
ARMS LENGTH ORGANISATION BUSINESS CASE

Report by Depute Chief Executive - People

COUNCIL

26 JUNE 2014

1 PURPOSE AND SUMMARY

- 1.1 This report details the key findings of the Business Case that has been developed to consider the benefits for the Council of setting up a Council owned Company for the direct provision of Adult Care Services.**
- 1.2 In January 2014 the Council considered an Options Appraisal for the future of Adult Care Services. The Council agreed that the most viable option was an Arms Length Council Company (either a Local Authority Trading Company or Limited Liability Partnership) and agreed that a full Business Case be produced for consideration by Council in June 2014. This work has now been completed by Care & Health Solutions, a company specialising in this area, together with Council Officers, and the Executive Summary is attached in Appendix 1.
- 1.3 The 5 year Business Case sets out the benefits and risks to the Council of progressing and not progressing with the proposed model – a Limited Liability Partnership. The LLP is a fully owned Council company which ensures that key decisions with regard to the strategic direction of the company for example decisions with regard to the use of any surplus generated will be for the Council to determine. This new model affords a number of opportunities to improve the quality of services to people receiving care and their carers. The key benefits are:
- (a) the ability to continue to provide quality services that are more cost effective and thereby more affordable to the Council and very importantly to those people who will be purchasing care through Self Directed Support
 - (b) the ability to provide and sell a range of services to people who do not meet the Council's current eligibility criteria thereby offering a broader range of service options to a greater number of people
 - (c) the establishment of a more business focussed culture allowing more efficient deployment of resources providing benefits in budgetary terms

- (e) ensuring the Council is able to meet its statutory responsibilities by ensuring a provider of last resort is maintained.
- (f) ability to provide a more responsive service at local level
- (g) the LLP structure will provide democratic Council scrutiny of the quality and performance of the services provided.

- 1.4 Without a significant change in approach and the application of a more balanced business-focussed approach to these service areas, costs will continue to increase, efficiency opportunities will not be maximised and fewer people will buy Council Services through Self Directed Support. This in turn will lead to reductions in service quality and availability and less future choice for service users and carers. Adopting an LLP model will allow the delivery of services more effectively with projected efficiencies of £5.6m for the Council over the next 5 year either to invest in the company, contribute to savings targets or support the continuing funding pressures being felt across public services.
- 1.5 The governance arrangements and financial benefits are summarised in the Executive summary. The financial model detailed in the business case is the result of modelling based on local market opportunities, improved work practices and additional income and cost savings.
- 1.6 It should be noted that the business case assumes that staff will TUPE transfer to the new organisation and therefore staff terms and conditions are protected.

2. STATUS OF REPORT

- 2.1 This report is in public and includes extracts from the business case Executive summary. Where necessary commercial detail has been redacted. The full business case will be considered elsewhere on the Council agenda in private session due to the commercially confidential material contained therein.

3. RECOMMENDATIONS

3.1 I recommend that Council:-

- (a) Having considered and noted this report Council then reviews the full business case to establish an Arms Length Limited Liability Partnership Company in April 2015 in private session; and if satisfied,**
- (b) Instructs officers to proceed with initial preparatory work.**
- (c) Requests a further report on progress with implementation and any refinements required to the Business Case be brought back to Council in October 2014.**
- (d) The governance and scrutiny arrangements associated with the LLP have yet to be finalised and these will be addressed in the October report.**

4 BACKGROUND

- 4.1 In February 2014 the Council considered an Options Appraisal for the future of Adult Social Care Services. Four options were considered including externalisation of services, redesigning the service In-House, the development of a Community Interest Company and the development of an Arms Length Council owned company. Key criteria considered included quality, acceptability to stakeholders, governance and flexibility and cost. The Council agreed that the most viable option was the establishment of an Arms Length Organisation and agreed that a full business case be presented to the Council by June 2014.
- 4.2 A range of drivers were considered as part of this process to ensure the Council continues to provide high quality support, care and protection to adults and older people. These included:
- Supporting the delivery of Self Directed Support
 - Ensuring the continuation of high quality publically owned service to the people of the Borders in the most cost effective way
 - Offering new services to enable independent living by receiving care in their own home
 - Allowing surpluses generated to be invested in Council services
 - Ensuring continued democratic accountability for the services provided.
- 4.3 The Executive Summary of the business case is attached in Appendix 1. The range of services proposed for inclusion include; Care at Home, Residential Care, Extra Care Housing, Bordercare, Older People Day Services, Learning Disability Services and the Borders Ability Equipment Store. All of these are Council Services, however, it should be noted that the Equipment Service is a joint service and a proportion of this budget is from NHS Borders. There will be further discussions regarding the inclusion of this service during the implementation stage. The total identified budget for these current services totals £16.9m.

