Public Report

Birmingham City Council

Report to Cabinet

December 2018

Subject:	Acivico – Options for the Future
Report of:	Clive Heaphy, Corporate Director for Finance & Governance
Relevant Cabinet Member:	Councillor Brett O'Reilly
Relevant O &S Chair(s):	Councillor Albert Bore
Report author:	Clive Heaphy

Are specific wards affected? If yes, name(s) of ward(s):	☐ Yes	☒ No – All wards affected
Is this a key decision? If relevant, add Forward Plan Reference:	☐ Yes	☒ No
Is the decision eligible for call-in?	☒ Yes	☐ No
Does the report contain confidential or exempt information? If relevant, provide exempt information paragraph number or reason if confidential : Commercially sensitive information contained within the Private Report and supporting documentation.	☒ Yes	☐ No

1 Executive Summary

1.1 The Private Agenda report deals with the confidential and / or exempt information not covered in this Public report. The two reports, private and public, must be read together as this Public report does not repeat information contained in the Private report.

1.2 Acivico was set up in 2012 as a wholly owned company in order to provide mainly building related services in a more commercial manner, but the company has suffered from a lack of clear strategic vision, poor operational and financial performance, confused shareholder support and disproportionate costs and overheads (some imposed, some internal). These combined to result in a challenging relationship between Acivico and the Council as its shareholder. Both the Council and Acivico have not fully considered all aspects of the relationship, such as the Council's various roles as sole shareholder of the company, customer of the services supplied by the company, or supplier of services back to the company.

1.3 A decision was sought from Cabinet in July 2017, to outsource specific (design, construction & facilities management "DCFM") services currently delivered by Acivico. Since then, it has been recognised that the underlying supporting information for this decision lacked accuracy and robustness and did not consider adequately the consequences to the Company and the Shareholder as a result of this outsourcing approach.

1.4 The July 2017 decision was a change in the direction of travel previously agreed (by Cabinet) at the end of 2016/17, that a Joint Venture approach would be implemented with Acivico, in order to address the issues that the Council perceived were present at the time. Again, it has been identified that the underlying supporting information for this decision was not robust or reliable.

1.5 In summary, work undertaken by the Corporate Director for Finance and Governance has identified that:

1.5.1 With few examples of best practice available at the time, the original model in 2012 limited the ability for the company to operate effectively, de-risk the Council or develop sufficiently to operate independently;

1.5.2 insufficient consideration was given to the development of the company's Board and Senior Leadership Team and meant that the capability and capacity to recognise and address the flaws within the company itself, was not present;

1.5.3 various decisions taken since 2012 to place more services within Acivico, which were not aligned to their business model in a desire to de-risk the Council further, have exacerbated the issues with the operating model;

1.5.4 a mixed undertaking of the shareholder responsibilities has meant that the challenges arising from the issues within the arrangements had not been identified and addressed effectively and led to proposals being prepared that may have resulted in shifting the problems from one organisation to another; and

1.5.5 the ongoing lack of effective leadership within the company itself, has resulted in significant poor practices being applied, with substantial reputational and employment risks to the Council arising.

1.6 As a result, as the sole shareholder, the Council has been required to underwrite the costs associated with the Acivico arrangements (£9.5m to 17/18), in order to maintain business continuity of the services it delivers. Further, it has gained a mixed reputation within the Council (in part from the limited understanding by the Council's client departments, of the causes of the challenges the company was suffering from), and the true value that could be gained from effective operation of the model, has not been fully recognised.

1.7 As at this moment in time, following agreement from the Corporate Management Team, all previously agreed procurement activity has been paused, in order for the company to be stabilised and a range of strategic options considered (this report) and a decision on the future delivery approach to be taken by Cabinet. It is important that this decision is based upon Acivico as an entity and not individual income streams.

