UNISON west sussex

BRIEFING PAPER

Adults' Services: Provider Services

UNISON West Sussex briefing paper for all branch members

October 2016

UNISON POSITION ON FUTURE DELIVERY OF ADULT SERVICES' PROVIDER SERVICES

The main driver for the options appraisal provided appears to be the dilemma that departments are faced with the need to provide services with ever increasing demands while continuing to make savings year on year.

Following discussion with other UNISON branch officers around the country, UNISON's Pay and Bargaining unit and UNISON's National Local Government Office it would appear that like many authorities, due to financial constraints West Sussex is being forced to consider ways of working that are proving to be risky alternatives.

Insufficient evidence for in-house improvement

Savings and income generation

UNISON feels this may partly be due to a misconception that further savings cannot be made from the current in house service.

By improving the current service savings/efficiencies could be made from re-appraising and maximising income streams and exploring the most efficient and least risky way to deliver benefits for service users.

UNISON would like to see a proper feasibility study considering ways of maximising in-house income streams. For example,

- Powers to charge – charging for discretionary not statutory services, provided by the current workforce, allowing the council to test out in a less risky way how much potential external custom there is for services.
- Devolvement of budgets – review and streamlining of decision making to give more freedom and discretion to staff.
- Shared services and public/public partnerships – doing business with other public bodies and not the wider market lack restrictions on how much work can be done or generation of surpluses.
- Hybrid or 'shell' company - where the council's business is kept in-house but external work done on a commercial basis. Staff could be seconded to this company.

Also exploring the financial benefits from retaining services in-house.

Benefits of a continued in-house service

- Commercial expertise – avoids cost of setting up a company
- Flexibility in service delivery – ability to respond to rapidly changing demographic, policy etc. without being locked into a contract/service delivery model not able to quickly respond to changes.
- Control and accountability

Control and accountability

Use of charging powers and/or public-

public partnerships within an in-house delivery model allows the council to retain maximum control. The creation of a trading company automatically creates an entity which will have separate and possibly different interests to those of the council, and it may be difficult to maintain accountability. Company directors could decide to sell the company on. Jobs, pay, pensions and conditions in the company are likely to be worse than the council's, affecting the local economy. The trading company could also decide to locate jobs outside the council's borders at some point in the future. The legal duty of LATC Board members is to the LATC, not the County Council. If the company is competing for contracts, it may lose out to large corporate contractors and the council will then lose control.

Alternative delivery model failures: case studies

UNISON can find little track record of success by moving to an alternative delivery model. The evidence points to a failure to deliver on a number of levels. For example, when moving to alternative delivery model there appears to be a considerable over-estimation of financial savings/income generation with new services often struggling to adapt to changes in demand with little financial reserves.

Your Choice Barnet had to negotiate a £1m loan at a commercial rate from its' parent company, the Barnet Group. Restructuring measures included reorganising some services, management restructure and significant changes to staffing levels, jobs and terms and conditions. Existing and new staff terms were cut leading to a significant period of industrial action and disruption.

Chelsea Care a London Borough of Kensington and Chelsea LATC formed in 2009 suffered a financial collapse and closed in 2011.

Stockport Council's LATC set up in 2009 missed performance targets, with overhead costs increasing despite a pay freeze, they failed to win contracts. ISSK gave over 100 staff redundancy notices as it sought to make £1.2m savings but eventually ceased trading in 2014.

Surrey Choices Ltd, rather than make the small profit in its second year of trading as predicted, fell afoul of increased demand and was expected to make a £1.7m loss shortly after start up, leaving the council in a position of needing to consider making a further working capital loan. The Personalisation Service which the company previously provided was also brought back in-house from January this year. We are told of chaotic service management and provision, resignations of key staff, and carer and user upset.

ECL formerly Essex Cares LTD could not compete when tendering for the services it provided and lost 4 out of the 5 bundles of services to private bidders, this was despite reductions in exiting staffs T&Cs. Staff saw reductions on average from between£1,400 - £3,000 in their wages.

Currently TRICURO have realised only six months after its launch that it had a £1.3m shortfall in its budget and has set a proposal to slash the terms and conditions of its' frontline workers in a bid to balance its' budget.

Other authorities carried out options appraisals and failed to fully estimate the risks of moving to alternative delivery models.

Despite initial assurances financial pressures have led to a reduction in **existing** staff T&Cs in other companies e.g. Barnet, Essex, Surrey, and now under threat in Dorset.

There are also assumptions that a reduction in new starters T&Cs and turnover will make savings and not impact on quality of service. Evidence points to significant problems with

recruitment and retention of staff with some services making the decision to continue to pay above 'market' rates to attract new starters.
For example, Norfolk LATCs have struggled to recruit and retain staff in certain sectors. Currently, Independence Matters another alternative delivery model, has recently abandoned its intension to reduce sickness absence terms and conditions after market research was conducted.
Relying on turnover of staff to make savings provides a new service with an extra burden and relies on constantly losing the most experienced members of staff who would maintain service quality.
As we have also seen with ECL, services being transferred to a LATC can be the first step towards privatisation as companies with little experience fail to compete when put in the position of tendering for services.
The Care Quality Commission's (CQC) annual report in 2010-11, reported that quality standards were superior in public providers.

