes in specific in-house homes. The model proposed allows a rigorous process of matching across the social care children's homes market. This ensures that children can be suitably accommodated where their needs are best met and satisfying those needs is integral to securing a placement. An in-house option solely would not work because it puts significant limitations on the Council to place children in its own homes without wider access to the market. This is different to the specialist provision within Willowtree because the nature of children's needs are more specific and can be matched accordingly.
  - **Financial:** Where appropriate matching is not possible, homes can accrue voids which increase costs, and which can put them under financial pressure. Current large-scale providers mitigate this risk through economies of scale and through wide reaching market presence. Any in-house provision would need to have a sufficient risk mitigation strategy which manages the financial impact of voids. Placing children in homes which do not meet their need to prevent voids, runs the risk of challenge by Ofsted and potential closure. Therefore the in-house model has been discounted on the basis that financial pressures on voids can be avoided with the recommended model.
  - **Resources:** Any in-house provision is fully managed and resourced by the Council. Employees are directly employed under statutory terms and conditions. Attracting employees to roles in residential settings can also be a challenge and Councils often do not have the support functions to intensively recruit staff. Significant back-office support would be required for a large-scale in-house model including senior management oversight, Information Technology infrastructure, building and asset regulatory work, finance and HR functions. All of this would add a significant resource burden onto the Council's own core support functions.
  - **Reputation:** For in-house provision, responsibility for the registration, compliance and support for children and young people would lie solely with the Council. Failing to meet the rigorous requirements as set out by Ofsted resulting in poor

inspection judgements could have a detrimental impact on the reputation of the Council. Local community challenges, neighbourhood disturbances and failing to improve outcomes and meet the needs of children and young people could lead to further reputational damage. The Council does not have the capacity to undertake the extent of the rigour to gain registration and the wider infrastructure support (including finance, administration, specialist expertise) to be confident in its position to set up at the scale of developments and children's homes as outlined within this proposal.

- 2.5 **Commissioning an external provider to provide the service in Council owned property:** This option is being progressed as part of a project within the Accommodation Programme and following agreement from the Children Young People and Education Committee to support an NHS England proposal to develop a new three bedded specialist service to support and prevent children going into Tier 4 mental health provision.
- 2.6 The option of using current Council assets has been considered and discounted given that no appropriate buildings have been found. Work with Housing, Assets, Major Projects and Regeneration colleagues has been undertaken by officers to ensure all avenues for local suitable housing options have been explored. The challenges with owning and maintaining a property are the costs associated with the development and maintenance of the provision, meeting the requirements of Ofsted for the building and the potential lack of interest from providers to deliver a service without ownership of the associated asset.
- 2.7 **Use of flexible lot on the North West Flexible Purchasing Scheme to block contract:** This option is to enter block contract with providers to purchase a set number of beds at a fixed price, via the North West Flexible Purchasing Scheme. Whilst this option provides control over provision and matching of beds available it is likely (from market insight) that there would be a lack of provider interest in this option as demand is higher than supply so there is no reason for providers to offer single local authorities block contracts at a fixed price. This option was also discounted given the lack of available provision within the current market.
- 2.8 **Enter into a Joint venture with a service provider:** The Council could enter a Joint Venture with a corporate partner (public or private) to establish and run the children's homes as a formal partnership. The Council and its Joint Venture partner would need to decide whether to establish a separate legal entity as a vehicle for the joint venture. The four basic legal forms are:
1. Limited liability company;
  2. Limited liability partnership;
  3. Partnership (or limited partnership); and
  4. A purely contractual co-operation agreement.
- 2.9 The Council would need to provide a business case to support the decision to enter a Joint Venture and be quite clear on the scope and purpose of the Joint Venture and the relative bargaining strengths of the parties. The main documents required to establish a corporate joint venture will be the joint venture agreement or shareholders' agreement and the company's articles of association. These

documents should cover, between them, several constitutional aspects of the arrangements and day-to-day operations.

- 2.10 This is a very technical and time-consuming option, which is not warranted, given the level of investment proposed. The proposal outlined in this report does not require the Council to be involved in the direct delivery of services for children. The proposal is to support a kickstart loan to allow the initial infrastructure to be established.
- 2.11 **Inter-Local Authority option [Collaboration/contractual Agreement]:** The option of entering into a formal contractual agreement with other local authorities, such as the Regional Adoption Agency model has been discounted given there is no current commitment to enter an inter-agency arrangement of this nature. The preferred option recommended in this report offers the possibility in future phases of scalability and inter- local authority commissioning as the new homes are rolled out.
- 2.12 **Local Authority Trading Company.** If the Council wanted to set up children's homes and trade services to third parties on the open market, it would be required under s.4 of the Localism Act 2011 and under the provisions of s95 of the Local Government Act 2003 to set up a corporate vehicle. The type of vehicle which may be used includes:
- Company limited by shares or guarantee;
  - Social Enterprise;
  - Unlimited company;
  - Community Interest Company.

