

## APPENDIX 1

# LEARNING DISABILITY SOCIAL ENTERPRISE: EXECUTIVE SUMMARY

The **Learning Disability Community Support Service (LDCSS)** is a substantial part of Leeds Adult Social Care Directorate, with more than 700 staff providing Supported Living, Fulfilling Lives, Respite and Crisis services for 1,000 adults with learning disabilities.

As the management of LDCSS, we have expressed our interest under the 'Right to Provide' initiative to deliver the existing services through a staff-led social enterprise. The **Right to Provide (R2P)** is a Government initiative which gives public sector workers rights to provide services as staff-led enterprises and bid to take over the services they deliver. The key aim is to enable staff to take the initiative in developing services that better meet the needs of the customers they serve.

Using money secured from a dedicated central government fund - the Social Enterprise Investment Fund - we have compiled this draft business plan, to consider the options for a viable future for LDCSS.

### 1.1. The priorities for the Council

Like many councils Leeds City Council (LCC) faces a **transformation challenge with regards to Adult Social Care** in relation both to the scope of what it can sustainably fund as demand continues to increase whilst funding is under pressure, as well as how it moves from being a provider-council to one which mainly commissions services and develops community capacity.

In this business plan we will make the case that the best way for the Council to meet this challenge is to set up a social enterprise – an act of civic entrepreneurialism as proposed by the recent Commission on the Future of Local Government<sup>1</sup>:

*“Councils can become a vital part of micro-economic policy, especially to create and support good growth with socially responsible approaches to employment and economic wellbeing.”*

In developing our business plan we have considered how best to meet the Council's priorities which are summarised as:

- Civic enterprise: a new leadership style for local government where councils become more enterprising, businesses and other partners become more civic and citizens become more engaged.
- Better lives through enterprise: a revised role for Adult Social Care, as it moves from being a direct provider of services to being a co-ordinator of the provision.
- Ensuring quality services that are viable and sustainable.
- Protection of terms and conditions for staff.
- Socially responsible employers in the marketplace stimulating jobs and good growth locally.

In addition, within our plan, we have sought to address Leeds City Council's Learning Disability strategy and the priorities of customers:

- More opportunities to be available for learning disabled people in mainstream services e.g. leisure, education and employment.
- More choice and easier access to housing.
- A skilled workforce able to meet a diverse range of need in the community and at home.

- Innovative ways of meeting the needs of individuals within shared support environments.
- Specialist services to support individuals with very complex needs in Leeds and prevent them from being sent out of area.

## 1.2. The options

We appreciate that the Council has a number of different options in relation to the future of LDCSS, being:

- Retaining services in-house.
- Externalisation / Outsourcing.
- Locally Authority Trading Company.
- Independent Social Enterprise.

Developing our integrated business plan has equipped us to explore these options in depth. One of our objectives was to identify whether a Social Enterprise solution is **the most suitable** for LDCSS and the Council in their aims to:

- Invest in new and existing services to ensure their long term sustainability.
- Ensure maximum stakeholder buy-in from staff, customers and others.
- Provide a response to Personalisation.
- Provide long-term affordability and local employment opportunities, through good growth.
- Provide choice and services integrated with the community.
- Support the Council's Enabling Corporate Centre programme.

## 1.3. Recommended option

We conclude that 'spinning out' LDCSS into a **social enterprise is our preferred option** for the service, its customers, staff and the Council.

Social enterprise is a creative and radical approach to public service reform. A social enterprise is a socially-owned company that reinvests any surplus it makes back into the community. Very simply, a social enterprise is - much like a co-operative - :

- A progressive form of business with a place around the boardroom table for staff, managers and other stakeholders.
- A hybrid between a public sector organisation and a business - encompassing the 'best of both' approach to achieving social good.
- An organisation which, while not set up for private gain, uses the tools of business - trading, selling, investment - to achieve good in the community
- A force for generating 'added value' - investment, growth, community engagement employment.

This is not a 'privatisation' of current social care services. This will be a staff-led enterprise, with governance rights for customers and the community. The articles of association of this business will embed Leeds in its objectives, and it will be rooted in the communities and social economy of the city.

Our assessment suggests that as a social enterprise LDCSS can:

- Offer the chance to maintain fair terms and conditions for all staff as well as continued career opportunities.
- Create freedom and opportunities to build upon the achievements and efficiencies gained by LDCSS in recent years.
- Redirect any profit back to social care rather than into private hands.

