

**Open Report on behalf of Debbie Barnes,
Executive Director of Children's Services**

Report to:	Children and Young People Scrutiny Committee
Date:	1 December 2017
Subject:	Lincolnshire Music Service - Update

Summary:

This report updates the Scrutiny Committee on the history and future of the music service following the decision in December 2016 that Lincolnshire County Council continue to operate a music service on a fully traded basis.

Actions Required:

To consider the contents of the report and ask questions as required.

1. Background

In May 2015, Lincolnshire County Council approved the proposal that they cease to operate a music service and support Lincolnshire Music Service (LMS) to become a viable charitable entity. It became clear, through analysis, that the level of support required represented an unacceptable high level of risk/liability to Lincolnshire County Council. If this support was removed, the proposal became untenable.

In April 2016, Lincolnshire County Council withdrew their base budget allocation to LMS. LMS still retains two main income streams:

1. DfE Music Grant amounting to £975,000 on an annual basis
2. Traded income from schools and other stakeholders amounting to £1.6 million on an annual basis

In December 2016, Lincolnshire County Council approved the continuation of the LMS on a fully traded service. LMS is a large traded service consisting of around 100 staff members (55 FTE) and is the lead organisation of the Lincolnshire Music Education Hub (LMEH). LMEH consists of approximately 20 organisations united to achieve the best possible music education for children and young people within Lincolnshire. LMEH is a genuine partnership which invests in a collaborative approach with outcomes for children and young people as its core value. It will ensure that every child aged 5-18 has the opportunity to:

- Learn a musical instrument (other than voice) through whole-class instrumental teaching programmes for a minimum of a term of weekly tuition on the same instrument
- Play in ensembles and perform from an early stage
- Access progression routes that are affordable and appropriate
- Sing regularly with access to choirs and other vocal ensembles
- Access an instrument loan scheme, with discounts of free provision for those from low income families
- Engage with professional musician and/or venues through large-scale and/or high quality music experiences to inspire and enthuse
- Access a high quality music curriculum within school

During 2016/2017:

- 87.5% of Lincolnshire schools received opportunities/support from LMS and/or LMEH
- 15,000 children and young people aged 5-18 received instrumental tuition as a whole class, large group and individual/small group tuition through LMS
- 69% of Lincolnshire schools were supported in terms of Primary Music Membership, continuous professional development and music curriculum development
- Over 22,000 children and young people aged 5-18 experienced music opportunities either through live music, high quality events and other programmes

Feedback 2016/2017 based on a 1/3 of schools responding to an online survey in September 2017:

- 99% of schools rated quality as good or better
- 98% of schools would recommend the service to another colleague
- 92% of schools rated breadth of offer as good or better
- 82% of schools rated value as good or better

2. Conclusion

LMS is a well-respected service which has served the children and young people of Lincolnshire for over 40 years. In 2016, we were long-listed for a national award by the Music Education Council which placed us in the top 10% of high achieving Music Services. Arts Council England, as our key funder, have categorised LMS as low risk in terms of their risk register.

We are committed to *Making Music Matter in Lincolnshire* and that every child in every part of the county is given the opportunity to achieve their full musical potential. To do this, we will continue to review the offer available to Lincolnshire's children and young people.

3. Consultation

The Lincolnshire Music Education Hub is the steering group for the decisions made in relation to the Acts Council Grant conditions. Annual feedback from schools, detailed above, helps to focus the impact of the service on children, young people and schools.

a) Have Risks and Impact Analysis been carried out??

No

b) Risks and Impact Analysis

There are no fundamental changes to the provision requiring a new impact analysis.

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Future of the Music Service Update – Report to Executive Councillor responsible for Children's Services – 9 December 2016

5. Background Papers

Document title	Where the document can be viewed
Music Service Options Review – Report to Executive Councillor - May 15	Available on request

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Executive Councillor

**Open Report on behalf of Debbie Barnes
Executive Director of Children's Services**

Report to:	Councillor Mrs P A Bradwell, Executive Councillor responsible for Children's Services
Date:	9 December 2016
Subject:	Future of the Music Service - Update
Decision Reference:	I012108
Key decision?	No

Summary:

An update on the future of Lincolnshire Music Service following on from the decision, in May 2015, that Lincolnshire County Council ceases to operate a music service and support Lincolnshire Music Service in becoming a viable charitable entity.

