



Report of the Director of Adult Social Care

Executive Board

Date: 5 January 2011

Subject: Leeds Centre for Integrated Living Proposals re: Change of Legal Status

Electoral Wards Affected: All

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

1. This report describes the current role of the Leeds Centre for Integrated Living (LCIL), how the proposal to become an independent User Led Organisation is supported by Management Committee of the CIL, and how this is in line with Government requirements.
2. It includes information on the services currently provided by the CIL and information about Government and local disabled people's expectations that a User Led Organisation (ULO) is established in Leeds
3. The report describes the steps and processes that have been taken so far and what needs to be put in place to establish LCIL as an independent organisation, controlled by local disabled people.
4. The report provides assurance that key issues in regard to the legal status of the new organisation, including implications for staff, ongoing support for information and technology arrangements and future contracting arrangements have been considered and appropriate plans put in place.
5. Executive Board support and agreement is sought on the proposal to establish LCIL as a Social Enterprise Limited by Guarantee with Charitable Status, supported by specific recommendations with regard to the requirement to waive Leeds City Council Contracts Procedure rules.

1.0 Purpose Of This Report

- 1.1 To describe the development and current role of Leeds Centre for Integrated Living (LCIL) in delivering the Council's business, and to explain the reasons for the recommendation that it becomes a User Led Organisation independent of Leeds City Council.
- 1.2 To outline the process that has been used to determine the most appropriate legal status for the LCIL to adopt in order to operate as an independent User Led Organisation.
- 1.3 To confirm that the specific issues in relation to this change have been addressed, including the risks identified and mitigating actions taken. This includes issues relating to Transfer of Undertakings (Protection of Employment) Regulations (TUPE), future access to the Council's Information Communication Technology (ICT) systems and future contractual arrangements with the Council.
- 1.4 To request that the Executive Board approve the recommendation for LCIL to become an independent organisation operating as a User Led Organisation, established as a Social Enterprise Limited by Guarantee with Charitable Status.
- 1.5 To recommend that the Executive Board notes that following the approval from the Board as detailed above the Director of Adult Social Services will invoke Contract Procedure Rule 31.1 and waives Contract Procedure Rule 13 to enable Adult Social Care to enter into a contract with Leeds Centre for Integrated Living to ensure that it continues to be able to deliver the key services it currently provides without disruption to service users.

2.0 Background Information

- 2.1 LCIL is an Adult Social Care Business Unit employing 20 people, with a staff and running costs budget of £707,750. This organisation is co-run by ASC and an advisory group of 11 disabled people from Leeds who form the Management Committee of the Centre.
- 2.2 LCIL was set up in 1998, replacing one of the Local Authority's Resource Centres for Disabled People. This was in response to a proposal from the existing users of Resource Centres in Leeds and the wider disabled people's community. The intention was both to provide services that would result in the inclusion of more disabled people in the mainstream life of the city and to ensure that disabled people had more influence and control over these services. To develop that greater influence, a Management Committee of local disabled people was established to act as an advisory group to Adult Social Care in regards to the development and day to day running of the Centre.
- 2.3 Nationally there are now a number of Centres for Integrated/Independent Living. All of these are independent from their respective councils and are run by local disabled people. In Leeds it was considered by the Management Committee in 1998 that a partnership model, where they acted as advisors to the service, was the most appropriate until the service was more established. The LCIL is now a well established and successful organisation and, in addition, the Management

Committee itself has developed further knowledge and skills over the years and is now in a position to take on board full responsibility for the Centre.