- Maximise the influence of stakeholders in maintaining the quality of services and providing customers with better lives.
- Provide commissioners and customers with new alternatives for needed services.
- Build on LDCSS's position as a trusted provider of choice.
- Combine socially responsible civic values with the entrepreneurship and drive that come with staff ownership.

#### 1.4. The business plan

Apart from providing an in-depth analysis of the strengths and weaknesses of the various options available to LCC, this draft business plan outlines:

- The policy and market challenges faced by the current service.
- The opportunities offered by the changing environment.
- Our proposed five-year strategy.
- How we intend to govern and run the social enterprise so it maintains quality of service to customers and commissioners.
- The legal implications of setting up a social enterprise.
- Projections of costs and benefits - including potential efficiencies available to LCC.
- Proposed next steps, including an implementation plan and our assessment of associated costs.

#### 1.5. The proposal

We propose the creation of a **Community Interest Company (CIC)** - a legal form commonly used for social enterprises. The CIC structure ensures that assets are kept within the company and that most profits are applied for the furtherance of the organisation's objectives.

The organisation will be **owned by staff**, who will benefit from this not in terms of financial gain, but through increased engagement, empowerment and control.

To lead this new organisation, we will assemble a **skilled and experienced Board of Directors**, with a mix of business, social enterprise and clinical expertise and extensive community links.

We will commit to the following:

- To remain a socially responsible local employer, sustaining good quality jobs locally.
- Maintaining a quality service for customers and commissioners, retaining our position as trusted provider of choice.
- Deliver all back office efficiencies to the Council through a negotiated process which supports the Enabling Corporate Centre programme.

In return we ask of the Council:

- An agreement for the provision of learning disability community support services in Leeds for 5 years; renewable for two further one-year terms.
- The transfer of all staff members from the current service into the CIC.
- The transfer of associated assets currently used by LDCSS staff for the delivery of its services (excluding property).
- The Council to allow transferring staff to remain in the council's pension scheme and indemnify the spin-out for any historic losses in the pension scheme related to this group of staff.
- LCC providing working capital for the social enterprise through up-front contract payments.

## 1.6. The financial case

The financial argument for doing this is central in the current climate. The aim of our planning was to find an alternative way of delivering the service that:

- Enables additional income to be drawn in.
- Helps meet the financial challenges facing the Council, from increasing demand, reducing funding and from competition and personalisation.
- Maintains services and quality for customers and commissioners.
- Protects and expands local employment and career opportunities.

As part of our financial modelling we have:

- Identified the real full cost of the service.
- Identified and modelled the potential financial impact of becoming a social enterprise.
- Identified which new growth opportunities the social enterprise could pursue.
- As part of our due diligence we have had our figures and assumptions subjected to external scrutiny and assurance.

The results of our modelling point to the following conclusion:

- As a social enterprise we will be able to deliver efficiencies of £2.8m per annum by year 5 from the main contract.
- We have identified three options for expanding our portfolio of services with combined potential net revenues of £1.3m by 2018/19, delivering a further £0.8m savings to the pooled budget.

## 1.7. Why this is good for the Council

This initiative **fits squarely with the Council's strategic priorities** of 'Civic Enterprise' and 'Better Lives through Enterprise' for Adult Social Care. It also chimes strongly with Leeds' traditional links with the Co-operative movement, as it builds on a foundation of democratic control, community, independence, openness and participation.

The initiative follows the propositions by the Commission on the Future of Local Government to support civic entrepreneurialism and to stimulate jobs and good growth.

Furthermore, apart from the financial benefits it brings, it provides a solution which:

- Retains public sector care values at the centre of its being.
- Will have customers and carer involvement built in.
- Will operate in direct partnership with the City Council, with the Council represented on the Board of Directors.
- Endeavours to operate closely with the local Voluntary and Community Sector organisations.
- Will reduce the Council's cost base and therefore help sustain the services for the longer term.
- Will have the flexibility to innovate and to provide the services that customers want, thereby providing the right response to Personalised Budgets and Direct Payments.
- Helps the Council deliver the Enabling Corporate Centre programme.

## 1.8. Benefits for customers and carers

Our proposal has substantial advantages for customers and the general public in Leeds:

- The social enterprise relies on **direct involvement from customers and their carers**, with representation on the Board of Directors and the Customer Council.
- There will be improved prospects of **sustainability** of valued services through investment and diversification of income sources.
- The strategy requires developing **new services** and new ways of delivery, and attracting **external funding** for these purposes currently not available to a council-run operation.
- Generated surpluses are **retained for public/community benefit**.
- The model **protects and develops high quality jobs** for Leeds, with opportunities to provide career paths and employment initiatives via a mix of internships, apprenticeships and real jobs.