Recommendation(s):

- (1) That the Executive Councillor responsible for Children's Services approves the continued operation of the Lincolnshire Music Service by Lincolnshire County Council on a fully traded basis.
- (2) That the Executive Councillor responsible for Children's Services authorises the Executive Director of Children's Services to explore the benefits of the Charitable Incorporated Organisation providing any of the existing Lincolnshire Music Service services and delegates to the Executive Director of Children's Services the authority to take decisions and enter into arrangements to that effect.

Alternatives Considered:

A range of options were previously considered in the Executive Paper presented on 5th May 2015. These included:

1. Lincolnshire Music Service continues to be a service offered by Lincolnshire County Council, but exists as a traded, non-Lincolnshire County Council funded service.

Under this option Lincolnshire Music Service continues to be delivered by Lincolnshire County Council with an 8% shortfall in income secured through business remodelling. The key advantage is the Council's 'brand' with the

necessary infrastructure in place as well as wider support. The disadvantage is that Lincolnshire County Council systems and processes are not essentially entrepreneurial or commercial and access to third party and new avenues of funding is limited.

2. Lincolnshire County Council continues to provide funding for the Lincolnshire Music Service and makes savings elsewhere within the Children's Services budget to ensure that the budget is balanced.

Under this option Lincolnshire Music Service continues to be delivered by Lincolnshire County Council and the Council continues to contribute to the service. The advantages are outlined in option 1 above. As well as the disadvantages outlined in option 1, Lincolnshire County Council would need to find around £200k per annum to support the service. In these circumstances, if there was a viable option in which Lincolnshire Music Service is able to become self-sustaining without recourse to Lincolnshire County Council this was a better solution.

3. Lincolnshire County Council ceases to run a Music Service and disestablishes it and does not provide any support to the Lincolnshire Music Service to become a viable charitable entity.

Under this option Lincolnshire County Council ceases their relationship with Lincolnshire Music Service and all staff are made redundant. This option is detrimental to the creative outcomes of children and young people within the county. It also carries a great cost with many Lincolnshire Music Service staff members with high levels of continuous service. The redundancy costs are over £1 million.

4. Lincolnshire County Council ceases to operate a music service and supports Lincolnshire Music Service to become a viable charitable entity.

Under this option, Lincolnshire County Council cease to provide a music service but Lincolnshire Music Service would continue on a commercial basis through a new entity. This option would maintain Lincolnshire Music Service as a resource for children and young people whilst enabling the service to access the financial benefits of a charitable status. The Executive Councillor's attention is drawn to a list of pre-requisites which lists a number of potential means of support to be offered by Lincolnshire County Council to the new entity to support its viability. Upon approval of this option in principle, each of the pre-requisites need to be worked through with Lincolnshire Music Service. As part of this process legal advice will be taken to ensure that any arrangement does not breach legal requirements including State Aid. The final decision would be taken under the delegation with the Executive Councillor.

Reasons for Recommendation:

In May 2015 it was agreed to pursue option 4 in greater detail. During the analysis it became clear that option 4 was not financially viable for the charitable entity based on the level of risk the Local authority would accept upon the transfer taking place. The level of support required, which was demonstrated in the report (Music Service Options May 2015) represented an unacceptable high level of risk/liability to Lincolnshire County Council. If this support was removed, the proposal became untenable.

Option 1 as stated within the Executive Paper May 2015 remains an attractive proposal for Lincolnshire Music Service. Although there were disadvantages to this proposal, some of these are now resolved and further exploration could result in a hybrid model. This would allow Lincolnshire Music Service to function and continue to provide a service for over 20,000 children and young people.

