



16 May 2016

Agenda Item: 4

**REPORT OF THE SERVICE DIRECTOR, NORTH NOTTINGHAMSHIRE AND
DIRECT SERVICES**

**UPDATE ON THE PROPOSAL TO ESTABLISH A LOCAL AUTHORITY
TRADING COMPANY FOR THE DELIVERY OF ADULT SOCIAL CARE
SERVICES**

Purpose of the Report

1. The purpose of the report is to provide an update regarding work to date to progress the proposal to establish a Local Authority Trading Company to deliver adult social care services; to provide an overview of the work required to progress the proposal further; and to seek Committee approval for an extended timescale and further work to develop a full business case.

Information and Advice

2. As part of the Redefining Your Council programme, an options appraisal was undertaken to identify if there is a long term solution for some of the Council's directly provided adult social care services that will:
 - a) ensure the services are financially sustainable and operationally viable
 - b) allow for greater flexibility and freedom to develop new and innovative services that contribute to meeting the Council's obligations under the Care Act
 - c) maintain a close strategic relationship between the services and the Council.
3. The services in scope for inclusion in the proposal are as follows:
 - Church Street, a residential home for people with learning disabilities
 - Shared Lives, a service that provides care and support to vulnerable adults in a paid carer's own home
 - County Enterprise Foods, the Meals at Home Service
 - Day Services
 - Short Breaks units for people with learning disabilities
 - I-Work, a team that helps people with a learning disability into employment.
4. The appraisal considered a number of potential models of service delivery, as follows:
 - a) continue to manage the services under direct Council control
 - b) establish a Council owned social care company to deliver adult social care services

- c) establish an alternative service delivery model independent from the Council e.g. a social enterprise
 - d) outsource the services to an external service provider in the independent sector.
5. Based on the conclusions of the options appraisal, a Council owned social care company (Local Authority Trading Company) was recommended as the preferred model for further exploration. In order to test this recommendation, the Council has undertaken further work to develop the proposal. Albeit at an early stage, this work has included some consideration of the financial viability and sustainability of the services; the potential savings and efficiencies that could be delivered through a move to an alternative way of working; as well as activity to identify potential new income generating opportunities that may be open to a new company.

Update regarding work to date

6. The key areas of work undertaken over the past few months have been:
- exploration, at a high level, of the viability of progressing with a Local Authority Trading Company proposal
 - external review of the Council's work so far
 - public consultation exercise.

Summary conclusions of the work to date

7. In summary, it has been concluded that, as determined by the options appraisal, a Local Authority Trading Company is perceived to be the best way to sustainably deliver the Adult Social Care services in the scope of this proposal over the long term. This is based on a range of reasons, including:

- a) A Local Authority Trading Company has the ability to raise additional revenue:

This could be through the delivery of new services to the Council, directly to residents of Nottinghamshire and through winning contracts with other Councils.

Initial work to identify potential opportunities to generate new income has been formed through discussions with staff and managers working in the services in scope, along with desktop research about the services/products offered by existing Local Authority Trading Companies.

Although these initial ideas require further assessment they do demonstrate a wide range of possibilities that a new company could explore as it develops and evolves. All of the ideas are focused around creating a flexible service that can respond quickly to market demand and offer individuals a tailored package of support.

Any additional revenue raised can be reinvested back into the services to support their future delivery.

The close link to the services retained by the Council by being the sole shareholder with a direct line of control over the Local Authority Trading Company would ensure that quality and a public service ethos would be maintained.

- b) A Local Authority Trading Company has the potential to reduce some costs, in ways not possible under direct Council control.
 - c) A Local Authority Trading Company has the flexibility to be responsive, as a trusted and reliable partner of first choice and last resort, to the changing service delivery needs of the Council and to help meet the Council's obligations under the Care Act.
 - d) Additionally, a Local Authority Trading Company model enables the Council to retain strategic control of the services over and above the level offered by other models considered by the options appraisal. It is this strategic control that will enable the Council to control the long and short term direction of the company that allows, for example, change at pace if changes or cessation of the delivery of any services is required.
8. The move to a Local Authority Trading Company is seen as a crucial first step because of the Teckal exemption which allows a Council to award a service contract to its own Local Authority Trading Company without undertaking a formal procurement process. This exemption is not available in other models. However, there would still be an opportunity, once a Local Authority Trading Company had established itself, to develop it into a further alternative model at a later date e.g. a social enterprise/co-operative or other model.
9. Ultimately a key driver for looking at alternative service models is the constrained financial situation faced by the Council. At this early stage, a number of assumptions, based on a combination of internal and external advice and case studies of existing Local Authority Trading Companies, have been made in order to assess the financial case for the proposal. Based on these assumptions, a Council owned Local Authority Trading Company has the potential to deliver savings to the Council over time.
10. Finally, a key lesson learned from the work to date has been that it is now clear that the Council will need a much longer period of time than had previously been suggested over which to develop a full business case which is suitably robust and, if approved, to safely and efficiently transfer the services to the new model of working. An outline of the work required, with estimated timescales, is provided later in this report. However, in summary, it is anticipated that it will take 12 months to develop a full business case for the proposal and that, subject to the outcome of further consultation and Policy Committee approval, it will take at least another 12 months after that to transfer the services to a new way of working.

