

Options for alternative delivery models for Adult Social Care

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What are the drivers for considering different models?

- National Context – ‘A Vision for Social Care’ - Local Authorities encouraged to divest themselves of social care provision.
- The Putting People First Concordat – simplifying the delivery of Direct Payments and personalisation as a default option.
- Direct Payments cannot be used to purchase LA provided care services.
- The Report of the Commission on Funding of Care and Support (Dilnot) - some concerns about the unintended consequences of a ‘capping’ system which may lead to private payers opting for expensive residential care solutions earlier than they might otherwise.

...and locally

- Improved *value for money*.
- Efficiency savings, providing the Council with year-on-year 'like for like' reduction in costs or increasing income.
- Providing the workforce with an opportunity to secure a stake in their own future and to develop an entrepreneurial culture.
- Services that are able to be more flexible and adaptable so that they remain sustainable within the context of personal budgets and direct payments.
- Promotion of choice and the potential to generate additional income
- Retaining the vital function of being the provider of 'last resort' in cases of emergency or market failure, and allow Southampton City Council to satisfy its statutory duties.
- Retention of important elements of democratic accountability.

Context in SCC Adult Social Care

- **SCC already commissions all long term domiciliary care, all nursing home care, all day care for older people and 75% of residential care from independent providers.**
- **Historically SCC has retained some internal provision to support market management, provide a benchmark for quality and to maximise independence at home.**
- **However, internal provision has some challenges – change is slow, politically high profile and flexibility can be limited.**
- **Our independent market is fragile and unsafe in some cases.**
- **The Council also has a ‘well being power’ but this does not allow it to:**
 - Charge for new services provided under the power
 - Raise money
 - Extend trading

Internal v external provision

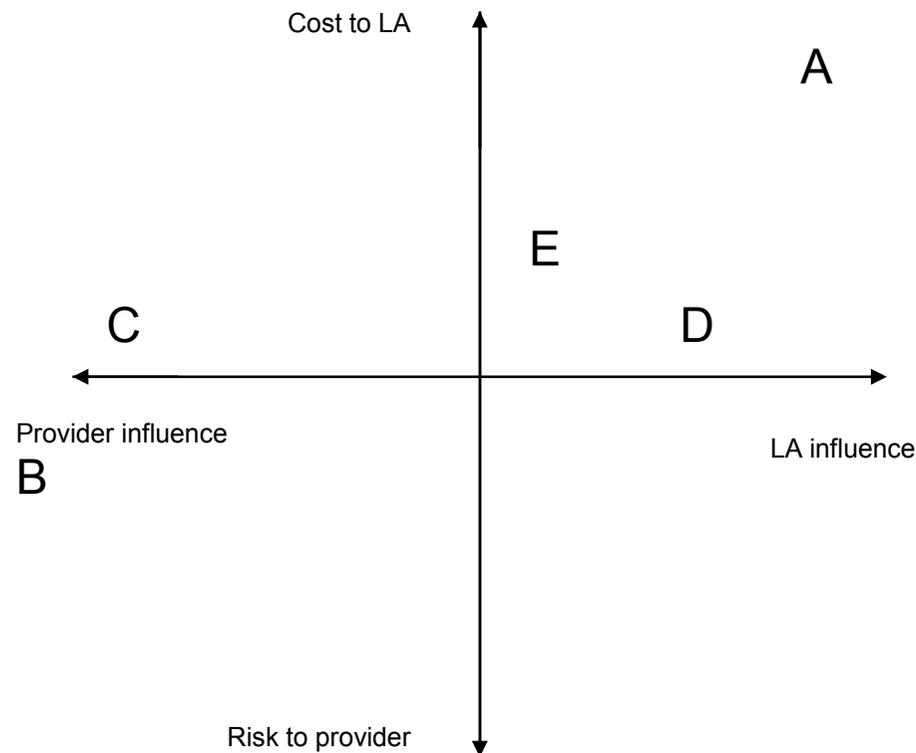
- Independent business already make profit but, unless they are functioning as a social enterprise, that profit goes to the shareholders, the benefit back to the Council & council tax payers is not financial .
- Internal provision has higher unit costs with well trained and properly rewarded staff but limited opportunity to reduce costs without cutting services.
- The Council provides services to meet eligible needs of the most vulnerable but cannot afford to do all that the public would like.
- The option of providing high quality, trusted care to self funders and those with lower levels of vulnerability is not available in house at a commercial rate. Expansion to offset increase in demand or service development is very limited.

The five options appraised

1. Creating an independently owned social enterprise.
2. Merging provision with another provider which, in the case of social care, focussed on NHS providers.
3. Taking a procurement route within the social care provider independent sector.
4. Creating a Local Authority Trading Company
5. Remaining as a directly provided service in the Council

The options – pros and cons

- Risks and influence



A – continue with in house provision

B - Outsource services

C - Transfer services to a social enterprise

D – Transfer services to a Local Authority Trading Company

E - joint venture and shares services

An independently owned social enterprise

Either as a staff owned mutual or an existing company.

Has a social mission

Must re-invest profits to the business to meet the mission.

Would need to win the contract in an open tender exercise

Advantages and disadvantages of a social enterprise

Advantages

- Maintains a social vision
- Operates independently and bears its own risks
- Does not subject the Council specifically to the high public profile if change is needed

Disadvantages

- Cannot be guaranteed to win the contract
- Is not governed or influenced by Democratic processes
- Would require investment to set up with no guarantee of viability.
- If a staff mutual or TUPE of existing staff, then loss of known and valued resource to Council

Merging with an NHS provider

An NHS provider would share its infrastructure with the existing SCC provider. To be financially advantageous the NHS provider would have to take over the SCC provision.