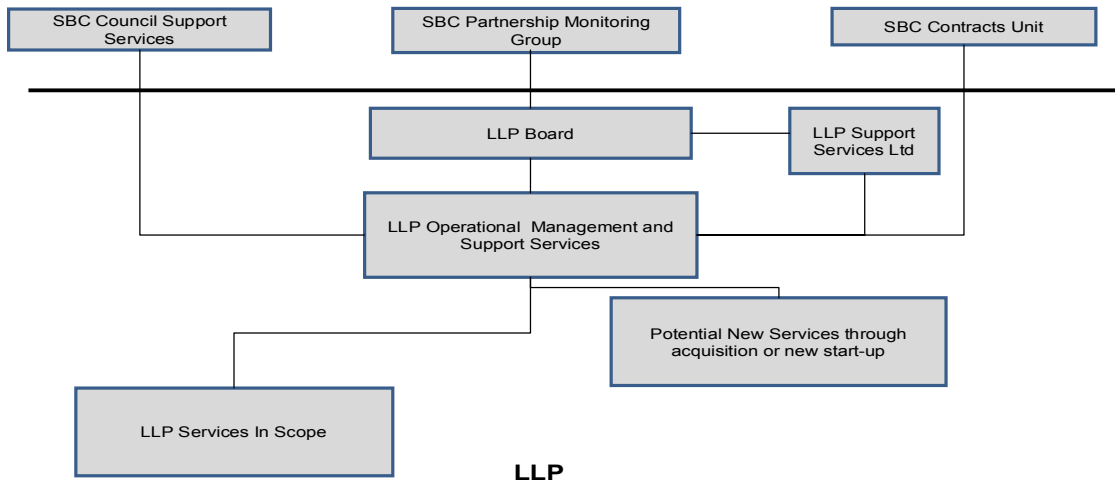
5 GOVERNANCE

- 5.1 The proposed governance arrangements for the Company are set out in Appendix 1, section 5 and the proposed structure and relationship with the Council is set out below. These arrangements will be further developed, particularly with respect to the role played by Elected members in the scrutiny and governance of the LLP, and the further work on this will be reported to Council in October.