Before setting up a corporate vehicle the Council must be able to provide a strong business case to support the proposal. This option was not pursued given the potential long run-in time for delivery and the overly technical nature of the approach, which is not required for the proposed loan investment.

- 2.13 **Teckal:** The Teckal exemption applies where a contracting authority contracts with a legally distinct entity – usually this will be a company that the authority has set up, either on its own or in concert with others to provide services. The conditions for the exemption are that:
- The service provider carries out the principal part of its activities with the authority;
  - The authority exercises the same kind of control over the service provider as it does over its own departments; and
  - There is no private sector ownership of the service provider nor any intention that there should be any.
- 2.14 The advantage of the Teckal exemption is that it allows public authorities to enter service contracts with wholly owned companies without having to conduct a competitive tender exercise under the EU procurement regulations. This option was ruled out on the basis that as the local authority would not wish to maintain control of the management arrangements for the service provider therefore the Teckal exemption rule would not apply.

### **3.0 BACKGROUND INFORMATION**

- 3.1 In March 2019, the Council agreed a Children Looked After Sufficiency Strategy 2019-2022. This Strategy set out the local authority's priorities to respond to the current challenges around sufficiency of high-quality placements. The Strategy outlined plans to ensure good quality, local homes for Children Looked After through the development and exploration of alternative options for residential placement provision.
- 3.2 Following approval of the Sufficiency Strategy a working group was established to develop an initial options appraisal, understand the potential costings and savings, and consider wider opportunities. An options appraisal was presented to Children's Departmental Management Team which resulted in agreement that a mixed model solution was preferred to affect sustainable market change and reduce over-reliance on any sector. Following this, an Accommodation Programme was established to bring together and drive forward a range of projects which would deliver the outcomes identified in the Sufficiency Strategy.

#### **Liverpool City Region Market Reform Programme**

- 3.3 In 2019, the Liverpool City Region Directors of Children's Services agreed to establish a Market Reform Programme. The overarching aim of the Market Reform Programme was to explore how commissioning across the LCR local authorities would need to change from its current focus from describing demand and developing frameworks, to better managing supply and intervening and reforming local markets. The Programme purpose was to consider the development of local authority services and the expansion of a local market of community-based enterprises which could include co-operatives, mutuals and community interest companies.
- 3.4 The 'Childrens Market Reform Programme - Blueprint for Change' document published in October 2019 set out a whole-system approach to reform and a series of inter-dependent projects working simultaneously on placement finding improvements, in-house foster care offer, the independent fostering marketplace and risk mitigation. One of the successes of the Programme has been the development of a new commissioning vehicle, the LCR Partner Provider Arrangement, launched in 2020, to become the primary interface with local providers committed to delivering quality and value to local authorities and Children Looked After.
- 3.5 In 2019, LCR Children's Commissioners approached Capacity Lab with a mandate for wider market reform from the Directors of Children's Services to help design a new approach that could meet significant local challenges in the residential market. Capacity Lab has a good track record in service design, used by local authorities, funders and providers from across the North West to interrogate long-standing challenges in communities, to bring people and partners together to work collaboratively and create solutions using evidence-based approaches, and to actively implement new ideas.

### **4.0 DEVELOPING CHILDREN'S HOMES IN WIRRAL**

- 4.1 In October 2019, a proposal was presented to the Director for Children, Families and Education by Capacity Lab which outlined plans to create a new ethical, sustainable

network of residential care homes that would significantly improve the life chances of children living in care. The plan was not to simply replicate existing children's homes models but to develop a network of homes that deliver greater quality, with more comprehensive support to transform opportunities for children and young people.

- 4.2 The proposal outlined an overarching plan to establish 10 homes across the Liverpool City Region, in a two-phased approach. Phase 1 would see the set up of four, 4-bed homes across the region with a further six homes established in phase 2, based on learning from the previous phase and linked to surplus reinvestment. It was outlined that Phase 2 would only commence if several conditions were met from the first phase. This plan would see the voluntary/social enterprise sector of the market increase from 4% to around 14%, whilst simultaneously improve outcomes for young people.