1. Background

There is a need to review the decision taken on 5th May 2015 whereby it was agreed Lincolnshire County Council cease to operate a music service and support Lincolnshire Music Service to become a viable charitable entity. In order for the new entity to become viable, attention was drawn to a list of pre-requisites which listed a number of potential means of support to be offered by Lincolnshire County Council to the new entity to support its viability. These were listed in the Appendix A document (Lincolnshire Music Service Report to Departmental Management Team (DMT) - November 2014) and included:

1. The agreement to carry forward any Lincolnshire Music Service surplus into the new organisation post April 2015.
2. Underwrite the redundancy costs accrued up until the time of TUPE transfer, in perpetuity.
3. Agree to finance the bond (circa £190k) for the Trust to become a recognised body for Teacher's Pension Scheme. This bond is a hypothetical representation of funds as a guarantor which could sit within the reserves of Lincolnshire County Council.
4. Transfer of existing assets e.g. instruments which are of no material value to Lincolnshire County Council. If this was agreed in principle a full inventory would be confirmed.
5. Benevolent loan agreement if needed during the first 12 months to address cashflow vulnerability.
6. The agreement for Lincolnshire County Council to continue to administer the Assisted Instrument Purchase Scheme enabling tax free purchasing for families within the county. This is a relatively straight forward tax free purchase process for parents with no financial burden to Lincolnshire County Council. Suppliers have already been identified through the central purchasing team and therefore the administration would be minimal.
7. The agreement for Lincolnshire County Council to pass to Lincolnshire Music Service, any funds that are collected through Standing Orders that were set-up in favour of Lincolnshire Music Service, by parents, prior to

the transfer (e.g. membership fees for county ensembles and foreign tours). (This arrangement would effectively apply only for a few months after the date of transfer.)

8. A data sharing agreement between Lincolnshire Music Service and Lincolnshire County Council in order to validate information e.g. Free School Meals / Looked After Children impacting subsidised tuition. This is also necessary to complete the annual data return requested by Arts Council England.

The TUPE measures that would need considering would be relating to technical, economic and organisational and would include:

- 1 Childcare vouchers
2. Mileage rates

Lincolnshire County Council has explored cost and risk factors aligned to the outlined pre-requisites and cannot provide the requested level of support. Without this support the new charitable entity is not viable. Redundancy costs alone for the Lincolnshire Music Service staffing structure of around 100 employees amount to over £1 million. There is a significant level of liability for both Lincolnshire County Council and Lincolnshire Music Service with the original proposal.

In April 2016, Lincolnshire County Council withdrew their base budget allocation to Lincolnshire Music Service. Lincolnshire Music Service still retains two main income streams:

1. DfE Music Grant amounting to around £1million on an annual basis
2. Traded Income from schools and other stakeholders e.g. families amounting to around £1.7 million on an annual basis

Lincolnshire Music Service is a well-respected service which delivered to over 20,000 children and young people in 2015/16. They serve almost every school within Lincolnshire and have a national reputation as an excellent service. Lincolnshire Music Service is the lead organisation of the Lincolnshire Music Education Hub which is a genuine partnership of around 22 organisations united to achieve the best possible music opportunities for children and young people. The Hub has been placed on the 'longlist' for the National Education Council Music Education Awards to be announced in December 2016. It would be detrimental to Lincolnshire County Council and the lives of children and young people if this valued service was closed. It would also carry a great cost.

In May 2015, option 1 was a viable alternative considered which would allow Lincolnshire Music Service to continue to be a service offered by Lincolnshire County Council, but exist as a traded, non-Lincolnshire County Council funded service. This was considered at the time but the key disadvantage was that Lincolnshire County Council systems and processes were not entrepreneurial or commercial and access to third party and new avenues of funding was limited. The 8% shortfall in funding highlighted at the time has now been resolved through efficiencies and business remodelling. Business remains strong with a

projected income target of £1.7 million and the generation of reserves amounting to around £60,000 during 2016/17.

In preparation for the implementation of option 4, a Charitable Incorporated Organisation (CIO) was launched in September 2015 (Charity Number: 1161313). This is led by four external Trustees, has its own constitution and bank account with an overarching objective of supporting children and young people with their music making. The CIO has the potential to be the vehicle for some of Lincolnshire Music Service trade including ensemble activities. The CIO could also benefit from third party income streams through gift-aid and sponsorship. The CIO has not yet traded but it is ready to deliver ensemble activities within the region. The Hub commissions all aspects of delivery to partners and this could potentially involve the CIO leading ensemble activity within the county. The CIO could be commissioned by the Lincolnshire Music Education Hub to carry out this agenda for the benefit of children and young people. If the recommendation is to explore the benefits of the CIO to provide some of the Lincolnshire Music Service work then this can be developed under a delegation to the Executive Director of Children's Services.

The model described above is in operation in other Local Authorities and is a mature solution that maximises investment.