External Review

11. A company called Stepping Out, working in tandem with Optalis, an existing Local Authority Trading Company providing Adult Social Care services on behalf of Wokingham Borough Council, was commissioned to provide 10 days of external consultancy support to the Council.
12. Based on their experience of supporting other Councils to transfer services from direct Council control to an alternative way of working, the support offered by Stepping Out included:

- a review of the robustness of the options appraisal
 - guidance on the development of the proposal
 - help to identify areas of further work required to develop a full business case and transition plan.
13. The department is awaiting the final summary report from Stepping Out regarding their thoughts on the work undertaken by the Council to date, as well as their views on the readiness of the services in scope to move forward to an alternative way of working. In the meantime they have provided some high level comments, for example:
- 'The options appraisal gives a balanced assessment of all options, with consistent scoring across all criteria'.

Outcome of the consultation exercise

14. Alongside the work to develop the proposal, approval was sought to engage with staff, service users, their carers and the public on the proposal at an early stage, in order to seek initial feedback and ensure that stakeholders have an opportunity to influence any subsequent development of a new delivery model. Approval to consult was granted by the Adult Social Care and Health Committee at its meeting on 5 October 2015. Full and comprehensive consultation will be required following any Policy Committee approval of a full business case in order to provide people with an opportunity to have their say on the final proposal for change.
15. The early consultation, which commenced on 20 November 2015 and closed on 31 January 2016, sought to understand:
- a) to what extent people agreed or disagreed with the Council's preferred option to establish a Council owned social care company
 - b) whether people would prefer the Council to consider a different way of working – either setting up a social enterprise or asking a company outside the Council to provide the services.
16. 136 responses were received to the survey. Six e-mails/letters were also received. The key results of the survey are summarised below:
- 52% of respondents strongly agreed or agreed with the proposal to establish a Council owned company, 19% neither agreed nor disagreed and 29% disagreed or strongly disagreed
17. Broken down by connection with the services, the percentage of respondents who strongly agree or agree with the proposal to establish a Council owned company are as follows: service users 64%; carers 58%; members of staff 51%; other 29%. Therefore respondents with a closer connection to the services are more supportive of the proposal than those describing themselves as other.
18. Of the respondents who disagreed or strongly disagreed with the proposal to establish a Council owned company, 97% also disagreed, strongly disagreed or did not know in relation to the option to establish a social enterprise or to outsource services. Therefore

the majority of respondents who disagree or strongly disagree with the proposal to establish a Council owned company do not support a social enterprise or outsourcing model either.

Outline of work required to develop a full business case and transition plan

19. As referenced earlier in this report, it is now clear that the Council will need a much longer period of time than had previously been envisaged in which to develop a full business case and, if approved, to safely and efficiently transfer the services to a new model of working.
20. An outline of the activity required to progress the proposal is shown below:

- **Development of the full business case**
 - Explore the most appropriate board/shareholder structure that meets the objectives of the new company and the Council's requirements
 - Explore options for a joint venture
 - 5 year financial planning – develop a financial plan with a detailed assessment of, for example, any capital requirements and additional tax liabilities
 - Develop the service strategy and explore new business opportunities
 - Consider the options in respect of support services and the arrangements that will need to be put in place to transfer systems if required
 - Determine an approach to property and assets
 - Develop a workforce plan for the company, including consideration of proposed terms and conditions for new recruits to the workforce
 - Develop a proposed transition plan with timescales and a detailed risk management strategy
- **Report to Policy Committee**
 - Seek approval of the full business case
- **Public consultation on the proposal to establish a Local Authority Trading Company**
- **Planning for implementation activity**
- **Report to Policy Committee**
 - Provide an update on the outcome of public consultation and any subsequent amendments to the proposal
 - Seek approval to commence implementation of the Local Authority Trading Company
- **Implementation activity (subject to approval)**
 - Engage with service users, staff and the community
 - Confirm service level agreements for support services
 - Commence TUPE (staff employment) transfer processes

- Agree property lease and maintenance arrangements
- Develop the communications and marketing plan, including company branding
- Arrange Gateway Reviews to provide opportunities to reflect on and refine business planning
- Prepare all legal and contractual documentation
- Convene a 'shadow' board of directors and assemble a management team for the Local Authority Trading Company
- Register the services with regulators (e.g. Care Quality Commission) as required

▪ **Launch the Local Authority Trading Company**

As stated in paragraph 10 of the report, it is estimated that the totality of this work and the need to test all options thoroughly will require 12 months for development of a full business case and a further 12 months to transfer the services to a new way of working.