### **Wirral homes**

- 4.3 At the heart of the plan was for two 4-bed residential homes to be established in Wirral (in phase 1) and a further two 4-bed homes in phase 2. The homes would be located in accordance with good practice guidance and all of the legal and practical arrangements for the establishment of the home would be followed in order for them to be set up successfully.
- 4.4 In phase one, the focus of the homes would be on Social Emotional Mental Health residential care provision, mixed gender and caring predominantly for young people aged 12-16 years but with a strong focus on supporting towards independence.
- 4.5 Several key aspects of the business case and plans for Wirral were identified as being of significant benefit for young people. In summary, these include:
- a) Service model: A social pedagogy service delivery model based on international evidence and best practice. Social Pedagogy is a conceptual framework at the meeting point between care and education. It is concerned with the educational dimension of social issues and the social dimension of educational issues, and aims to create a fertile environment for children which is conducive to their well-being and learning, developing their own resources and connecting them to society. Social pedagogy is both a field of practice, and a field of enquiry that crosses disciplines such as social work, education, community development and psychology.  
The Social Pedagogy Strategy and Implementation Plan ([derbyshire.gov.uk](http://derbyshire.gov.uk)) stated 'We know that its impact in children's residential care has been impressive – with improved educational attainment, fewer children missing from care, better staff morale and fewer physical interventions.'
  - b) Recruitment: A comprehensive staffing model up to 1:1 support during peak hours and based on need. It is focussed on values-based recruitment, assessing behavioural and technical competencies and securing high quality leadership and management in all areas. Young care experienced people are involved every step of the way in the recruitment processes. An experienced

Head of Home and the first Registered Manager have been recruited with the full involvement of Wirral Care Leavers Council.

- c) Employee training and development: Centralised training and development support to upskill staff and create a sustainable workforce self-generating registered managers of the future. An offer of intensive training and Continuous Professional Development setting a new standard in the sector. Partnerships have been formed with the University of Central Lancashire, ThemPra the organisation supporting the sustainable development of social pedagogy, the Lighthouse and the Social Pedagogy Professional Association to drive the social pedagogy element of the workforce development forward. Employment and training local partnerships are developed with employers
- d) Dedicated emotional health and wellbeing support for young people: A Child Psychologist on the team to support the emotional health and wellbeing of children and young people in each of the homes.
- e) Financial: A cost model that is fixed for minimum 3 years.
- f) Community networks: Services rooted in their local communities enabling stronger links to wider local offer e.g. sports, mental health, lower-level youth service provisions, other local providers delivering creative arts, music etc

4.6 In phase two, it was outlined that the homes would have all the above plus the potential to create models of care for young people looked after where currently on the Wirral it is difficult to meet their needs, such as:

- step-down residential care for children and young people leaving secure accommodation;
- provision for children returning to Wirral from out of borough placements;
- a defined local offer for young people exposed to criminal exploitation where it is safe for them to stay on the Wirral.

4.7 The timescale for Phase 1 from commencement to implementation is October 2021 to March 2022 and for Phase 2 from January 2023 to September 2023. In order to provide the organisational delivery management and oversight, a community interest company, We Are Juno CIC (CRN 12999413), was formed on 5 November 2020 to act as the service delivery company and main hub for administrative support e.g. Human Resources, Information Technology etc. for the children's homes as they became operational.

### **Request for support**

4.8 In order to provide the kick-start funding for phase 1 to deliver the plans outlined, Capacity Lab are seeking investment from the Council and wider social investors. Details of potential social investment is identified within section 12 of this report. It should be noted that the social investment is contingent on investment from the Council.

- 4.9 The Council is being requested to provide a £1,000,000 commercial loan to support the social enterprise organisation (We Are Juno) to:
- Provide initial rental allocation or purchase new properties and accounts for the need to expend capital to refurbish/renovate properties prior to opening;
  - Take account of a predicted time-lag (void costs) of approximately 4 -6 months prior to young people living in the home for building renovations, staff recruitment, Ofsted registration etc; and
  - Enable recruitment, selection and training of employees as well as start-up salaries prior to full functioning of the home/s.