Assumptions of savings from moving to an alternative delivery model

There are many assumptions Councils often make that further savings can only be made by exploring moves to an alternative delivery model, reducing staff T&Cs (including pension requirements), driving down agency costs and 10% staff turnover.
In previous cases assumptions of the savings to be made by moving to an alternative delivery model have proved to be inflated and over generous.
Failure to reduce agency spend can also leave a hole in financial projections and if a service cannot recruit on current T&Cs where is the evidence that recruitment will improve with reduced T&Cs? WSCC needs to consider the current conditions in the local domiciliary and residential care market. It is far from clear how the West Sussex Provider Services will improve by having rates of pay and other terms reduced closer to those of a failing domiciliary care market.
Research shows that some of the highest paid staff are still agency workers.
There is also a need to factor in the introduction of the living wage as over time the differential between private and public sector pay will diminish so the whole employee benefit package will be more relevant going forward.

The very cost of the project will erode savings targets when you consider the cost of officer time, legal services, HR advice, start-up costs etc. If the new LATC has to re-tender for the work at some point in the future there would need to be a costly procurement exercise – for which there may be no market. If the service fails there would be the cost of taking the service back in house (consider the current SLS potential TUPE transfer back to WSCC)

A full analysis of the risks to the council needs to be undertaken

Some assertions may need to be challenged

If a business case for an alternative delivery model were to be considered a number of assertions may be open to legal challenge for example that peppercorn rents can be charged as support to any alternative delivery model needs to take into account state aid rules.
What if the Teckal exemption cannot be achieved/maintained?
It would also be important not to underestimate further risks.

Impact on the workforce

It is important to consider the possible effect on the workforce. What if turnover is not as expected? What if turnover of new recruits is more than expected and therefore the cost of recruitment and training of new staff increases?

Impact on the economy

It is also important to consider the possible effect on the local economy. For example it is important to consider Best Value and the macro-economic impact of reduction of staff on local authority pay and conditions. This will be particularly important where most of the staff live within the local authority area as the local spending power will be reduced due to an increased number of lower paid local residents who have less disposable income.

Impact on the quality of service

Turnover relies on losing the most experienced staff every year and will impact on the quality of service. This has proven to be the case elsewhere. Currently there are 90%+ service user satisfaction ratings with the in-house service.

Equality impact

The Equality Impact on a predominantly female workforce should be considered.

Evidence from other authorities suggests that existing staff terms and conditions have been reduced within the first year due to financial pressures. As Provider Services has a workforce that is predominantly women, and with 31% of the current workforce also being over 55 there is a risk moving to this model will negatively impact on these groups.

Equal pay challenges

Reducing staff pay may also open the door to Equal Pay challenges.

Costs and risk

A separate company means a lot of extra costs for the council – at least initially. These include the costs of procurement, contract monitoring, tax liability and the Local Government Pension Scheme bond. The costs of failure – bailing out a failing company, or the consequences of not doing so – and the duty to step in as service provider of last resort, are all things that the council may also have to bear itself. The Council needs a provider of last resort function (see current difficulties with the SLS) and this is best maintained with full Council control.

The price of failure

Councillors may want to consider the political consequences and reputational risk of project that may be seen as a potential waste of tax payer money should it fail.

Service quality/concerned service users

Ultimately the impact on service users needs to have careful consideration. There have been some high profile campaigns led by service user groups in the past and UNISON would need to consider its position in relation to any future campaigns against plans that would in our view detrimentally impact on services and staff. The national UNISON office would also expect a ballot of members for forms of industrial action if plans predicated on a crude reduction of staff terms and conditions were to be implemented.

Savings targets

Savings targets drawn up at the start of each financial year are always to some extent 'finger in the air' exercises. UNISON believes that the Council has got things fundamentally wrong in relation to its targets for Provider Services.

This part of the Council has already undergone 11 efficiency reviews in the previous 10 years and contributed significant sums to savings targets, whilst still providing an essential statutory service to the most vulnerable residents. No other private or voluntary sector care provider is being asked by WSCC to make savings of this nature.

UNISON would recommend that the service should request a re-appraisal of its savings targets at the Medium Term Financial Review and the council must reconsider its priorities (for example, to review other non-statutory spending such as grant funding to external charities, community groups and private businesses).

<u>Conclusion</u>

UNISON would urge WSCC to consider the potential to maximise its current income streams in-house in order to undertake a fair options appraisal. There has also been no attempt to consider any models of integration with Health. If there is not a more balanced options appraisal UNISON is concerned that the results may be skewed towards a risky alternative delivery model which will impact on the current workforce, local economy and cause considerable public concern about the future breadth and quality of service. We also urge the Council to reconsider its savings targets which were never realistic and are in danger of driving a significant new area of risk for the Council and its most vulnerable service users.

UNISON recognises that there could be room to explore setting up a pilot within provider services with a trading function that explore ways of generating income (for example through shared use of transport, buildings, new services etc). This would spread/ contain the risk while allowing learning, because in any case under any new service model the same staff will be asked to deliver this very difficult work, and doing so whilst under the local authority umbrella is more likely to succeed than if there are multiple other distractions and demands.

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