2 Recommendations

2.1 Following consideration of the options available to the Council, considering their impact and the current corporate priorities, it is recommended that the Council's Cabinet agree that:

2.1.1 the Council remain a shareholder of the Acivico company for the foreseeable future and looks to explore options for further development of this relationship with other models and potential public sector linked partners;

2.1.2 the Council supports the establishment of a new brand entity and company structure, that will take the place of the current Acivico company, enabling a fresh infrastructure upon which a new Business Plan (Appendix 1 – Private Report) can be delivered, within new governance arrangements and contractual frameworks;

2.1.3 the Council provides a new three year contract, (under the Teckal rules), for the core services outlined in the business plan, with the intention that the Teckal rules will no longer apply at the end of the three year term, as the company will be sufficiently established to compete for business in the open market;

2.1.4 the service areas not included within the core services outlined in the business plan (cleaning and Birmingham City Laboratories) are returned to the Council as soon is practicably possible, where further commissioning work will need to be undertaken to determine the future for these services, which would be covered by further approvals by Cabinet at a later date. The return of the services to the Council, will need to be considered in line with the financial implications outlined in Section 7 of the Private Report;

2.1.5 the Council establishes evidence based commissioning strategies for the services delivered by the company. These will stipulate what the Council's strategic intentions are for the services, the outcomes that it expects to receive from the company providing the services, and the manner in which it expects the services to develop over time. The Company will be expected to deliver the services in line with these strategies and work closely with the Council's client departments to assure them of the quality and value for money they are receiving;

2.1.6 the Council enhances effective governance controls for the oversight of the company and the services in the future (Shareholder/ Contract/Commissioner) that have clear roles and responsibilities defined and processes in place for day to day operation of the various roles the Council holds. This includes aligning the Company's Board to the Council's Group Company Governance Committee (the Shareholder governing body) and clearly distinguishing the contract management and commissioning functions within the Council;

2.1.7 Cabinet reverses its decision taken in June 2017 to outsource DCFM work for the reasons given above and

2.1.8 delegated authority is provided to the Deputy Leader and Corporate Director for Finance and Governance, in consultation with the Cabinet Member for Finance and Governance, to agree any relevant procurement strategies and contract variations and new terms, associated with the implementation of the recommended approach in this report.

3 Background

Strategic Context

3.1 Local authorities have the ability to utilise a number of different delivery vehicles to delivery services to the public, or functions required for the operation of the Council.

3.2 For the purposes of this report and in relation to Acivico, the delivery vehicle relevant to these arrangements is an LATC (referred to previously in reports on Acivico as a WOC).

3.3 A Local Authority Trading Company ("LATC") – sometimes referred to as a Wholly Owned Company or "WOC", this is 100% owned by the local authority (or a group of authorities) and can be designed to operate as an independent entity in its own right, subject to specific controls being in place that enable the Council/s to maintain oversight of the company's operation. The majority of the services the company provides, must be on behalf of the local authority, but there is the ability for the company to provide a small proportion of services to an external market

3.4 In a typical commissioning process, the determination of the delivery model to use would not normally arise until after a clear Strategic Commissioning Strategy had been produced, outlining the strategic outcomes and objectives that the local authority wished to achieve, along with a clear specification of the services required.

3.5 Up until this point, the focus has been on asking what delivery vehicle should be used for the future delivery of Design, Construction and Facilities Management Services ("DCFM" – the main component of the Acivico business, albeit not the totality of the business), whilst clear strategic commissioning strategies for DCFM and other services currently provided by Acivico has been absent.

3.6 Also overlooked, was the consideration that the Council had already established a delivery vehicle for these services (Acivico), which means that special attention is required when considering any potential change to this delivery model, such as a joint venture or outsourced approach.

3.7 Although it is not usual to consider the delivery vehicle required, ahead of determining the outcomes to be achieved from the commissioned services, in this instance it is necessary to understand if it is possible and beneficial to continue with the already existing LATC model, given that significant investment has been associated with it to date (£9.5m up until end of 17/18) and the consequences that would arise from having to 'close' this existing delivery vehicle (estimated in excess of £3m costs and significant reputational impact).

Further Background

3.8 There are numerous reports available which detail the background and chronology of Acivico's establishment. A summary of this information can be found in Appendix 2 of the Private Report.

3.9 Whilst there are a number of good examples of successful LATC's operating across the country, this Council is not unlike many other local authorities who have experienced a number of similar challenges, that have meant the Acivico arrangement was not established appropriately, nor sufficiently developed since its inception, to enable it to be successful in achieving the original outcomes for which it was intended.

3.10 The concept was to create an entity that could deliver capital related services on behalf of the Council, with the addition of a small element of externally traded services (which would not have been possible from an in-house solution), that could operate relatively independently from the local authority constraints that make these services less efficient than those provided by the open market, resulting in a surplus (profit) being generated, that could be returned to the sole Shareholder as a dividend (revenue), for reinvestment in other services.

