

Appendix D

Risk	Key mitigating actions
<p>Service users and carers may be unsettled or anxious about changes</p>	<p>Maintain regular engagement with service users and their carers. Ensure communications are carefully designed and targeted to reassure users and carers. A comprehensive stakeholder engagement strategy is already in place. Learn from and apply lessons from other L/A service moves to mutuals. Listen to and respond in timely fashion to concerns and issues, provide informed information to maintain confidence and trust.</p>
<p>The social enterprise may not have the leadership and commercial skills necessary to be successful.</p>	<p>The enterprise has a staff group that are clearly able to both manage a difficult service area and lead radical change, in a complex environment whilst at the same time delivering significant financial savings. The board will include non-executive directors and Councillors with appropriate skill sets and the SE will receive independent financial advice through its own Finance Director</p>
<p>Financial element of the Social Enterprise business case may not be robust.</p>	<p>Comprehensive costing in relation to staff transfer models have been considered and subject to review from a range of LCC officers. Ongoing due diligence and remodelling of financials within the business case has taken place. Whole short, medium long term financial models have been considered by both internal and external specialists using known issues and an identified reasonable range of assumptions.</p>
<p>The social enterprise may experience significant operational problems and/or failure. Consequently LCC will have to deal with the consequences on various levels from reputation to contract performance issues and potential intervention.</p>	<p>Comprehensive Integrated Business Plan includes financial models, risk registers, Professional disciplines (Audit, Tax team, Finance and Legal) have scrutinised, challenged IBP and financial models. Effective Contract management and clear arrangements agreed from contract commencement with an appropriate balance of risk between LCC and the SE.</p>
<p>The Social enterprise fails to win new business in the future not allowing growth and development.</p>	<p>Developed realistic IBP forecast models. Initial growth based on turning temporary 1:1 arrangements into permanent jobs at a saving to both LCC and the SE. Continue to observe the market, demographics and respond to service user expectations. The demographic forecast is for continued increase in demand for this type of service for the foreseeable future and the business has been structured to be able to be competitive in the market place and allow diversification as a contingency.</p>
<p>Future pension requirements are not properly identified and accounted for.</p>	<p>A revised actuarial review has firmed up the cost pressure which has been mitigated in the model over the life of the contract. There is no longer a</p>

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	requirement for the SE to fund a bond
The Mutual will have no financial trading history, may make obtaining financial decisions difficult.	Most support services are to be bought back from LCC and therefore SE will have few creditors in initial years of the contract.
A risk of a legal challenge in relation to procurement – challenge from other providers.	Current developments in EU procurement rules responding to and moving to support Public Sector Staff Led Mutual start ups. Ensure external stakeholder engagement is ongoing. Work with procurement and legal departments to understand and interpret changes, impact and process of implementation. Specialist internal and external advice confirms LCC has power to award contract. Voluntary Transparency Notice will mitigate/manage some of the risk. Contract provisions will be included to mitigate consequences of any challenge which arises after contract award.
TUPE consultation process challenged	Appropriate legal advice and is in place to ensure effective planning with adequate timescales from both the transferor and transferee perspective. There has been ongoing involvement with Unions and Staff throughout the process and this will continue.
Risk of not complying with State Aid could result in challenge	All services and assets are being valued at market rates to ensure we comply with State Aid. Detailed legal advice and support has been received and continues to be acted upon. The value of the non-fixed assets which will be transferring are under the de minimis level.
Contract terms and conditions do not adequately consider the transfer of risks between LCC and the developed Mutual.	A risk allocation profile is in place and has been reflected in the heads of terms to ensure that there is an appropriate balance of risk between LCC and the SE. Services contract is based on LCC's standard Ts&Cs and the scrutinised commercial positions therein.
New EU Directive coming into place prior to contract award (3 years instead of 5 years) may impact on contract terms to the SE	The current plan is that the contract will be awarded in advance of the new EU directive. Executive Board are asked to delegate the awarding of the contract to the DASS for greater flexibility.
HMRC don't accept the company grouping structure and therefore irrecoverable VAT is incurred by the SE	Professional advice received on the approach to company structure in line with examples elsewhere in the country.