- 2.4 LCIL's main activity is a very successful service called ASIST (Actively Seeking Independence Support Team). This service provides support with all aspects of recruiting, managing and paying Personal Assistants. The service is used by people in receipt of Direct Payments (DP), Personal Budgets (PB) and the Independent Living Fund (ILF) who choose to use some or all of their funding to employ a Personal Assistant to deliver some or all of the personal care and support required to meet their assessed needs. ASIST is currently working with 589 customers and has played a major role in increasing the numbers of people in Leeds who choose 'Self-Directed Support' (SDS) as the way to meet their assessed personal care and daily living needs.
- 2.5 ASIST provides two types of support, Independent Living Adviser Support to help Service Users recruit and manage their Personal Assistants and Finance Support which helps Service Users manage their funding, keep records and ensure their employees are paid. Currently the payroll administration is carried out by a Leeds accountancy private sector business. The recording and reporting on the support given to service users with their DPs is by using ASC's electronic social care record system (ESCR), which allows workers at CIL and social workers to share information effectively.
- 2.6 During 2010 LCIL has set up a brokerage service (provided by an Independent Living Guide) for people who have chosen to receive a Personal Budget to meet their assessed needs. The service provides a choice to these people over who provides any help they need to write their own Personal Support Plan and to set up the services and support detailed in the plan, once it is approved. The Leeds SDS Project, identified that people need to have choice as to whether their social worker, or someone else, helps with these tasks. LCIL offers the choice of such support from an organisation that will be independent *and* has an established record of successfully and appropriately supporting people using SDS in line with LCC policies and procedures, including safeguarding responsibilities. The Independent Living Guide role will be monitored and evaluated to enable ASC to determine the potential level of demand for such a service as Personal Budgets are fully rolled out in Leeds.
- 2.7 LCIL is based in an accessible building and has an accessible Training Room which it allows groups of disabled and older people, and other organisations requiring accessible meeting facilities, to use. One such group is the SDS 'Free to Live' Peer Support Group, set up by some Direct Payments recipients with support from LCIL.
- 2.8 Over recent years, disabled people locally and nationally have highlighted the importance and benefits of key services that support disabled people's independence being controlled by disabled people themselves. The services described in 2.4 - 2.7 constitute a comprehensive independent living support service available to people in Leeds who choose to use SDS. Since 2005 Central Government has made it clear that it wants this type of support service to be provided by user-led organisations (ULO) that are independent of statutory organisations.
- 2.9 In July 2009, the LCIL Management Committee voted unanimously to commence work to become an independent organisation in order to meet the ULO design criteria. Adult Social Care worked with the Management Committee to further explore and support this initiative. The LCIL "Future Status Project" was

established, using Delivering Successful Change methodology, to plan and develop the proposals for a move to independent status. The LCIL Management committee receives regular updates on the project and is represented on the project board.

- 2.10 The Future Status Project has used a co-production model by fully involving key stakeholders in the design and delivery of the project. The Project Board consists of representatives of the LCIL Management Committee and SDS 'Free to Live' Peer Support Network, local government officers with relevant areas of responsibility and expertise and LCIL Managers. The Project Steering Group, carrying out project tasks through relevant workstreams, consists of representatives of the LCIL Management Committee, SDS Peer Support Network and all levels of the LCIL staff team.

3.0 Main Issues

3.1 Legal Status of the Independent User-Led Organisation

- 3.1.1 The requirements that the new organisation would need to deliver were determined by the Department of Health design criteria for a ULO, and by 9 additional requirements developed by the LCIL Management Committee in consultation with the Future Status Project Board (see appendix 1).

- 3.1.2 An Options Appraisal exercise was carried out by members of the Management Committee, using LCIL staff, experts by experience and a range of Council officers with specialist skills in HR, legal issues, contracting and finance who participated in the process to identify a preferred model. The preferred option, including the requirement of being a User Led Organisation, was a 'Social Enterprise Limited by Guarantee with Charitable Status'.

- 3.1.3 The Council's Legal Services participated in the Options Appraisal and have ensured that the preferred model meets legal requirements and is appropriate for the business purposes.

3.2 Implications for Staff

- 3.2.1 The functions of the LCIL have developed and changed since it was first established in 1998 and a review of staffing was required to ensure the service could effectively deliver its role in supporting Direct Payments, Personal Budgets and Independent Living Fund users, whether as an LCC managed unit or an independent organisation. A restructure of the LCIL was commenced in September 2010 and this is now underway. This new structure will allow the payroll for the personal assistants employed by DP/PB/ILF users to be delivered by LCIL which will be more cost effective than using a private sector accountancy firm as currently. The new structure can be achieved with no additional costs.

- 3.2.2 The issue of retaining membership of the West Yorkshire Pension Fund (WYPF) for staff transferred to an independent LCIL through TUPE arrangements has been fully considered. Following appropriate professional advice the purchase of a Closed Bond at a cost of £33,900 to cover the pension indemnities of staff transferred to the new LCIL independent organisation is the recommended option. The cost of this bond will be included in the overall cost of the contract between LCC and the new organisation (see section 3.4) and can be accommodated within the existing ASC budget.