3.11 A summary of the key issues with the Acivico arrangements is outlined in section 3 of the cover report above, however in more detail, the work undertaken over the past several months has identified that:

3.11.1 the initial operating model implemented in 2012 was limited in its deliverability. With few examples of best practice available at the time, the original model limited the ability for the company to operate effectively, de-risk the Council or develop sufficiently to operate independently. Specifically:

a) where there should have been individual legal agreements covering the company's structure and governance, the services commissioned from and supplied by the company and the services supplied back to the company by the Council, the contractual framework that was put in place effectively ‘rolled-up’ the relationships of shareholder, customer, commissioner and supplier which disabled appropriate governance arrangements and confused the roles and responsibilities of officers within both the Council and the company;

b) the contractual terms used went beyond what was required for the Council to fulfil its duties (under the Teckal ‘control test’). They required the company to maintain the same terms and conditions for all staff employed by the company, (not just those which transferred under TUPE), they were bound to adopt and maintain all Council policies and procedures, Council systems and IT arrangements, service levels, etc. In other words, a full ‘lift and shift’ of all arrangements, including overheads and costs, as existed when the services operated in-house to the Council; and

c) limited strategic planning was undertaken with the company, with limited strategic direction provided by the primary client departments, meaning that transformation of the services was not undertaken and improvements in delivery to meet the Council’s objectives was not possible. Specifically challenging to Acivico was the limited development of the client’s capital expenditure planning processes, resulting in Acivico being unable to effectively plan against long term projected income, or support the clients in developing thier capital pipeline in the most efficient and appropriate way.

3.11.2 insufficient consideration for development of the company’s Board and Senior Leadership Team, meant that the capability and capacity to recognise and address the flaws within the company itself, was not present Specifically:

a) similar to many local authorities that established LATC’s at this time, significant focus was given to ensuring that the Council had control of the Board of Directors for the company. In a desire to fulfil the requirements of the Teckal control test, and to provide assurance to Elected Members, councillors were placed upon the Board of the company, but limited officer support was provided to assist the Board in fulfilling its duties (namely, acting in the best interests of the company first and foremost). Where the Council secured other independent Board members, limited work was undertaken to ensure that the right competencies and capacity were secured, to ensure that the Board could operate effectively. More details on the issues with the Acivico Board are to be considered by the Group Company Governance Committee in due course; and

b) again, not unlike many LATC’s established at the time, insufficient consideration was given to ensuring the most appropriate skills and competencies were present within the new senior management positions within the Company structure. Where there were skills and competencies that met the needs at a service level previously, it was not recognised that these were unlikely to translate to suitably fulfil the senior management roles that a new company of this nature would need.

3.11.3 various decisions taken since 2012, to place more services within the Acivico model, in a desire to de-risk the Council further, have exacerbated the issues with the operating model. Specifically:

a) with the limited consideration of an appropriate senior leadership team for the company, alongside the terms and conditions upon which the company was expected to operate, there appeared to be no capability within the company to robustly challenge and scrutinise the decisions to place further services within the company structure; and

b) there was also limited consideration by the Shareholder, of the impact of undertaking a further 'lift and shift' of services from the Council into the company. On review of the materials that supported the decisions to undertake these moves, the information presented places focus on the 'trading potential' of these services, as the rationale for the shift to be undertaken. They failed to consider that the services were not optimised prior to transfer and that significant transformation would be required in order for them to become attractive trading opportunities. Without any investment in transformation within the company, these transfers simply shifted issues from one organisation to another, further compounding the issues already present within the company and exacerbating the challenges that needed to be overcome across operating model of the company itself.

3.11.4 a mixed undertaking of the shareholder responsibilities has meant that the challenges arising from the issues within the arrangements had not been identified and addressed effectively and led to proposals being prepared that may have resulted in shifting the problems from one organisation to another. Specifically:

a) as identified within a recent Internal Audit report, commissioned by the Corporate Director for Finance and Governance, the Council's management arrangements for Acivico were weak. Structured around an inappropriate contractual framework, the Council sought to have a corporate approach to intelligent client functions ("ICF"), but was limited in its application of the appropriate skills and competencies to deliver the required ICF approach. Successful ICF's are not led by contract management and are unlike traditional, siloed vendor, distributor, or customer relationship management functions but instead seek to incorporate the functions of contract management, performance, quality, finance, legal, HR and other wider requirements, and are built around the core function of Strategic Relationship Management ("SRM"). SRM ensures that the governance required for oversight of arrangements such as Acivico, distinguishes between the roles of Shareholder, customer, commissioner and supplier, but also looks at these roles holistically and allows the parties in the arrangement to improve the model being applied and radically transform the approach to delivery. Without this in mind, the approach taken simply moved problems from one place to another, and then added layers of cost and bureaucracy on top;

