

**Report to:** Cabinet **Date of Meeting:** 18 August 2011

**Subject:** Progress Report on Sefton New Directions

**Report of:** Jill Coule **Wards Affected:** All  
Head of Corporate Legal Services

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

### **Purpose/Summary**

To provide an update on the Council's shareholding in the local authority controlled company Sefton New Directions as requested by Council on 17 May. As the situation is currently developing a verbal update will be given at the meeting

### **Recommendation(s)**

Cabinet is requested to consider the report and the verbal update

That quarterly updates be provided to Cabinet on its shareholding and any other relevant information

### **How does the decision contribute to the Council's Corporate Objectives?**

|   | <b><u>Corporate Objective</u></b>   | <b><u>Positive Impact</u></b> | <b><u>Neutral Impact</u></b> | <b><u>Negative Impact</u></b> |
|---|---|-------------------------------|------------------------------|-------------------------------|
| 1 | Creating a Learning Community   |                               | √                            |                               |
| 2 | Jobs and Prosperity   |                               | √                            |                               |
| 3 | Environmental Sustainability  |                               | √                            |                               |
| 4 | Health and Well-Being   |                               | √                            |                               |
| 5 | Children and Young People   |                               | √                            |                               |
| 6 | Creating Safe Communities   |                               | √                            |                               |
| 7 | Creating Inclusive Communities  |                               | √                            |                               |
| 8 | Improving the Quality of Council Services and Strengthening Local Democracy |                               | √                            |                               |

**Reasons for the Recommendation:**

Council on the 17<sup>th</sup> May requested a progress report be presented to this meeting in order that the Council's interest as shareholder is understood and protected.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

Nil

**(B) Capital Costs**

Nil

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

|   |
|---|
| <b>Legal</b><br><br><b>The legal implications are contained and discussed within the contents of the report. The Council is acting under its powers as a shareholder and exercising those in accordance with the Companies Act 2006 (as amended).</b> |
| <b>Human Resources</b><br><br><b>None arising form the contents of this report</b>  |
| <b>Equality</b><br>1. No Equality Implication <input checked="" type="checkbox"/>   |
| 2. Equality Implications identified and mitigated <input type="checkbox"/>  |
| 3. Equality Implication identified and risk remains <input type="checkbox"/>  |

**Impact on Service Delivery:**

Officers continue to work closely with SND in light of the circumstances outlined in the report to manage any impacts on service delivery and service users.

In the event of the company being dissolved, a carefully managed process would take place to ensure continuity of service.

**What consultations have taken place on the proposals and when?**

The Head of Corporate Finance (FD.904) has been consulted and her comments have been incorporated in the report

The Head of Corporate Legal Services is the report author. There are no legal implications arising from the contents of this report. LD 363/11

## **Are there any other options available for consideration?**

### **Implementation Date for the Decision**

Following the expiry of the “call-in” period for the Minutes of the Cabinet/Cabinet Member Meeting

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### **Background Papers:**

.Report to Council 17 May 2011 - Sefton New Direction – Shareholders Permissions

## **1. Introduction/Background**

1.1 Members will recall that a report was presented to full Council on 17 May 2011, in respect of the above named company and the Council’s shareholding. This report noted that the Board of SND had, since 2008 been attempting to secure the future viability of the Company. The main risk to this viability being the potential liability arising from a large number of Employment claims. Numerous attempts (including meetings through ACAS) have been made to reach an agreed settlement. In addition to this risk, the Council as the commissioner of adult social care has given notice in 2010 to the company that it is reducing its fee by £3 million with effect from April 2011 in order to bring its costs in line with other providers. The Company resolved that a fundamental change to the structure of the company and its employment arrangements was necessary to ensure its future viability

1.2. A number of important decisions were made on 17 May which are précised below. The effect of the Council resolutions is valid until 31 December 2011.

- To note the proposals made by Fresh Care Consulting with respect to future viability of Sefton New Directions (SND);
- To note the efforts in respect of settling the Employment Tribunal claims;
- In accordance with SND’s Articles of Association, the Council, as shareholder, resolves and consents in relation to the actions outlined in the relevant Appendices to allow the Board to carry out certain actions such as:
  - dismiss and re-engage employees as necessary,
  - to allow staff to take voluntary redundancy and/or voluntary early retirement as appropriate
  - if necessary to allow the Board to dissolve the Company
- To authorise the Council’s Head of Corporate Legal Services to sign the Council’s resolution in accordance with company law requirements:

- To authorise the Head of Corporate Legal Services to review the Council's current arrangements with respect to its oversight of the shareholding in SND and to make recommendations to Cabinet in due course.

1.3 Sefton New Directions (SND) was incorporated in 2007 as a local authority trading company. Sefton Council is the sole shareholder. The Company is an independent legal entity and operates under the governance of a Board. The Board is responsible for the Governance of the Company. The Company is registered with the Commission for Social Care Inspection and conducts a range of care services. These services include residential homes, intermediate care, respite services, day services, supported living and meals on wheels. The services are provided to learning and physically disabled adults, older people and residents suffering from mental health and dementia. The client groups are primarily Sefton residents with some services being provided to Sefton NHS and other PCT's. There are circa 1100 service users at any one time. The company operates from 25 bases in the borough, which mostly belong to the Council. The company employs 500 staff, most of whom were Sefton staff immediately before the company formation and transferred under the TUPE provisions. The Board consists of the following Directors; Councillors Parry, Rimmer, Brennan and the Council's Chief Executive. The Board is advised on HR matters by the Head of Corporate Personnel.

## **2. Latest Position**

Discussion and negotiations have been ongoing between the Company and the Trade Unions. These discussions include the outstanding employment claims and a review of staff terms and conditions. These negotiations have been productive and positive and are still ongoing. An update will be given at the meeting.

Given these ongoing issues, it is important that the Council retains an oversight of its shareholding in the company. To that end, it is proposed that quarterly reports be brought to Cabinet reporting on the above issues and any other issues relevant at that time.