**Project Management and Delivery of the**

Agenda Item 4

For Approval

**Dudley Towns Fund Project**

Report of Neil Thomas, Chief Executive & Principal Dudley College of Technology and Towns Fund Board Member

**1 Purpose of report**

1.1 The purpose of this report is to outline the options and recommendation for the project management and delivery of the Dudley Towns Fund project.

**2 Recommendation**

2.1 The Board is asked to consider the options and approve the following recommendation for the project management and delivery of the Dudley Towns Fund project.

 *For the Council to lead the bid to help secure the Towns Fund funding for the region, and thereafter if successful to transfer responsibility and ownership of the funding, project delivery and on-going management, operation and oversight of the HE facilities to Dudley College of Technology (College) through a grant funding agreement.*

*The College then to be responsible for procuring the contracts for the design, construction, operation and maintenance of the facility; and in managing the delivery of higher education from the facility.*

*The Council to impose any legally binding obligations on the College to maintain the use of the Site for the purposes of education and any other obligations to be agreed in the grant funding agreement between the Council and College.*

**3 Introduction**

3.1 Dudley College (College) is working with Dudley Metropolitan Borough Council (Council) as part of the Dudley Towns Fund Project. The Project is to build a Higher Education facility at the University Park in Dudley. To do this, a Higher Education Institution (HEI) is to be appointed to assist the Towns Fund bid submission, and if successful, for the HEI to deliver HE programmes from the HE facility.

3.2 The College has taken advice on the options for structuring the Towns Fund Project, including project management, delivery, governance and on-going management and monitoring of the HE facility and operations after opening.

3.3 Factors to consider:

1. Who retains the risk of project and cost delivery, including cost overruns?
2. Who has the resource and expertise to manage delivery of the HE facility and have oversight of performance?
3. What is an appropriate level of governance and scrutiny for the project and on-going HE delivery?
4. What structure will reduce the political risk and encourage greater engagement and commitment from the HEI partner?

**4 Options summary**

4.1 Option 1 – Delivery through the Council with the Towns Board

This is the most straightforward and conventional option. The Council will be awarded funding under the Town Fund and will be appointed the Accountable Body for the grant. The Council will then procure and award contracts for the construction of the facility, operation and maintenance of the facility and delivery of higher education from the facility under a licence and services concession contract. This anticipates that the HEI will report to the Towns Board (or equivalent board).

As a variation to this option, the Council could appoint the College, or other provider, to act as its agent to procure and award contracts for the building and operation of the facility

Implementation

The Council would enter into a building contract and a concession contract with the HEI.

If the Council was to appoint the College or another provider as its agent, this would typically be done under a formal agency agreement. If both parties are both public sector organisations (as is the case with the Council and College), it is sometimes usual for the parties to use non-legally binding instrument (often described as a Memorandum of Understanding), as this is more flexible but this raises other risks.

Considerations

1. The Council retains the cost and risk of delivery (including risk of cost-overruns) and retains ownership of the Site assets.
2. Does the Council have the resource and expertise to manage delivery of the construction and operations of the HE facility? This risk could be partially mitigated through the appointment of the College or other provider to act as the Council’s agent to procure the construction of the facility and/or operate the facility.
3. Does the Towns Board on its own provide sufficient governance and scrutiny?
4. HEIs may consider the political risk of the project not being delivered is high.

4.2 Option 2 – Delivery through the College

 This option provides for the transfer of the responsibility for delivery of the project from the Council to the College. The Council would act as the lead to help secure the Towns Fund funding for the region and transfer responsibility and ownership of the funding and project delivery to the College through a grant funding agreement. The College will then be responsible for procuring the contracts for the design, construction, operation and maintenance of the facility; and in managing the delivery of higher education from the facility. The Council would be able to impose legally binding obligations on the College to maintain the use of the Site for the purposes of education and any other obligations as agreed in the grant funding agreement.

Implementation

The College and the Council will need to enter into a grant funding agreement. The College will enter into a building contract and ensure the ongoing operation and maintenance of the facility. The College would enter into the concession contract with the HEI.

Considerations

1. The cost and risk of delivery (including risk of cost-overruns) would transfer to the College. The College would own (or long term lease) the Site and assets.
2. The College would manage day to day delivery of the construction of the facility and have responsibility for managing the operations of the HE facility.
3. Governance would transfer to the College’s Finance & Estates Committee and Corporation; however external scrutiny could still be provided by the Towns Board.
4. Reduction of the political risk of project not being delivered.

**5 Recommended option**

5.1 Following advice and conversations between the College and the Council, we recommend option 2 to the Board for the following reasons.

1. This is the least risk option for the Council as it transfers the risk of cost and delivery and on-going operations and monitoring of the HE facilities from the Council to the College.
2. The College would mitigate the risk of cost overruns through use of the Integrated Project Insurance (IPI) procurement methodology it has used on its last two new builds, Advance II and Institute of Technology.
3. The College has expertise in building and developing education facilities and delivering highly technical education, skills and training programmes to meet the regional need.
4. The College has established a reputation for successful delivery of projects, which provides assurance to the HEIs that this project will be completed.
5. The College may be able to leverage synergies with the Institute of Technology.