b) as a result of the mixed effectiveness of the management of the arrangements and the resulting deterioration in the service levels, the company's financial position and the relationships with officers responsible for management of the arrangements, proposals had been prepared that moved away from the LATC model, towards a more traditional outsource model. These proposals however, which were approved in July 2017 (the DCFM procurement), overlooked the consequences that outsourcing would have on the LATC (i.e. it would cease to be able to continue), nor did they consider what would happen to the other services outside of the scope of the outsource approach, or identify the transformational activities that were required across all of the services, in order not to repeat moving the issues from one organisation to another again.

3.11.5 the ongoing lack of effective leadership within the company itself, has resulted in significant poor practice being applied, with substantial reputational and employment risks to the Council arising. Specifically:

a) in additional to the challenges outlined above, the ineffective operation of the Company has led to a number of situations being identified where practice appears to have fallen short of the standards required for the appropriate operation of a limited company. An independent investigation is being undertaken by the Company into these matters, and the Shareholder will be made aware of any potential issues that it needs to address, in due course.

Recent Events

3.12 Since the start of 2018, oversight of the Shareholder responsibilities for the Company have been taken up by the new Corporate Director for Finance and Governance, and following receipt of the financial position statement from the Company itself (in March 2018), the Chair of the Board of Directors has been working to an expectation set by the Shareholder, that he and his Board take whatever action they deem is necessary to stabilise the company, move toward a trading position of at least break-even, and produce proposals for the Shareholder to consider about any future potential for ongoing operation of the company.

3.13 In response to the expectations set by the Shareholder, some senior management personnel are no longer with the company, and specialist external support has been secured to assist the Board to stabilise the company.

3.14 In June 2018, following identification of the concerns with process and lack of available information (identified through an internal audit process commissioned by the Corporate Director for Finance and Governance), CMT were asked to agree that time was provided for the Shareholder to gain sufficient information, both from the company itself and via additional interim support for the Council, in order to understand what strategic options were available for the Council to consider.

3.15 At this time, it was not possible to know if there was the potential for an effective version of the current delivery vehicle to be preserved, nor was it possible to know if the outsourcing approach previously agreed, was indeed the best value and most appropriate option for those services that it encompassed (the Net Benefit Analysis used to inform the July 2017 decision needed revisiting given that, in part, it was unable to appropriately assess an outsourced solution, against the existing solution, given the lack of robust information on the existing solution and the fact that the existing solution wasn't operating effectively from the outset).

3.16 In response to this, and in addition to the Shareholder's expectation of the Board, that it took whatever action it deemed necessary to stabilise the company, the Shareholder also expected the Board to utilise the externally commissioned support it secured, to support the existing team to produce proposals for a potential future operating model for the Company, along with supporting information to provide confidence in the ability for such a model to be delivered, in order to ascertain if the Council could consider the opportunity to preserve the existing delivery vehicle or not.

3.17 Further, the externally commissioned support was asked to provide an independent view on governance and leadership of the arrangements, and provide recommendations on potential improvements that could be considered by the Council's Group Company Governance Committee.

3.18 Internally to the Council, a Programme Management approach led by the Chief Operating Officer, on the back of the July 2017 decision to outsource the DCFM services provided by the Company, was suspended, following identification of concerns with the process and information used to reach the decision in July 2017, and the newly identified consequences to the Council of the outsourcing approach (i.e. the inevitable closure of the company, redundancies, stranded costs, etc), which had not be considered previously.

Current Position

3.19 Positively, with significant efforts from both Acivico and support from the Shareholder, the company has taken actions to stabilise its financial position, by the end of quarter 2 of 2018/19. Excluding exceptional cost items relating to redundancies and legacy issues, the forecast outturn for 2018/19 is much closer to break even and the Company has been able to prepare a detailed strategic business plan for the medium to long term future (subject to the Council's ongoing commitment as Shareholder). This has been considered by the Council's Group Company Governance Committee.