### **Due Diligence**

- 4.10 An external organisation, Camdor Global Advisors, was appointed to examine the opportunity and proposal presented, assess the organisation, We Are Juno and evaluate the interest rate for the loan. It should be noted that the preferred interest rate outlined in the business case was 5%.
- 4.11 The analysis report provided by Camdor Global Advisors (“Camdor”) is attached in the exempt Appendix A. In summary, analysis work carried out included:
- A market research exercise to provide context to the care sector and the key features of the investment landscape;
  - Review and analysis of the parent organisation Catch 22 and Capacity Lab, the incubator company;
  - Evaluation of comparable interest rates for loans on two categories comprising
    - Loans provided to start-up companies with revenues supported by public sector bodies;
    - Loans provided to organisations with clear social impact aspects, often to not for-profit entities.
- 4.12 The Camdor report made the following findings:
- (a) the investment has both a financial return (i.e. the interest rate on the loan) as well as a social impact return for the Council, as it disrupts the current landscape of providers, which are largely for-profit dominated;
- (b) There is a large undersupply of services to the children’s homes sector, with almost 400,000 children in need compared to 80,000 children currently in care.
- (c) Local authorities have experienced challenges in funding their own children’s homes due to high upfront capital expenditure requirements and the stigma of the sector more generally. This has resulted in a dominance of private companies providing these services, often at excessive costs in response to the extreme demand. These costs ultimately must be paid by local authorities who have an obligation to support children in need within their borough. These local authorities are also already experiencing budgetary pressures which are exacerbated by the costly services offered by private companies.
- 4.13 The Camdor report identified that the following stakeholders are involved in the proposals:

- We Are Juno CIC is the delivery company, but has no operational history. This represents a notable risk as revenues are yet to be generated and much of the return is contingent on the business plan coming to fruition;
- Catch 22 (as parent company) and Capacity Lab (incubator company) have healthy financial positions for not-for-profit organisations, however no guarantee has been provided by either entity;
- Catch22 has provided a letter of comfort which states that it is their policy to provide guidance and expertise to We Are Juno to help ensure it can meet financial obligations and achieve its business plan. It should be noted that this letter of comfort is expressed not to be legally enforceable and the Council will not be able to seek a remedy if there is a default.

4.14 In terms of loans for start-up companies the Camdor report indicated that the interest rates are generally between 4%-16% and that:

- social impact loans are generally lower with rates ranging from 4% to 8%; and
- considering the indirect financial and non-financial returns to the Council and the cost savings presented (circa £200 per week per child) it was concluded that a suitable range for the loan's interest rate is between 6% and 8%.

4.15 Considering the due diligence report and further to discussions with Capacity Lab regarding the timescale for payment, it is proposed that an interest rate of 7.5% will be applied to the loan.

## **5.0 FINANCIAL IMPLICATIONS**

5.1 The loan agreement would be for £1,000,000 over a 12-year period, at 7.5% interest per year. There would be no repayments (capital or interest payments) in the first 3 years, to allow the organisation to build sufficient cash balances during the start-up phase of the business. This is based upon the loan being unsecured, with no collateral or guarantor available and this is reflected in the recommended interest rate as per the external advice received (exempt Appendix A).

5.2 Interest at a rate of 7.5% would generate £75,000 in revenue per year, deferred for the first three years. The loan would be managed and operated from within the Council's Treasury Management function and funded from within the Council's cash flow management policy. There will be some financial implications of deferring the interest repayment for the first three years as the council would either have to borrow to finance the loan, or the opportunity to invest its surplus cash flow for three years would be lost. This amounts to £20,000 per year for each of the three years. However, this will be more than recouped from the £75,000 per year in interest payments over the subsequent remaining 9 years of the loans.

5.3 The loan would enable placement of Wirral children in-borough at a fixed price for the next three years, which would be at sub-market cost, creating a cost saving of circa £200 per week per child placement. This would also help to reduce the need for expensive out of borough placements. This is part of the Council's Medium Term Financial Strategy to reduce high-cost placements. The initial investment required

will result in a time lag on savings to be made in the first year of operation. However once phase 2 is in operation, savings of circa £170k per year will be realised on a permanent basis from 2024/25 with a proportion of the savings being achieved from 2022/23

- 5.4 The interest rate charged will be reviewed every three years. This will then reflect any altered risk from any changes in the Council's cost of borrowing, as well as any change in the organisation's performance, assets and security. This means the interest rate when reviewed could increase or decrease dependent upon the position at that time.
- 5.5 Provision is made in the recommendations for the Director of Resources, in consultation with the Director of Law and Governance, to adjust the interest rate in the event that a security or guarantee is offered by the organisation.