- 3.2.3 The proposed organisational model has been shared with the Council's Human Resources service to ensure it is appropriate and fit for purpose. Plans have been

put in place to ensure all appropriate TUPE issues are dealt with and there has been ongoing consultation and engagement with trade unions and staff at LCIL.

and the contract between ASC and LCIL will provide assurance that all appropriate staff policies and procedures are in place.

3.3 Information Communication and Technology (ICT)]

3.3.1 The proposal for the independent LCIL includes directly providing the payroll administration for the PAs employed by DP, PB and ILF users. This will achieve a substantial saving on the cost of using the accountancy firm and creates potential for further income outside of LCC funding.

3.3.2 This plan requires the LCIL to have continued access to the Adult Social Care database (ESCR.) This has been recommended subject to the appropriate information sharing and data protection protocols being put in place. The proposed organisational model has been shared with the Council's ICT service to ensure it is appropriate and fit for purpose. This included confirming that a Service Level Agreement can be established between the CIL and LCC.

3.4 Future Contracting Arrangements with LCC

3.4.1 Once the status of LCIL is changed then it can move from being an in house provider to an organisation with a contractual relationship with the Local Authority.

3.4.2 ASC Commissioning staff are working with staff from LCIL, and across the Directorate, to develop a detailed service specification and contract. This will be based on the current services delivered by LCIL as outlined above. Adult Social Care would then commission LCIL, in its new organisational form, to provide the services as contained in the specification.

3.4.3 It is crucial that if LCIL moves to be an independent organisation that it continues to be able to deliver the key services it currently provides without disruption to service users. In order for this to happen without a competitive procurement exercise ASC needs to waive contracts procedure rules. There are two elements which support the waiving of contracts procedure in this case; Firstly the need for Business Continuity, including value for money, and secondly the recognition that as a local User Led Organisation, LCIL is currently the only potential provider which can meet the majority of the requirements of a ULO.

3.4.4 To establish this contract ASC will invoke Contracts Procedure Rule 31.1 and waive Contracts Procedure Rule 13, High Value Procurements to allow Adult Social Care to enter into a new contract for a period of 3 years with the option to extend twice for a further 12 month period if required.

4.0 Implications For Council Policy And Governance

4.1 LCIL as an independent organisation will work outside LCC policy and governance but will be subject to a contract and contract monitoring from ASC Commissioning.

4.2 This will include monitoring on delivering appropriate Health and Well Being outcomes to support the broader Putting People First agenda.

This includes helping meet specific improvement priorities including:

- NI 130 – Social care clients receiving Self Directed Support per 100,000 population

Increase the number of vulnerable people helped to live at home:

- NI 141 – Percentage of vulnerable people achieving independent living
- User has day-to-day control over which services received and how they are delivered

5.0 Legal And Resource Implications

- 5.1 LCC Legal Services have been consulted on the legal implications of LCIL becoming independent and contributed to the options appraisal.
- 5.2 Human Resources has also been consulted regarding employment law and contributed to the options appraisal and staffing review. Through this change the staff affected will be subject to TUPE and their employment and pension rights will be protected accordingly.
- 5.3 The cost of a bond is to be included within the overall costs of the contract and can be accommodated within the existing ASC budget.
- 5.4 Completion of a Diversity, Cohesion and Integration Screening document identified that a full Equality Impact Assessment is not required on changing the status of Leeds CIL because there is no major change to the services already being provided..
- 5.5 The Chief Procurement Officer has advised that it would be lawful for the Council to invoke Contract Procedure Rule 31.1 and waive Contract Procedure Rule 13, in regard to High Value Procurement, provided that the Director of Adult Social Services is satisfied that there are compelling reasons to do so. Procurement Unit has stated that a reasonable process appears to have been followed. LCIL was identified as the only viable organisation in the council's estate that could be converted into a user led organisation further to the requirement placed on each local authority to have at least one ULO by 2010.
- 5.6 Internal Audit has also noted the case for the business continuity in such a key service area, and that the change in status of LCIL will ensure that the Department of Health's criteria for User Led Organisations (ULO's) are met. Internal Audit have identified that main risk of challenge from third party providers appears to be negligible.

6.0 Conclusions

- 6.1 That the establishment of LCIL as a Social Enterprise Limited by Guarantee with Charitable Status from 1st April 2011 is the most appropriate model and is best suited to the needs of disabled people and older people in Leeds and is best practice in regard to the requirement to establish a ULO in Leeds.
- 6.2 That the appropriate management and mitigation of any risks associated with this process have been identified and built into the proposal and its implementation plans.