3.20 Acivico and the Council jointly established a Joint Stabilisation Task Force to address those issues which required both the Council and the Company to work together to resolve, whilst Acivico themselves operated an internal stabilisation programme, led by the external professional support secured by the company's Chairman, in order to bring swift action to resolve some of the basic issues that existed within the company's operations.

3.21 Since the beginning of 2018/19, the internal Acivico stabilisation programme has been focusing on four key themes:

- Improve Business Efficiency
- Commercial Growth
- Stopping Non Profitable Activities
- Contract Review and Rationalisation

3.22 Their efforts have seen the application of a workforce strategy that has rationalised the resources required around the core business offer, ensuring that the most appropriate scope and quantum of resources are allocated in the most efficient manner for the long term sustainability of the business. This work has resulted in circa £4.5m costs (£4.0m workforce including agency and consultancy and £0.5m non-workforce) being removed from the business, when considered across a full year's period.

3.23 Further savings have been identified and work is underway to secure the efficiencies that the company needs for long term sustainability to be achieved. Details of how the company intends to move forward can be found in the draft Business Plan in Appendix 1 (Private Report).

3.24 The joint work, undertaken by the Council and Acivico together, has also managed to resolve a number of legacy issues, that have hindered the company's ability to develop itself further thus far. These include (but are not limited to) resolution of outstanding debts for the Council supplied services to Acivico, accounting and reporting processes and matters relating to contracts and operational management issues.

3.25 Both the Council and Acivico recognise that turnaround will not happen overnight but that the steps taken to date represent a very positive movement towards stabilisation and longer term profitability.

4 Options considered and Recommended Proposal

4.1 Whereas up until this point, the Shareholder had insufficient information to determine if there was any potential to sustain the current delivery vehicle (leaving only the options to outsource or bring back 'in-house' the services, and deal with the resulting consequences of closure of a Council LATC), the work undertaken by Acivico and the Shareholder, demonstrate that there *is* potential to continue with a delivery vehicle similar to that of the current Acivico model, that can provide benefits to the Council in the long term, and avoid the afore mentioned consequences of closure.

4.2 Ultimately the Council has four options available for consideration. A summary of these can be found below:

Option	Considerations	Financial Implications
A – continue 'as is'	The current contractual framework is not fit for purpose. The company operating model would not be reshaped to make the business sufficiently viable in the long term. Failure to diversify the customer base would mean the company remains reliant on Council contracts and restricts the Council's ability to assure itself of VfM.	Council would need to continue to underwrite operating costs. Surplus/returns to the Council unlikely to be delivered. Stabilisation costs remain for 2018/19.
B – Return all service to the Council	All operational risks returned to the Council. Management infrastructure not in place to oversee the services. Second TUPE transfer of relevant staff. Further possible redundancies.	In excess of £3.0m stranded costs arising from closure of the company based on the work at the time of drafting this report. All financial risks returning to the Council. Additional costs and income loss from the restrictions placed on services through operating from within a local authority. Stabilisation costs remain for 2018/19.
C – Reshape the existing arrangements to meet new and emerging needs (Recommended in this report)	Minimal amount of disruption to the company and the Council. Opportunity to recommission delivery against defined framework and assure the Council of VfM. Broadly supports intentions not to outsource services as	Reduced income for Council back office services (mainly ICT), as the company moves towards securing independent support. Stabilisation costs remain for 2018/19. Further underwriting of financial risks mitigated

	standard (albeit the company is a separate legal entity).	through effective Risk/Gain Share agreement. Surplus/returns to the Shareholder by the end of the 3 year business period (subject to clearing net liabilities).
D – Outsource everything to a range of external partners	Outsourcing is not the preferred approach of the Council. Council loses the ability to effectively reshape the services as business needs change/emerge Further possible redundancies as independent provide seeks to reshape operating models to suit their own priorities. Potential for services to be supplied by workforce external to the City.	Stabilisation costs remain for 2018/19. Surplus/returns go to the private sector. In excess of £3.0m stranded costs arising from closure of the company based on the work at the time of drafting this report.
E – Outsource everything to a single external partner	This is a potential and very practical option for the longer term but this only makes sense with a company that is stable and profitable	Longer term, the economies of scale associated with being part of a group structure could improve profitability and thus the flow of dividend income back to the Council. With the right partner, this is a credible option for the future

4.3 The draft Business Plan accompanying the Private Report (Appendix 1) details the new operating model that the company is seeking to adopt. Further information is contained within the Private Report.