## **6.0 LEGAL IMPLICATIONS**

- 6.1 The following Legislation is relevant to the provision of care homes for children:-  
The Care Act 2014 and supporting guidance;  
The Children's Homes (England) Regulations 2015; and  
The Care Standards Act 2000.
- 6.2 Under Section 12 of the Local Government Act 2003 the Council may invest:
- (a) for any purpose relevant to its functions under any enactment, or
  - (b) for the purposes of the prudent management of its financial affairs.
- 6.3 The Council also has a general power to make loans under the General Power of Competence in Section 1 of the Localism Act 2011. This power is supplemental to Section 12 of the Local Government Act 2003.
- 6.4 The commercial loan arrangement documentation will be drawn up by the Council's legal services and entered into by the relevant parties. If additional security is to be taken to support performance of the borrower's commitments this will be settled and perfected by the Council.
- 6.5 A loan from a local authority to a third party can fall under the category of a public subsidy under the UK-EU Trade and Cooperation Agreement, which has replaced the previous State Aid regime post-Brexit. A 'subsidy' can be described as a financial contribution provided by a public authority (which would include the Council) which confers a benefit on the recipient. A financial contribution includes, but is not limited to, measures such as direct transfers of funds, such as the loan described in this report, as well as potential transfers of funds, for example the giving of a guarantee or the foregoing of revenue.
- 6.6 The Council, to avoid breaching the subsidy control regime, has to demonstrate that the decision to grant the loan is based on an economic evaluation comparable to that would be affected by a rational market operator in similar circumstances. This is known as the Market Economy Operator Principle test. Whilst the Council would be afforded a margin of discretion by the Courts when taking an investment decision of

this type, the economic evaluation should be based on objective criteria and is to be carried out by an expert with appropriate skill, experience and expertise.

- 6.7 The report by Camdor sets out the basis for a commercial loan and this is reflected in the recommendations. It is therefore considered that the Market Economy Operator Principle test is satisfied by virtue of the proposed arrangements.
- 6.8 Commissioning of any placements in any residential care facility would need to comply with the requirements of all relevant procurement obligations including the Public Contracts Regulations 2015 and Part 4 Section 6 of the Council's Constitution – Contract Procedure Rules.

## **7.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 7.1 There are no significant Information Technology issues arising out of the report.
- 7.2 There are no significant staffing issues arising out of the report. However, officers from across several departments across the Council have been involved in the collaboration with and work with the Capacity Lab and We are Juno and will continue to be involved either indirectly through overseeing various elements of the project from a Council perspective or through representation within the formal governance arrangements of the social enterprise backbone organisation.
- 7.3 Work will need to continue with the Council's Asset teams to explore the feasibility of acquiring property or land to support the development.

## **8.0 RELEVANT RISKS**

- 8.1 Risks to the Council include:
  - a) Failure to pay the loan back due to any reason including business failure: Any loan needs to be assessed under Accounting Standards for its potential bad debt provision. This would mean the Council would have to set aside revenue or reserves to cover this risk assessment. The benefit of this model is that the organisation appointed will have access to social investment mitigating some of the risk of 'bad debt';
  - b) Any loan made by the Council in connection with this proposal must be on commercial terms and at or above commercial interest rates to ensure compliance with subsidy control law: This risk is mitigated by the exempt report attached as Appendix A. There is provision for a payment holiday of capital loan repayments should the borrower cease to be able to meet repayment terms, which if applied will create a revenue pressure for the Council on borrowing costs;
  - c) Failure to provide financial savings to the Council: This risk must be weighed up against the improved offer of homes for vulnerable children and young people and the potential quality of support to improve outcomes for young people. The escalating placement costs which are continuing to rise means that alternative options need to be explored even if they do not achieve the full financial return

expected. The expected savings from this programme, once fully operational, are estimated to be £166,400 per year;

- d) Failing to deliver the programme outlined and the children's homes on Wirral: The loan agreement will include conditions for repayment of the loan if the project is not completed. The impact of this risk and the significance of a third-party guarantee not being offered by We Are Juno CIC is mitigated by the market equivalent rate of interest to be charged on any loan made and the provision for non-repayment of debt;
- e) Reputational damage should the homes fail to obtain registration or are do not deliver on the quality of provision promised: This risk will be mitigated by the Council having oversight of the progress of the project throughout its establishment and will be able to guide and support the backbone social enterprise organisation. The Council will have influence over the strategic direction of the backbone organisation and be regularly sighted on performance monitoring and quality assurance activity/analysis.