21. Whilst some internal project resource is already in place to facilitate this work, consideration will need to be given to the requirement for additional internal resources. Additionally an assessment of the degree and nature of any further external consultancy and legal support is required.
22. It has been suggested by Corporate Leadership Team that the project could possibly be considered as a pilot for support from the Commercial Development Unit, once this is up and running, and have further suggested that the project team should consider setting up a Challenge Panel with officers from other areas of the Council who have carried out similar work previously in order to provide peer challenge and due diligence.

Other Options Considered

23. The other options considered are described in **paragraph 4** of this report.
24. Further work is to be undertaken to revisit whether a Joint Venture option could offer the same level of benefits as a Local Authority Trading Company

Reason/s for Recommendation/s

25. Significant work has been undertaken to progress the proposal and Committee is asked to note this. However, it is now clear that the original timescales proposed for project delivery are unachievable i.e. implementation in January 2017. Committee is asked to note this and to approve the revised project timescales recommended in the table at **paragraph 20**.

Statutory and Policy Implications

26. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such

implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

27. The full financial costs of establishing a new company are being explored as part of the development of the financial business case for the proposal.

Human Resources Implications

28. These proposals will affect 567 staff members. A sub-group of the Adult Social Care & Health Departmental Joint Consultative and Negotiation Panel (JCNP) has been established in order to discuss this proposal with the recognised trade unions and staff in accordance with the Council's agreed protocols. Any decision to proceed with a Local Authority Trading Company will take place in line with legislative requirements and will draw on existing good practice and experience of setting up other arm's length organisations and TUPE transfers of staff.

Public Sector Equality Duty Implications

29. An initial equality impact assessment was undertaken in July 2015. This will be amended to reflect the outcome of the responses received to the consultation with staff, service users, their carers and the public described in this report.

Safeguarding of Children and Adults at Risk Implications

30. Should the proposal be approved and progressed, any new company will be subject to the same level of scrutiny in respect of identifying and managing safeguarding issues as any provider service. In addition to assessment by the Council's own Quality and Market Management Team, the registered services in scope would continue to have oversight from the Care Quality Commission.

Implications for Service Users

31. Service users currently in receipt of a Council arranged (or managed) service from the Direct Services in scope would continue to have their outcomes met.
32. Service users and their families will have another opportunity through a further consultation process to provide their views on the final proposal.

Implications for Sustainability and the Environment

33. The preferred option, to establish a Council owned social care company, is perceived to be the best option to provide a sustainable way of meeting the financial challenges facing the Council's directly provided adult social care services, allowing new income streams and business opportunities to develop whilst retaining a good level of service.

Ways of Working Implications

34. Initial discussions with colleagues in the Property Strategy and Development Team have been based on the premise that the buildings based services (Day Services, Short Breaks, County Enterprise Foods and Church Street) will continue to be delivered from the same location as now. The Shared Lives and I-Works Team are based at shared County Council administrative sites and no decision has been taken yet on their future work base. The costs and legal implications of the property arrangements are being explored with the Property Strategy and Development Team and the Legal Services Team.

RECOMMENDATIONS

That the Committee:

- 1) notes the progress to date and responses received to the consultation on the proposal to establish a Local Authority Trading Company to deliver adult social care services.
- 2) notes the description of the work that will need to be undertaken to develop a full business case for the proposal.
- 3) approves the extended timescale and further work to develop a full business case to establish a Local Authority Trading Company to deliver adult social care services.

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Constitutional Comments (SLB 18/04/16)

35. Adult Social Care and Health Committee is the appropriate body to consider the content of this report.

Financial Comments (KS 29/04/16)

36. The financial implications are contained within paragraph 27 of the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Proposal to establish a local authority trading company for the delivery of Adult Social Care Direct Services – report to Adult Social Care & Health Committee on 5 October 2015

<http://www.nottinghamshire.gov.uk/dms/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/3539/Committee/480/SelectedTab/Documents/Default.aspx>

Consultation on the proposal to establish a Council owned care company:

www.nottinghamshire.gov.uk/socialcarecompany

Update on Proposal to Establish a Local Authority Trading Company for the Delivery of Adult Social Care Services - report to Adult Social Care & Health Committee on 11 January 2016

<http://www.nottinghamshire.gov.uk/dms/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/3542/Committee/480/SelectedTab/Documents/Default.aspx>

Options appraisal – January 2016

Electoral Division(s) and Member(s) Affected

All.

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