LLP/Council Relationship Structure

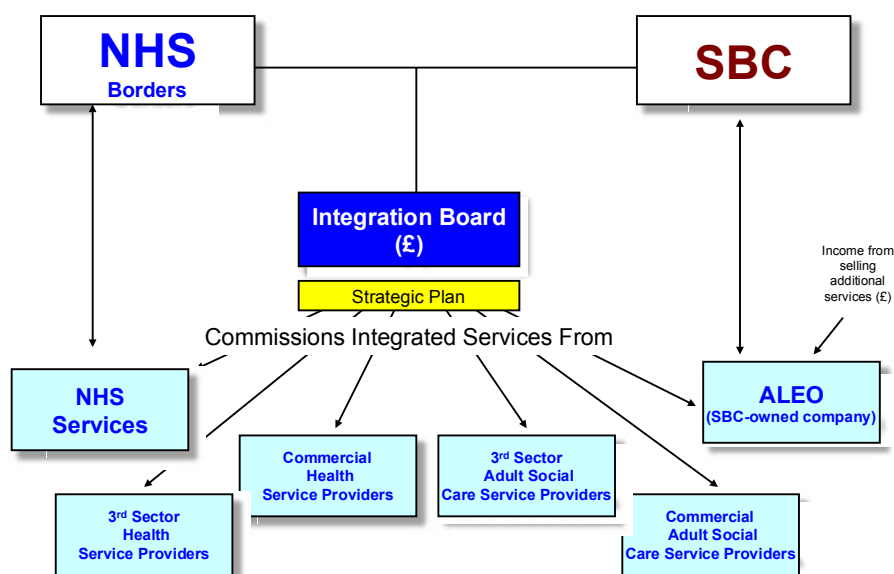


Scottish Borders Council



- 5.2 Initial proposals are that the board for the Limited Liability Partnership (LLP) would be made up of members with appropriate business and core skills and comprise of Officers of the Company and 3 non executive Directors. At this point in time it is not proposed that elected members are on the board. This proposal will be reviewed as part of the current Audit and Assurance work underway using the best practice guidance included in the recent Audit Scotland report on Arms Length companies. It is currently proposed that elected members will make up a monitoring and scrutiny group which will meet regularly to scrutinise the operational and financial performance of the company providing an enhanced level of scrutiny. Council authority will be required for any significant changes to the LLP's business plan.
- 5.3 The Integrated Health and Social Care Partnership being established under the Public Bodies Joint Working (Scotland Act 2014) includes the budgets which it is proposed be managed by the New LLP. The Integrated Health and Social care partnership will commission services from the Council and from the NHS and provide oversight in line with the Strategic Plan. It is proposed that the Council services within the scope of this report will be delivered via the LLP. Financial monitoring will continue to be reported to the Integration Board as part of the integrated budget in line with legislation. It is proposed that a member of the Board also be part of the Monitoring Group.
- 5.4 The governance and commissioning with respect to the Health and Social Care partnership is shown overleaf.

Commissioning Arrangements With ALEO



6 IMPLICATIONS

6.1 Financial

The business case proposal to move to a Limited Liability Partnership model to manage the direct provision of Adult Care Services demonstrates a net financial benefit to the Council of £5.6m after costs. Benefits have been identified across 3 main areas and include the running costs of the business. These costs are shown in the Executive summary appended to this report. The financial benefits are

- (a) Effective working through managing staff by locality, more efficient working patterns, tighter absence management, more regular review of care packages and increased scrutiny of commissioned services will generate efficiencies over 5 years of £4.376m.
- (b) Offering new services to meet client's needs across the Borders will contribute a net income after additional cost of £2.22m.
- (c) Efficiencies have been identified from supplies and services of £0.827m through managing usage and working with local suppliers to only buy what is needed at the best price.
- (d) To ensure that the LLP can focus on the delivery of the benefits and shift towards a more flexible way of working offering additional services across the Borders additional running costs for staff management, property and marketing of the new services will be required of £1.827m over 5 years.

Further diligence will be undertaken to scrutinise the detail of the business plan and a detailed financial plan will be completed as part of the mobilisation stage of the programme of work to be presented to members in October 2014.

6.2 Staff Implications

- (a) Managers and staff currently employed in the existing services will be TUPE transferred to the new organisation. The business case assures no change to terms and conditions for staff but does anticipate there will need to be new working practices adopted to ensure the benefits projected are realised.

6.3 Risk and Mitigations

- (a) There is a risk that the company may not be successful in the future. The Business Case based on a set of realistic assumptions has been created and is subject to ongoing diligence and refinement.
- (b) There is a risk that by not establishing an Arms Length Company the cost of the Council's own services will increase and fewer people will purchase these services resulting in higher unit costs or closures or reductions in service options.
- (c) There is a risk that staff are unsettled with the change during the implementation phase and a detailed communication plan is in place, including engagement and consultation with the Trade Unions is to address this concern.

6.4 Equalities

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications as the ALO will continue to provide services to all groups across the Borders.

6.5 Acting Sustainably

The new company will operate across the Borders and therefore there will be no economic or social impact.

6.6 Carbon Management

There are no known effects on carbon emissions associated with this report.

6.7 Rural Proofing

The Arms Length Company will be set up to provide services across the Borders including rural areas.

6.8 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

7 CONSULTATION

- 7.1 The Corporate Management Team, the Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, the Chief Officer HR, the Service Director Interim Projects and Clerk to the Council have been consulted and their comments have been incorporated into the report.
- 7.2 During the development of the Business Case there have been discussions with staff, managers and Union representatives in the Council about the proposals and written information has also been sent out. In addition a session was held with service user/carer representative groups to explain the rationale and a presentation has also been made to the Integration Shadow Board. Further staff and managers sessions will be arranged during the implementation phase.
- 7.3 Further consultation has been carried out with Corporate Communications and their comments have also been incorporated into the report.

Approved by

Jeanette McDiarmid
Depute Chief Executive

Signature

Author(s)

Name	Designation and Contact Number
Elaine Torrance	Chief Social Work Officer

Background Papers: Council Care Organisation (CCO) Business Case

Previous Minute Reference: None

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Elaine Torrance can also give information on other language translations as well as providing additional copies.

Contact us at Elaine Torrance, Chief Social Work Officer, 01835 825080.