4.4 Further, Acivico's financial projection for the next three years are detailed in the draft Business Plan. For 2018/19, based on the budget position, the company is close to breakeven before exceptional items and the additional cost of pensions arising from the technical adjustments from the application of accounting standards, without the services that are transferring back to the Council. The new model for future years demonstrates sustainability taking into account the assumptions below including the pension cost of service enabling the potential for a dividend payment in the future to the Shareholder (subject to clearing net liabilities).

4.5 There are a number of risks associated with the assumptions above, which must be considered alongside the projections and can be found on page 22 of the draft Business Plan.

4.6 Also, a detailed breakdown on the assumptions above can be found in Appendix A of the draft Business Plan, which importantly shows the planning that the company is expecting a reducing income stream from the Council over the plan term, and is working towards a growth in external income, in order to respond to this.

4.7 This is an important factor for the Shareholder’s consideration, which will enable the company to become sustainable in the long term, through reducing the risk associated with an over-reliance on income from the public purse and a diversification of its customer base.

4.8 From the work that has been undertaken and the information presented, we have concluded that the Council should consider a number of recommendations;

4.8.1 the Council remain a shareholder of the Acivico company for the foreseeable future and looks to explore options for further development of this relationship with other models and potential public sector linked partners;

4.8.2 the Council supports the establishment of a new legal entity, brand and company structure, that will take the place of the current Acivico company, enabling a fresh infrastructure upon which a new Business Plan (Appendix 1 – Private Report) can be delivered, within new governance arrangements and contractual frameworks;

4.8.3 the Council provides a new three year contract, (under the Teckal rules), for the core services outlined in the business plan, with the intention that the Teckal rules will no longer apply at the end of the three year term, as the company will be sufficiently established to compete for business in the open market;

4.8.4 the service areas not included within the core services outlined in the business plan (cleaning and Birmingham City Laboratories) are returned to the Council as soon is practicably possible, where further commissioning work will need to be undertaken to determine the future for these services, which would be covered by further approvals by Cabinet at a later date. The return of the services to the Council, will need to be considered in line with the financial implications outlined in Section 7 of the Private Report;

4.8.5 the Council establishes evidence based commissioning strategies for the services delivered by the company. These will stipulate what the Council’s strategic intentions are for the services, the outcomes that it expects to receive from the company providing the services, and the manner in which it expects the services to develop over time. The Company will be expected to deliver the services in line with these strategies and work closely with the Council’s client departments to assure them of the quality and value for money they are receiving;

4.8.6 the Council enhances effective governance controls for the oversight of the company and the services in the future (Shareholder/ Contract/Commissioner) that have clear roles and responsibilities defined and processes in place for day to day operation of the various roles the Council holds. This includes aligning the Company's Board to the Council's Group Company Governance Committee (the Shareholder governing body) and clearly distinguishing the contract management and commissioning functions within the Council; and

4.8.7 delegated authority is provided to the Corporate Director for Finance and Governance, to agree any relevant procurement strategies and contract variations and new terms, associated with the implementation of the recommended approach in this report.

4.9 In considering the recommendations above, it is advised that the Council should ensure that the future arrangements provide assurance that:

4.9.1 an effective balance is struck by the company, between the value reductions likely as a result of loss of the benefits of economies of scale, (as the quantum of these types of services purchased by Council reduces over the coming years, i.e. reductions in capital expenditure), with offering an effective element of control by the Council over how the company responds to these reductions, so as the Council can continue to achieve best value;

4.9.2 the services offered are able to deliver an effective level of quality and can respond appropriately to areas of improvement as required; and

4.9.3 the right leadership and governance is in place, to provide the Council with confidence on delivery of existing and emerging objectives and priorities, and services that are provided by the company.