## **9.0 ENGAGEMENT/CONSULTATION**

- 9.1 Fundamental to the development of new residential models has been understanding what young people want and need. Their views and aspirations have been integral to shaping and designing the models outlined. They have said:

*“Good quality homes and accommodation for us are what we want **you** to make **your** priority”*

*“We want to be supported by people who care”*

*“We want to be near our family, school and friends”*

- 9.2 Care experienced children will have the loudest voice throughout the implementation and delivery of the proposal.
- 9.3 The Chair and Spokespersons of the Children, Young People and Education Committee have been briefed on the proposal and regular progress updates have been presented to Corporate Parenting Board. Further regular detailed briefings will be provided to the Chair and Spokespersons.
- 9.4 Children and young people have played an integral part in designing and influencing the development of the projects. Their voice will be maintained throughout.

## **10.0 EQUALITY IMPLICATIONS**

- 10.1 The proposed children's homes will bring more choice locally for children, young people looked after with a vastly increased likelihood of being able to offer them provisions to meet their needs on the Wirral.
- 10.2 Consistency of education, peers and contact with family and the team of local professionals around Children Looked After is likely to lead to much greater emotional and placement stability.

- 10.3 Looking to provide excellent accommodation standards in good areas, near good schools raises aspirations for Children Looked After.
- 10.4 Environmental considerations will consider the sensory needs and triggers for children with adverse childhood experiences and who have suffered trauma and neglect including noise, physical structure, colours and patterns, labelling, lighting, window coverings, smells and temperature.
- 10.5 An Equality Impact Assessment will be required for each home with a view to assessing and mitigating any equality impacts.

## **11.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 11.1 There is the opportunity during any purchase, lease or refurbishment of property to ensure that a low carbon footprint design is undertaken.
- 11.2 The recommendations contained in this report are expected to have a neutral effect on emissions and greenhouse gases.

## **12.0 COMMUNITY WEALTH IMPLICATIONS**

- 12.1 The proposal outlined within this report has the potential to bring significant additional investment to the borough of Wirral. In summary, this includes:
- potential £250,000 from the National Lottery Community Fund for a 2-year development grant to support youth participation, social pedagogy learning and evaluation. This application is through to the second stage of the evaluation process but contingent on the investment decision from Wirral;
  - Segelman Trust: potential investment of £150,000 of development grant to support core costs and is pending approval of investment from Wirral;
  - Steve Morgan Foundation have committed to invest £600,000 plus building of high spec children's homes on land identified and work is progressing with social landlords to progress this;
  - Secured £600,000 from Green Pastures for the purchase and refurbishment of one of the homes.
- 12.2 As the investment catalyst, Wirral Councils investment could enable We Are Juno CIC to secure additional funding which will create employment opportunities in multiple sectors including construction, care and training and development bringing new opportunities and funding to the borough. As a social enterprise, the organisation is committing to providing opportunities within the borough that will help generate growth across many areas.

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## APPENDICES

Appendix A – Camdor Report. Appendix A to this report contains exempt information as defined in Schedule 12 A of the Local Government Act 1972. It is in the public interest to exclude the press and public during consideration of this item under paragraph 3 (information relating to the financial and/or business affairs of any particular person including the authority holding the information).

## BACKGROUND PAPERS

*Social pedagogy and the children's workforce | Community Care*

*Pedagogy – a holistic, personal approach to work with children and young people, across services European models for practice, training, education and qualification 2009*  
<https://core.ac.uk/download/pdf/82095.pdf>

*Introducing Social Pedagogy into Residential Child Care in England 2008 report*  
[http://www.sppa-uk.org/wp-content/uploads/2016/10/introducing\\_sp\\_into\\_rcc\\_in\\_england\\_feb08.pdf](http://www.sppa-uk.org/wp-content/uploads/2016/10/introducing_sp_into_rcc_in_england_feb08.pdf)

*The Relevance of Social Pedagogy in Working with Young People in Residential Care 2011*  
<http://thempra.org.uk/downloads/Essex%20Social%20Pedagogy.pdf>

*2019 Social Pedagogy-informed Residential Child Care*  
[https://www.researchgate.net/publication/330766123\\_Social\\_pedagogy-informed\\_residential\\_child\\_care](https://www.researchgate.net/publication/330766123_Social_pedagogy-informed_residential_child_care)

[literaturereview.pdf \(scie.org.uk\)](#)

[Social pedagogy - Lighthouse Children's Homes \(lighthousechildrenshomes.org.uk\)](#)

[Home - ThemPra Social Pedagogy](#)

[Wirral Borough Council's Accommodation Programme](#)

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Children, Young People & Education Committee	15 <sup>th</sup> June 2021

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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