For Lincolnshire Music Service to continue to operate as a large traded service within the infrastructure of Lincolnshire County Council there are issues which need to be resolved to create a conducive environment for a traded service. We would need to resolve the following operating principles:

1. Finance: Lincolnshire Music Service requires the ability to carry forward funds in order to build a level of reserves. Lincolnshire Music Service receives DfE Music Grant which is an Arts Council England restricted fund including any income generated from it.
2. Finance: Introduction of a Business Manager role, replacing the current finance officer role, to provide a strategic function in line with the requirements of our key funder Arts Council England. It is not feasible for the Senior Music Adviser to carry out the self-service Agresso agenda for such a large traded service. This has now been agreed by the Resourcing Board.
3. Finance: Negotiation to commence regarding the level of overheads charged to Lincolnshire Music Service for the in-house support and premises provided. Finance to work alongside Lincolnshire Music Service to ascertain the overhead costs in order for Lincolnshire Music Service to budget accordingly.
4. Finance: The continuation of locally agreed inflationary increases and pay-spine to reduce the level of ongoing price increases beyond the point of market control.
5. HR: Understanding and knowledge from HR and Payroll regarding the annualised hour's contracts for Instrumental Tutors and the processes needed for these to be fully functional for Lincolnshire County Council. Discussion has now commenced.

6. Recruitment: Greater flexibility is needed regarding the current recruitment process through the Resourcing Board. A 20% variance of hours on contracts agreed by the Resourcing Board would save the level of admin and time lost to secure new staff members to fulfil outstanding buy-back requests from schools.
7. Data: Lincolnshire Music Service completes an annual DfE Data Return and the continuation of data sharing with other departments is critical for the service to secure funding for future years.

Legal Issues

Equality Act 2010

The Council's duty under the Equality Act 2010 needs to be taken into account by the Executive when coming to a decision.

The Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 section 149(1).

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others.

The relevant protected characteristics are:

- ❖ Age
- ❖ Disability
- ❖ Gender reassignment
- ❖ Pregnancy and maternity
- ❖ Race
- ❖ Religion or belief
- ❖ Sex
- ❖ Sexual orientation

A reference to conduct that is prohibited by or under this Act includes a reference to:

- ❖ A breach of an equality clause or rule
- ❖ A breach of a non-discrimination rule

It is important that the Executive is aware of the special duties the Council owes to persons who have a protected characteristic as the duty cannot be delegated and must be discharged by the Executive Councillor. The duty applies to all decisions taken by public bodies including policy decisions and decisions on individual cases and includes this decision.

To discharge the statutory duty the Executive must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

There will be limited change to the offer for children and young people and therefore no immediate impact.

Child Poverty Strategy

Child poverty is one of the key risk factors that can negatively influence a child's life chances. Children that live in poverty are at greater risk of social exclusion which, in turn, can lead to poor outcomes for the individual and for society as a whole.

In Lincolnshire we consider that poverty is not only a matter of having limited financial resources but that it is also about the ability of families to access the means of lifting themselves out of poverty and of having the aspiration to do so. The following four key strategic themes form the basis of Lincolnshire's Child Poverty strategy: Economic Poverty, Poverty of Access, Poverty of Aspiration and Best Use of Resources.

The Strategy has been taken into account in this instance and the following comments are made:

Economic Poverty

Improved performance of schools will enhance pupil's educational performance and attainment, providing improved chances of access to further education and well paid employment.

Around 20,000 children and young people accessed opportunities through Lincolnshire Music Service during 2015 enhancing pupils' educational performance and attainment. Learning a musical instrument has the following educational benefits:

- Teaches perseverance and discipline
- Fosters self-expression and relieves stress
- Promotes social skills
- Boosts self-confidence
- Promotes happiness
- Increases the capacity of your memory
- Enhances coordination
- Boosts listening skills
- Improves reading and comprehension skills

Poverty of Access

Lack of qualifications and skills are a key barrier in accessing creative employment opportunities and the ability to earn at least a living wage. Improving schools and pupils performance will enhance the ability to access employment opportunities. Other key skills as outlined above are also vital in terms of self-confidence and securing the path to employment.