4.10 As a result, it is further recommended that a number of pre-conditions would need to be satisfied, in order to proceed with implementation of the proposed approach:

4.10.1 Plans are prepared to create a new legal entity to host the future company, enabling a fresh accounting framework to be put in place, new brand and operating model to be employed;

4.10.2 A review undertaken of the adequacy of leadership arrangements at executive/senior management level, with the required experience and expertise to drive the objectives of the new operating model forward;

4.10.3 A review undertaken of arrangements at company Board level, including aligning membership arrangements to those expected within a company arrangement of this nature, to ensure the relevant experience and expertise exist to support the governance of the company;

4.10.4 Support is provided for the finalisation of a robust 3 year Business Plan that aligns to the Council's objectives and sees the company move to a position that is not reliant on core council business to survive;

4.10.5 Commitments gained to produce clear 3 year Commissioning Strategies, produced by client departments of the Council, that demonstrate the council's strategic commissioning intentions over the medium term, and allow the company to plan accordingly;

4.10.6 Proposals produced for new contractual frameworks that clearly distinguish the conditions upon which the Council acts as Shareholder of the company, the Council as a customer of the company and the governance arrangements (including those matters of the company reserved for specific approval of the Shareholder);

4.10.7 An approach agreed by the Council that covers the transactional contract management arrangements required for the oversight of the services contracts, and separate strategic relationship management arrangements (part of the wider Intelligent Client Function ("IFC") considerations) for the oversight of the Council's Shareholder role in the company;

4.10.8 Plans agreed to cease all Council supplied back office services to the company, including ICT services, so as the company can operate overheads at a suitable market average; and

4.10.9 Agreement reached on an approach to enable new Terms and Conditions to be applied to new employees starting with the company, including removing the need for employees to be enrolled into the local government pension scheme.

5 Consultation

5.1 The Council's Corporate Management Team have been engaged in the development of the recommendations contained herein.

5.2 Trade Union representatives are to be engaged to support the implementation of the recommendations.

6 Risk Management

6.1 A number of risks have been identified within the Business Plan appended to the Private Report.

6.2 The Shareholder and the Company will work in partnership to effectively manage the risks arising through the implementation of the recommendations.

6.3 The Shareholder Representative will engage with the Council's Group Company Governance Committee, to oversee the effective management of delivery and associated risks.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The approach recommended supports the Birmingham City Council Plan 2018-2022, Outcome 1: Birmingham is an entrepreneurial city to learn, work and invest in, through:

a) Priority 1, creating opportunities for local people by keeping the business operating within the City, delivering it growth plans for local services that meet local needs;

b) Priority 2, maximising the investment in the city, keeping the investment in services within the local economy and supporting the provision of quality jobs and opportunities for citizens; and

c) Priority 3, supporting the company to deliver upon its plans for growth and diversification of its customer base, improving its competitive strength and contribute to the council's financial position in the long term.

7.2 Legal Implications

7.2.1 A number of new legal agreements will be required during the implementation of the recommendations, including the potential need to novate certain contracts from the current company to the new company proposed in the recommendations.

7.2.2 A new contract for services will be prepared, in to cover the scope of services the company will provide to the Council.

7.2.3 An 'Individual Shareholder Agreement' will be prepared, to agree the decision making and governance processes the Council will deploy in exercising its rights and responsibilities as sole owner of the company.

7.2.4 The Articles of Association of the company will also be reviewed, to ensure that sufficient provisions are made to enable the council to effectively undertake its shareholder responsibilities, but also to ensure the company's own governance is sufficiently robust to effectively oversee and understand delivery of the business plan and operation of the company on a day to day basis.

7.3 Financial Implications

7.3.1 Details are included in the Private Report.

7.4 Procurement Implications (if required)

7.4.1 A Cabinet decision was taken in July 2017, to undertake a procurement exercise for Design, Construction and facilities management services (DCFM). (further details contained within the supporting documents).

7.4.2 The approval of the recommendations in this report, would see the reversal of the July 2017 decision to outsource DCFM services.

7.4.3 Further, procurement activity may be required for the future delivery models applied for cleaning and BCL services, however they will be subject to further reports and decisions.

7.4.4 A number of existing frameworks, that are interdependent on the current Acivico arrangements, will also require extensions to allow the implementation of the recommendations in this report.

7.5 Human Resources Implications (if required)

7.5.1 There may be HR and TUPE implications for the company to consider, resulting from the implementation of the recommendations in this report, and the Council will ensure that the company secures suitable advice and support in these matters.

7.6 Public Sector Equality Duty

7.6.1 There are no PSED considerations to undertake at this time.

8 Background Documents

8.1 Appendix 1 (Private Report) – Acivico 3 Year Business Plan

8.2 Appendix 2 (Private Report) – Background & Chronology of Acivico's Establishment