7.0 Recommendations

- 7.1 That the Executive Board approves that LCIL is established as a Social Enterprise Limited by Guarantee with Charitable Status from 1st April 2011.

7.2 That following the approval in accordance with 7.1 above, the Executive Board note that the Director of Adult Social Services will sign a waiver to invoke Contracts Procedure Rule 31.1 and waive Contracts Procedure Rule 13, High Value Procurements to allow Adult Social Care to enter into a new contract with LCIL for a period of 3 years with the option to extend twice for a further 12 month period if required, commencing April 1st 2011.

Background documents referred to in this report:

- Department of Health's Green Paper - Independence, Wellbeing and Choice (2005)
- Putting People First – The Vision and Commitment to the transformation of Adult Social Care (2007)
- Leeds Adult Social Care - LCIL Future Status Project: Legal Status Workstream Business Model Options Appraisal Report, June 2010
- Leeds Adult Social Care -Leeds CIL Future Status Project; Staffing Restructure report, (September 10)
- Leeds Adult Social Care- LCIL Future Status Project - Diversity, Cohesion and Integration Screening, October 2010
- Report from the Prime Ministers Strategy Unit; 'Improving the Life Chances of Disabled People' January 2005
- Joint Protocol for the provision of User Led Organisations. The Association of Directors of Adult Social Services, the Local Government Association and the National Centre for Independent Living. March 2009
- Direct Payments: a national survey of direct payments policy and practice PSSRU LSE. Davey V. Et al 2006



Leeds Centre for Integrated Living
Your gateway to independent living

Department of Health – User Lead Organisation (ULO) Design Criteria

Values	
1	Works from a social model of disability perspective
2	Promotes independent living
3	Promotes people’s human and other legal rights
4	The ULO is shaped and driven by the initiative and demand of the organisation’s constituency
5	The ULO is peer support based
6	Covers all local disabled people, carers & other people who use support either directly or via establishing links with other local networks and organisations
7	Is non-discriminatory and recognises and works with diversity in terms of race, religion & belief, gender, sexual orientation, disability & age
8	Recognises that carers have their own needs & requirements as carers
9	Engages the organisation’s constituents in decision making processes at every level of the organisation

Organisational Characteristics

10	Provides support in a way which enables disabled people, carers and other people who use support to exercise choice and control
11	Is a legally constituted organisation
12	Has a minimum of 75 % of voting members on the management board drawn from the organisation's constituency
13	Is able to demonstrate that the organisation's constituents are effectively supported to play a full and active role in key decision making
14	Has a clearly defined management structure
15	Has robust and rigorous systems in place for running a sustainable organisation (e.g. financial management/ contingency planning)
16	Is financially sustainable and independent of central government funding
17	Has paid employees, many of whom reflect the organisation's constituents
18	Identifies the diverse needs of the local population and contributes to meeting those needs
19	Is accountable to the organisation's constituents and representative of their views at a local level
20	Supports the participation of its constituents in designing, delivering and monitoring the organisation's services
21	Works with commissioners to improve commissioning and procurement

Minimum Services

Information and advice

Advocacy and peer support

Support in using direct payments and or individual budgets

Support to recruit and employ personal assistants

Assistance with self-assessment

Disability equality training

Support for the implementation of the disability equality duty by public sector organisations in the locality (including consumer audits)

Option Scoring Card:

Key:



Met



Part Met



Not Met

No	The considered option	Met?	Notes
1	Will meet the DOH design criteria for ULO (as above) <ul style="list-style-type: none"> ▪ 75 % of voting members on the board from the constituency ▪ the board needs to be able to assure themselves that final decision making sits with the constituents 	○	
2	Will allow the organisation to be self governing allowing increased flexibility	○	
3	Will offer security of employment and access to the West Yorkshire Pension Fund	○	
4	Allows for the service to be commissioned by ASC/LCC	○	
5	Will allow for trading opportunities with other organisations to generate additional revenue streams	○	
6	Will have the ability to generate income through grants and charitable funding	○	
7	Will be perceived by constituents and other volunteer sector organisations to be independent of LCC	○	
8	Will ensure the growth of the organisation will benefit the community/constituents it serves	○	
9	Will have the ability to financially reward staff	○	
10	Will provide the most efficient use of taxation regulations to assist with the financial sustainability of the organisation	○	