Poverty of Aspiration

A key part of school improvement is to close the gap of attainment between those vulnerable groups and their peers and to ensure that pupil premium funding is utilised effectively. This service will provide support and monitor schools use of the funding to ensure vulnerable groups are able to achieve their aspirations and fulfil their potential. This also includes bespoke remission policies for children in challenging circumstances including free school meals and looked after children.

Best use of Resources

Best use of Resources aims to ensure that all key stakeholders contribute to improving the life chances of children and young people in a coordinated way. Lincolnshire Music Service is the lead organisation of the Lincolnshire Music and Arts Education Hub removing the duplication of multiple organisations and implementing a streamlined approach to music education in Lincolnshire.

Joint Strategic Needs Assessment (JSNA)

The Lincolnshire JSNA identifies a number of needs that directly relate to young people, with a specific focus on Educational Attainment. This service directly supports the improvement in:

- Outcomes for pupils at the end of Foundation and Key Stage 4
- Outcomes for pupils eligible for Free School Meals (economic deprivation), and those with Special Educational Needs
- Reducing the gap in achievement between “key vulnerable groups” and their peers

Health & Well Being Strategy

The Lincolnshire Health & Well Being Strategy includes five main themes. This service specifically supports:

Promoting healthier lifestyles – monitoring of appropriate educational activity.

Improve health and social outcomes for children and reduce inequalities – ensuring the pupil premium funding is targeted to close the attainment gap between vulnerable groups and their peers.

The wider benefits of music are evidenced earlier in the report in terms of deeper impact.

2. Conclusion

Although option 4 was the preferred proposal in May 2015, Lincolnshire County Council does not have the appetite for this level of liability. Lincolnshire Music Service as a commercial charitable entity is not viable without this support. The alternative option for Lincolnshire Music Service to be a service offered by Lincolnshire County Council, but exist as a traded, non-Lincolnshire County Council funded service should now be considered.

The 8% shortfall in income has been resolved through efficiencies and business remodelling. In addition the newly formed CIO will have real benefit for Lincolnshire. Lincolnshire Music Service, as lead organisation of the Lincolnshire Music Education Hub, would like to commission the CIO to carry out the function of ensemble activity. This would be with the agreement of the Hub Strategic Steering Group and would include 6 County Groups e.g. Lincolnshire Youth Symphony Orchestra and around 22 Music Centre Ensembles e.g. Boston Youth Jazz Orchestra. The Hub already commissions around 22 organisations to deliver activity for the benefit of children and young people. The model described above is in operation in other Local Authorities and is a mature solution that maximises investment. If the recommendation is to explore the benefits of the CIO to provide some of the Lincolnshire Music Service work then this can be developed under a delegation to the Director of Children’s Services.

Further exploration of the operating principles of Lincolnshire Music Service, as outlined within the background section, would result in a successful traded environment for Lincolnshire Music Service.

Lincolnshire Music Service is a valued and successful Lincolnshire County Council department delivering to almost every school in Lincolnshire. It is vital that Lincolnshire Music Service remains a Lincolnshire County Council department and we work together to create a positive working environment to enable the service to prosper. It is essential we secure the continuation of music making opportunities whilst allowing Lincolnshire Music Service to thrive for the benefit of young people in the county.

3. Legal Comments:

The Executive Councillor has the power to pursue the recommended option.

The issues the Executive Councillor must take into account in reaching a decision are set out in the report.

The decision is consistent with the policy framework and within the remit of the Executive Councillor if it is within the budget.

4. Resource Comments:

The recommendation outlined in the report to approve the continuation of the Lincolnshire Music Service by Lincolnshire County Council on a fully traded service will not create any new financial liabilities to the Council. The service has responded to the removal of base budget Council funding identified through the Council's savings plan, therefore is operating on a sustainable basis.

The recommendation for the Executive Director of Children's Services to take decisions on music services being delivered by the Charitable Incorporated Organisation will continue to ensure the Council is safeguarded against any financial implications.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The Children and Young People Scrutiny Committee met on 25 November 2016 and considered a report concerning the Future of the Music Service – Update.

The Committee unanimously supported the recommendations contained in the report and welcomed the positive solution for moving forward the Music Service.

d) Policy Proofing Actions Required

n/a

6. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Executive Councillor Report on Music Service Options Review (including Appendix A - DMT Report on Music Service Options Review - November 2014) - May 2015	http://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=124&MId=4236&Ver=4

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