## 1.9. Benefits for staff

In the various opportunities we have created to engage with staff and management: a growing number have been open and receptive to the idea of establishing LDCSS as a social enterprise. Many are attracted by the opportunity to gain more control and be fully engaged in the running and success of the service, through:

- Ownership
- Staff representation on the Board of Directors
- A Staff Council in which staff representatives provide input into the organisation's plans.
- Higher levels of empowerment of people on the front line.
- Securing of jobs and increased career opportunities.

## 1.10. The legal case

We have commissioned a report from Anthony Collins Solicitors on the proposal. Their findings are:

- In the context of the Localism Act and other legislation, the Council has the power to set up a social enterprise.
- The Council should consider overall value, including economic, environmental and social value, when reviewing service provision.
- The Council must comply with procurement law when considering how any contract for the services is awarded. Within this framework, the Council must assess whether or not there is a market for the services in the way that it is proposing to package them. If it concluded that there were "no market", then it could legitimately award a contract on a single tender basis to the new social enterprise for five years, arguing that:
  - This method of procurement would serve to secure improvements in economic, social and environmental wellbeing for Leeds by providing a wrap-around service for some of the most needy.
  - It can achieve additional social value by letting the services as a cohesive whole to a social enterprise with a specific remit to build social value.
  - Issuing a 5 year contract plus two one year extensions is justifiable, but caution is advised beyond seven.

- The Council has to comply with State Aid rules and this is best achieved by making sure that the social enterprise pays market rates for central services and premises.

### 1.11. Risks

This proposal is **not without risks**, and both the Council and LDCSS will want full clarity on both the risks and measures that will be taken to mitigate them. Our report identifies risks to the social enterprise, the council as well as the status quo.

The main areas of risk should the proposal go forward have been identified as:

- Political and financial fallout should the Social Enterprise fail. Appropriate governance processes will be put in place, and management will be strengthened with Council representatives and external non-executive directors who bring in the right skillsets and expertise to minimise this risk.
- Introduction of choice and personalisation: The contract should reflect realistic expectation in how quickly and to what extent the social enterprise can move from block funding to spot.
- Burden of pension fund deficit: Appropriate risk-sharing between Council (for historic deficit) and social enterprise (for potential future deficits) are to be agreed.

Despite the risks to the social enterprise option, doing nothing has significantly higher risks attached. The key one being that the cost of service would continue to increase - due to inflation and pay pressures - which could lead to harsh cost savings operations and/or funds being diverted from other needy areas.

### 1.12. Next steps

**We will seek feedback** with regards to this Integrated Business Plan (IBP) from senior officers and members.

To **maintain the current momentum** we recommend a combined Refine IBP, Transition and Launch phase, which contains the following steps:

- Agree the project governance and sign-off process for the establishment of the social enterprise and the various contractual arrangements.
- Apply for further central government funding to pay for external assistance to continue the project.
- Refine the business plan by incorporating further feedback and verifying the key assumptions applied regarding pension requirements, accommodation costs and the contract's heads of terms.
- Continue to engage with stakeholders as we refine our plans and develop our governance structures.
- Negotiate, draft and agree legal agreements for service provision and transfer of staff and assets.
- Final agreement to the project by approval of the commissioning contract by senior officers and Members.
- Conduct a TUPE consultation with staff and their representatives.
- Build the customer engagement infrastructure, and develop a brand and marketing materials.
- Design governance and policy frameworks, and register with relevant regulators.
- Design a performance reporting framework.

- Recruit, develop and train the Board, management and staff to prepare for the new future as a social enterprise.

### **1.13. Conclusions and recommendations**

This Integrated Business Plan has laid out the **current challenges** for the provision of learning disability community support services in Leeds.

Against this background, it presents the creation of a social enterprise as a **viable alternative** to Council provided services.

Operating **with the engagement of customers, carers and staff built in**, the social enterprise will be well placed to deliver flexible, innovative services for the adults with learning disabilities in Leeds.

With the support of the Council and an appropriately constructed services agreement, the social enterprise will be an **important new addition to the provider landscape** providing further choice for customers and adding an option to commissioners.

We recommend support for this proposal in order to move onto the next stage, involving applying for funding and mobilising the necessary resources for Transition and - ultimately - Launch of LDCSS as an independent social enterprise.

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<sup>i</sup> Civic Enterprise UK, *The Commission on the Future of Local Government – final report, July 2012*