Some shared synergies and culture.

SCC already works closely with NHS

Would need to win the contract in an open tender because only if there is a single relevant provider organisation would SCC be exempt from procurement.

Advantages and Disadvantages of a merged NHS model

Advantages:

- Potential for reduced infrastructure costs
- Known joint working approach
- Purchase by Direct Payment users has not been tested.

Disadvantages:

- Applies a medical model to social care and wellbeing
- Not governed by Democratic processes
- Loss of valued staff resource to external provider.
- Would be more expensive than other independent providers because of NHS terms and conditions and any profit stays with the NHS provider not the Council.
- NHS agencies are large and direct influence by staff is sought but not always evidenced

Procurement route

- This actually applies to both of the previous two models and in each case TUPE would apply.
- Can achieve best value if market is stable and competitive
- However locally demand exceeds supply and there is a supplier market.
- Currently six independent companies locally and 1 NHS Trust are being investigated under safeguarding or are failing.

Advantages and Disadvantages of tendering

Advantages:

- Tests the market and identifies options
- Includes involvement of the voluntary sector
- Independent agencies can sell care to Direct Payment users

Disadvantages:

- Most of social care provision is already externally provided – tendering for the remaining services would make SCC 100% reliant on external provision with potentially no provider of last resort.
- Has the potential to increase overall market costs because of the loss of a mixed economy.
- Not governed by democratic processes
- Company profits are returned to the independent provider not the Council.
- Involvement of staff in future of company is unknown but unlikely according to local experience

Local Authority Trading Company (LATC)

- Section 95 Local Government Act (2003) provides powers for a local authority to transfer in-house services to a trading company where the local authority is the majority shareholder.
- The power to trade can only be exercised through a company and a Local Authority can only trade in goods or services which the Local Authority itself has the power (not the duty) to provide.
- Teckal exemption applies.
- Has an independent board and management structure but is accountable to the Council through both a contractual arrangement and a Council governance arrangement.

Disadvantages of an LATC

- An LATC does not enjoy the VAT benefits that are applied to Local Authorities
- There are one off set up costs to create a new infrastructure
- The retained infrastructure of the Council may not easily achieve the benefit of cost reductions & consequent savings
- Separate insurance and risk indemnity will be required – approx £35k.

Advantages of an LATC

- Direct Payments users can purchase from an LATC
- Change can be achieved more flexibly with accountability but without the high public profile that is often associated with Council services.
- However has the 'branding' associated with the Council to retain public confidence.
- Retains valuable staff resources
- Allows flexible trading of under utilised resources as Council's contractual needs change
- Terms of set up will include the level of any profit that is returned in kind to the Council or reinvested in the company to meet increased demand
- The company can apply for other contracts, sell services independently and develop to supply prevention services with increased flexibility.
- Research has shown that staff commitment increases and sickness decreases.

Retaining services within the Council

The current services are:

- City Care First Support
- Residential care – Dementia, Rehab and Learning Disability respite
- Shared Lives
- Day Services – Learning Disability day services at Freemantle, St Denys and Prospect House, retained day service provision for people with physical disability.
- Retained workshop and café provision to support people with mental health issues.

Advantages of staying in the Council

- Retains Democratic accountability
- Retains the valuable staff asset until financial pressures cause service closure considerations.
- No further set up costs
- Risks are more widely understood rather than speculative – ie status quo

Disadvantages of staying in the Council

- Customers cannot use Direct Payments – there is no option for DP users choice to use in-house provision and the Council will experience double running costs and eventual service closure.
- Financial pressure of service closure and above
- Reduced service will lead to procurement option having to be reconsidered with risks which lead to this not being considered as an option
- No ability to trade to maximise resources
- Limited opportunity to develop prevention services
- Council retains high profile services which are difficult to change without public protest.

Can we have the best of all worlds?

An LATC can

- function as a social enterprise,
- can still work in partnership with the NHS for joint contracts or could merge at a later date without Council having to procure.
- can be tested in the market if the Council wishes.

All options which are not available to the Council if the services are retained in house.

Legal and independent advice

- Three first options rejected after appraisal
- Business cases created for remaining two options – these could be expanded with more work if required.
- The legal advice confirmed that SCC can legitimately set up an LATC but recommended that the Council does not create a single LATC but identifies ‘clusters’ – other services could be transferred once an initial company is set up for social care.

Financial case

- SCC finance team undertook work on a 'best case', 'worst case' and 'mid point financial analysis for each of the two options – staying in SCC and transferring to an LATC.
- Attempts were made to create a 'level playing field' which meant that development opportunities were not included in the LATC financial case – in retrospect this unfairly disadvantaged the LATC but is necessarily speculative.
- Because the financial analysis was completed only at the end of the business case work, detailed analysis by Chief Officers and Councillors has been limited.
- Redundancy and set up costs were included – this has not been the case in other savings analyses.

What the financial analysis identified

- The best, worst *and* mid point scenarios all demonstrate financial pressures resulting from the 'staying in the Council' model.
- The worst case scenario demonstrates financial pressure for transferring into an LATC but this was not balanced with the inclusion of development potential.
- The mid point scenario for the LATC model demonstrates no pressure if the set up costs are excluded.
- The best case demonstrates a saving for the Council.

In conclusion, on the evidence , there was not a strong financial case for social care provision to move to a different organisational approach. However, the risks associated with no or limited change represent a continuing financial risk in the short term to the Council.